



Stormwater and Sedimentation Legislative Updates

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Department of Environmental Quality



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Disclaimer

- The following information is provided as a general reference for regulated entities and those involved in the implementation of the Sedimentation Pollution Control Act and Stormwater laws in the State of North Carolina. It is not legal advice and in the event of any questions or concerns, it is recommended that you confer with your own legal counsel for guidance. All information presented is the opinion of the presenter and should not be interpreted as official statements or policy positions of the Department of Environmental Quality.
- This Presentation contains direct copies of the text from the legislation as ratified. At the time of the creation of the presentation, the Revisor of Statutes had not updated the final language in the web version of the General Statutes. Before copying or relying on the text verbatim, please verify that it was implemented exactly as written when ratified.

2023 Long Session

761 Senate Bills

898 House Bills

151 Session Laws

Session Laws for Discussion Today

- SL 2023-53 (S240) – Sedimentation Permitting Choice for Certain Airport Authorities
- SL 2023-108 (H488) – Building Code Amendments and Land Development Regulations
- SL 2023-142 (S677) – At-Risk Construction Permitting
- SL 2023-134 (H259) – 2023-2024 Appropriations Act
- SL 2023-137 (H600) – Regulatory Reform



SL 2023-53 (S240) - Sedimentation Permitting Choice for Certain Airport Authorities

SECTION 2. G.S. 113A-56 reads as rewritten:

"§ 113A-56. Jurisdiction of the Commission.

a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- (1) Conducted by the State.
- (2) Conducted by the United States.
- (3) Conducted by persons having the power of eminent domain other than a local ~~government~~.government, except for an airport authority as set forth in subsection (a1) of this section.
- (4) Conducted by a local ~~government~~.government, except for an airport authority as set forth in subsection (a1) of this section.
- (5) Funded in whole or in part by the State or the United States.

(a1) An airport authority operating an airport located wholly or in part in a county with a population greater than 250,000 according to the latest certified population totals of the State demographer may elect to be regulated under the jurisdiction of a local program authorized under G.S. 113A-60. An airport authority to which this subsection applies that is located in more than one county may elect to be regulated under local programs authorized under G.S. 113A-60 in each county for property of the airport authority located in each county. An airport authority making a local program election under this subsection shall be subject to the following requirements:

- (1) The governing board of the local government operating the local program must enact a resolution accepting jurisdiction over the airport authority.
- (2) The airport authority must provide notice to the Commission that includes (i) a certified copy of the resolution required by subdivision (1) of this subsection and (ii) specification of a date not less than 90 days after the date of the notice on which the local program will assume jurisdiction.
- (3) Any existing erosion and sedimentation control permits issued by the Commission shall, despite assumption of permitting authority by a local government, remain under the jurisdiction of the Commission until the airport authority has submitted a permit modification request consistent with this Article to transfer the permit to the local program.



SL 2023-108 (H488) – Building Code Amendments and Land Development Regulations

- Section 10 – “Clarify Fee Calculation For Erosion And Sedimentation Control Plan Review”
- Section 11 – “Direct DEQ To Seek Approval From USEPA To Streamline Implementation Of Requirements Of The Sedimentation Pollution Control Act And Federal Requirements For Stormwater Discharges From Construction Activities”
- Section 13 – “Prohibit Local Governments From Requiring Payments From Owners Of Stormwater Control Systems For Future Maintenance Or Replacement Costs Of A System”
- Section 13.1 – “Require Local Governments Issuing Stormwater Permits To Transfer Such Permits In Accordance With Requirements For Transfer Of State-issued Stormwater Permits”

Section 10 - Clarify Fee Calculation For Erosion And Sedimentation Control Plan Review

SECTION 10. G.S. 113A-60(a) reads as rewritten:

"§ 113A-60. Local erosion and sedimentation control programs.

(a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its jurisdiction and may adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related activities. The fee shall ~~be calculated on the basis of either~~ be, on the option of the applicant, either (i) calculated on the basis of the number of acres ~~disturbed or~~ disturbed or (ii) no more than one hundred dollars (\$100.00) per lot developed in the case of a single-family lot ~~in a residential development or that is less than one acre, including such a lot that is part of a larger common plan of development that is less than one acre set at no more than one hundred dollars (\$100.00) per lot developed.~~ development. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. Except as otherwise provided in this Article, an ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article."



Section 11 - Direct DEQ To Seek Approval From USEPA To Streamline Implementation Of Requirements Of The Sedimentation Pollution Control Act And Federal Requirements For Stormwater Discharges From Construction Activities

SECTION 11. No later than September 1, 2023, the Department of Environmental Quality shall develop a plan for submittal to USEPA that eliminates any program redundancies between the State's Sedimentation Pollution Control Act of 1973 (Act), and its implementation of requirements for stormwater discharges from construction activities set forth under the 2022 Clean Water Act National Pollution Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities (Construction Permit), 87 Federal Register 3522, through NPDES General Permit NCG010000 (NCG01). Specifically, the plan shall include measures to streamline permitting requirements to ensure persons conducting land-disturbing activity are required to apply for one permit addressing all federal, State, and local requirements, and, if applicable, that permit may be issued by a local government with delegated authority to operate a local program in order to eliminate (i) unnecessary costs to, and duplication of efforts by, persons initiating land-disturbing activities, (ii) unnecessary delays in project development, and (iii) inefficient use of Department personnel and staff of local governments that administer delegated erosion and sedimentation control programs. The Department shall report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning August 1, 2024, until such time as the General Assembly repeals this reporting requirement.



Section 13 - Prohibit Local Governments From Requiring Payments From Owners Of Stormwater Control Systems For Future Maintenance Or Replacement Costs Of A System

SECTION 13.(a) G.S. 160D-925 reads as rewritten:
"§ 160D-925. Stormwater control.

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that ~~requires (i) deed requires~~ deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(d1) A local government is prohibited from adopting any regulation that requires an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of (i) the owner's stormwater control project or (ii) other stormwater control projects within the local government's jurisdiction. A local government may, however, require an owner of a privately owned and maintained stormwater control project to establish, collect, and retain funds for maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project, which shall not exceed ten percent (10%) of the stormwater control project's original cost of construction and shall be retained by the owner of the system. A local government shall allow a time period of at least five years, beginning when the stormwater control project is accepted by the local government as constructed per the local government's regulations, for the funds to be collected and retained by the owner of the stormwater control project. If funds are collected and retained, a local government can also require those funds be held in a segregated account used solely for the purposes of maintaining, repairing, replacing, and reconstructing the owner's stormwater control project.

SECTION 13.(b) If, prior to the effective date of G.S. 160D-925(d1), as enacted by subsection (a) of this section, a local government has required an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of the owner's stormwater control project or other stormwater control projects within the local government's jurisdiction, in accordance with G.S. 160D-925(d1), as enacted by subsection (a) of this section, the local government shall make such funds accessible to the owner to cover necessary maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project. For stormwater control projects in residential communities, in the event maintenance, repair, replacement or reconstruction of a project is needed, such funds shall be exhausted before the local government may assess costs of the necessary work on individual homeowners within the community, or any applicable owners' association.



Section 13.1 - Require Local Governments Issuing Stormwater Permits To Transfer Such Permits In Accordance With Requirements For Transfer Of State-issued Stormwater Permits

SECTION 13.1.(a) G.S. 143-214.7 reads as rewritten:
"§ 143-214.7. Stormwater runoff rules and programs.

...
(c2) The ~~Department~~ Department, or a local government that has issued a permit for a stormwater management system, shall transfer a permit issued under this section for a stormwater management system from the declarant of a condominium or a planned community to the unit owners association, owners association, or other management entity identified in the condominium or planned community's declaration upon request of a permittee if the ~~Department~~ Department, or local government, finds that (i) common areas related to the operation and maintenance of the stormwater management system have been conveyed to the unit owners association or owners association in accordance with the declaration; (ii) the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant; and (iii) the stormwater management system is in substantial compliance with the stormwater permit issued to the permittee by the ~~Department~~ Department, or local government. In support of a request made pursuant to this subsection, a permittee shall submit documentation to the ~~Department~~ Department, or local government, sufficient to demonstrate that ownership of the common area related to the operation and maintenance of the stormwater management system has been conveyed from the declarant to the association and that the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant. For purposes of this subsection, declarant of a condominium shall have the same meaning as provided in Chapter 47C of the General Statutes, and declarant of a planned community shall have the same meaning as provided in Chapter 47F of the General Statutes.

...
(c5) The ~~Department~~ Department, or a local government that has issued a permit for a stormwater management system, may transfer a permit issued pursuant to this section without the consent of the permit holder or of a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

(1) The ~~Department~~ Department, or local government, may require the submittal of an application for a permit transfer when all of the following conditions are met:

...
b. The successor-owner is one of the following:

...
4. Any other natural person, group of persons, or entity deemed appropriate by the ~~Department~~ Department, or local government, to operate and maintain the permit.

c. There will be no substantial change in the permitted activity.

(1a) The permit transfer application shall be submitted jointly by the permit holder and the successor-owner except that the successor-owner may solely submit the application in any of the following circumstances:

a. The permit holder is a natural person who is deceased or is a business association that is described by sub-sub-subdivision (1)a.2. of this subsection.

b. The successor-owner requests that the ~~Department~~ Department, or local government, accept the application without the signature of the permit holder.

(1b) When the permit transfer conditions set forth in subdivision (1) of this subsection are met on or after July 1, 2021, the ~~Department~~ Department, or local government, shall require that a permit transfer application be submitted within 90 days.

(1c) When the permit transfer conditions set forth in subdivision (1) of this subsection were met prior to July 1, 2021, the ~~Department~~ Department, or local government, may request a permit transfer application at any time after determining that the permit transfer conditions have been met and may require this application be submitted within 180 days of the request. Where a permit holder can demonstrate to the ~~Department~~ Department, or local government, that the activity on the property was in substantial compliance with its permit in the period either 12 months immediately before or after the conditions of subdivision (1) of this subsection were met, then the requirements included in subdivision (1d) of this subsection shall be the sole responsibility of the successor-owner.

...
(4) Notwithstanding changes to law made after the original issuance of the permit, the ~~Department~~ Department, or local government, shall not impose new or different design standards on the project without the prior express consent of the successor-owner.



Section 13.1 (Continued)

SECTION 13.1.(b) G.S. 153A-454 reads as rewritten:

"§ 153A-454. Stormwater control.

...

(e) A county that issues permits for stormwater management systems within its jurisdiction shall be subject to the provisions governing transfer of permits set forth in G.S. 143-214.7(c2) and (c5)."

SECTION 13.1.(c) G.S. 160D-925 reads as rewritten:

"§ 160D-925. Stormwater control.

...

(f) A local government that issues permits for stormwater management systems within its jurisdiction shall be subject to the provisions governing transfer of permits set forth in G.S. 143-214.7(c2) and (c5)."



SL 2023-142 (S677) – At-Risk Construction Permitting

- Section 2.(a) – At-Risk Building Option Requires E&SC Plan Approval
- Section 2.(d) – Local Governments Shall Not Deny E&SC Plans Due To The Need For Other Development Approvals
- Section 2.(e) – Land Disturbance Can Begin Once E&SC Plan Has Been Approved Under The At-Risk Building Option



Section 2.(a)

SECTION 2.(a) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

[non-sedimentation elements omitted for brevity]

(h) At-Risk Building Permit Options. – At-risk building permit options are available to an eligible building permit applicant that requested and attended a pre-submittal meeting in accordance with subsection (b) of this section to discuss a building project prior to permit application. An eligible permit applicant proceeding with an at-risk permit issued by a local government pursuant to this subsection assumes all risks of liability, and the local government is discharged and released from any liabilities, duties, and responsibilities attributable to the review, approval, or construction pursuant to that at-risk permit. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, a permit issued by a local government pursuant to this subsection is not an initial development permit for purposes of the vesting protections of G.S. 160D-108(e). The following at-risk building permit options are available:

(1) At-risk building foundation permit. – At the time of permit application, an eligible building permit applicant may request an at-risk building foundation permit authorizing a permit applicant to proceed with building foundation construction. A local government must issue an at-risk building foundation permit if a local government determines a permit applicant has submitted all necessary plans and sufficient information, as discussed at a pre-submittal meeting pursuant to subsection (b) of this section, and received all approvals necessary, for building foundation construction notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. For the purposes of this subdivision, a permit applicant must have received an approved erosion and sedimentation control plan in accordance with Article 4 of Chapter 113A of the General Statutes for land-disturbing activity at a building foundation construction site.



Section 2.(d)

SECTION 2.(d) G.S. 113A-61 reads as rewritten:

"§ 113A-61. Local approval of erosion and sedimentation control plans.

...

(b1) A local government shall not deny a draft erosion and sedimentation control plan based solely upon the applicant's need to obtain other development approvals for the project, as that term is defined by G.S. 160D-102(13). A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:



Section 2.(e)

SECTION 2.(e) G.S. 160D-922 reads as rewritten:

"§ 160D-922. Erosion and sedimentation control.

(a) Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter. Fees charged by a local government under its erosion and sedimentation control program shall not exceed that authorized in G.S. 113A-60(a).

(b) Once a local government administering an erosion and sedimentation control program approves an erosion and sedimentation control plan for land-disturbing activity at a site, the local government shall allow the plan holder to begin land-disturbing activity in accordance with G.S. 160D-1110.1(h) and the approved plan, notwithstanding that other development approvals that may be required from the local government for the project have not yet been obtained. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, approval of an erosion and sedimentation control plan is not an initial development permit for purposes of the vesting protections of that subsection."



SL 2023-134 (H259) – 2023-2024 Appropriations Act

Sediment

- Section 12.10(a) – “Right To Apply For And Obtain A Permit”
- Section 12.10(b) – “Right To Apply For And Obtain A Permit”
- Section 12.10(c) – “Right To Apply For And Obtain A Permit”

Stormwater

- Section 12.12 – “Stormwater Permitting Revisions”
- Section 12.14(a) – “Water Quality And Stormwater Fees”
- Section 12.14(q-r) – “Eliminate Fast-Track Stormwater Permit Option”
- Section 20.5(a) – “State Property And Land Use Regulation”

General

- Section 12.13(a) – “Express Permitting Revisions” – Authority To Create Additional Express Permitting Options
- Section 12.13(b) – “Express Permitting Revisions” – Permanent Rules Shall Be Adopted by July 1, 2025
- Section 12.13(c) – “Express Permitting Revisions” – Existing Policies May Be Used Until Permanent Rules Are In Effect
- Section 12.14(p) – “Provide Flexibility To Adjust Fees For Inflation”



Section 12.10.(a) - Right To Apply For And Obtain A Permit

SECTION 12.10.(a) Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.18. Right to apply and obtain permits.

Except to the extent required by federal or State law, the Department of Environmental Quality shall not refuse to accept an application for a permit, authorization, or certification or refuse to issue any permit, authorization, or certificate based solely on the failure of an applicant to obtain another permit, authorization, or certification required for the same project. For purposes of this section, failure to obtain a permit, authorization, or certification shall not include denial of the permit, authorization, or certification by the Department based on the standards for approval of the permit, authorization, or certification provided by law."



Section 12.10.(b) - Right To Apply For And Obtain A Permit

SECTION 12.10.(b) G.S. 113A-54.1(a) reads as rewritten:

"(a) A draft erosion and sedimentation control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. Except as provided in subsection (a1) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity. The Commission shall approve, approve with modifications, or disapprove a draft erosion and sedimentation control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall not deny a draft erosion and sedimentation control plan based solely upon the applicant's need to obtain other environmental permits, authorizations, or certifications for the project, aside from a permit required for stormwater discharges from construction sites pursuant to 40 C.F.R. § 122.26; the Commission shall, however, condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules—rules, including the applicant's receipt of other environmental permits, authorizations, or certifications that may be required for the project. Failure to approve, approve with modifications, or disapprove a completed draft erosion and sedimentation control plan within 30 days of receipt shall be deemed approval of the plan. If the Commission disapproves a draft erosion and sedimentation control plan or a revised erosion and sedimentation control plan, it must state in writing the specific reasons that the plan was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan. The Commission may establish an expiration date for erosion and sedimentation control plans approved under this Article."



Section 12.10.(c) - Right To Apply For And Obtain A Permit

SECTION 12.10.(c) G.S. 113A-61 reads as rewritten:

"§ 113A-61. Local approval of erosion and sedimentation control plans.

...

(b) Local governments shall review each erosion and sedimentation control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A local government shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

(b1) A local government shall not deny a draft erosion and sedimentation control plan based solely upon the applicant's need to obtain other environmental permits, authorizations, or certifications for the project, aside from a permit required for stormwater discharges from construction sites pursuant to 40 C.F.R. § 122.26; the local government shall, however, condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and ~~rules.~~ rules, including the applicant's receipt of other environmental permits, authorizations, or certifications that may be required for the project. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

...."



Section 12.12 - Stormwater Permitting Revisions

SECTION 12.12.(a) G.S. 143-214.7 is amended by adding two new subsections to read:

"(b5) Permitting under the authority granted to the Commission by this section shall comply with the procedures and time lines set forth in this subsection. For any development necessitating stormwater measures subject to this section, applications for new permits, permit modifications, permit transfers, permit renewals, and decisions to deny an application for a new permit, permit modification, transfer, or renewal shall be in writing. Where the Commission has provided a digital submission option, such submission shall constitute a written submission. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit or for a renewal of a permit as specified in this subsection after the applicant submits all information required by the Commission, the application shall be deemed approved without modification.

(1) The Commission shall perform an administrative review of a new application and of a resubmittal of an application determined to be incomplete under subdivision (3) of this subsection within 10 working days of receipt to determine if the information is administratively complete. If complete, the Commission shall issue a receipt letter or electronic response stating that the application is complete and that a 70-calendar day technical review period has started as of the original date the application was received. If required items or information is not included, the application shall be deemed incomplete, and the Commission shall issue an application receipt letter or electronic response identifying the information required to complete the application package before the technical review begins. When the required information is received, the Commission shall then issue a receipt letter or electronic response specifying that it is complete and that the 70-calendar day review period has started as of the date of receipt of all required information. The Commission shall develop an application package checklist identifying the items and information required for an application to be considered administratively complete.

(2) If, during the 70-calendar day technical review period, the Commission determines that the application meets the standards for issuance of a stormwater permit, it shall issue the permit.



Section 12.12 – (Continued)

(3) If, during the 70-calendar day technical review period, the Commission determines that additional information is required to continue processing the application, the Commission and the applicant shall comply with the following:

a. The Commission shall issue a letter or electronic response with a list of the additional information required to issue the permit.

b. The applicant shall have 30 calendar days from the date the letter or electronic response is sent to submit the additional information to the Commission.

c. If the applicant fails to provide the required information within 30 calendar days, the Commission shall return the application to the applicant, the application is deemed denied, and the applicant must resubmit a complete application with a new application fee before the project may be reviewed.

d. Upon receipt of the required information from the applicant, the Commission shall have 30 calendar days to complete the technical review and issue the permit, issue the permit with modifications, deny the permit, or issue a letter or electronic response with a list of additional information required to continue processing the application, and the review process will proceed in accordance with sub-subdivision b. of this subdivision.

e. After issuing a letter or electronic response requesting additional information under this subdivision, the Commission shall not subsequently request additional information that was not previously identified as missing or required in that additional information letter or electronic response. The Commission may request additional information if required for the technical review based on any new information, changed circumstances, or changed designs provided by the applicant in the response under sub-subdivision b. of this subdivision. Where the Commission identifies information that should have been requested, the Commission may include conditions in or modifications to the permit upon issuance addressing this information but shall not deny the permit because of the missing information. This prohibition on permit denial shall not apply where an application was deemed denied under sub-subdivision c. of this subdivision.

(b6) All permits issued pursuant to this section for which an expiration date is specified shall be issued for a term not to exceed eight years."

SECTION 12.12.(b) The Commission shall adopt amendments to its relevant permitting rules to reflect the statutory changes made by subsection (a) of this section. These amendments shall include updating 15A NCAC 02H .1045(4)(c) to reference G.S. 143-214.7 instead of G.S. 143-215.1.

SECTION 12.12.(c) Subsections (a) and (b) of this section become effective July 1, 2024.



Section 12.14(q)&(r) - Eliminate Fast-Track Stormwater Permit Option

SECTION 12.14.(q) G.S. 143-214.7B is repealed.

SECTION 12.14.(r) Subsection (q) of this section becomes effective October 1, 2023, and applies to permit applications filed on or after that date.



Section 20.5(a) - State Property And Land Use Regulation

SECTION 20.5.(a) G.S. 160D-913 reads as rewritten:

"§ 160D-913. Public buildings.

(a) All—Except as provided in G.S. 143-345.5 and this section, local government zoning and development regulations are applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

(b) Except as provided in G.S. 143-345.5, this Chapter shall not apply to the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, demolition, or use of any building or property by the State of North Carolina, including The University of North Carolina or any of its constituent institutions, located in whole or in part in Wake County and the project is managed by the State Construction Office.

(c) Except as provided in G.S. 143-345.5, this Chapter shall not apply to the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, demolition, or use of any building or property when the project is managed by the Legislative Services Commission.

(d) Notwithstanding the provisions of any general or local law or ordinance, except as provided in Part 4 of Article 9 of this Chapter, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegate.

(e) For properties exempt from this Chapter under subsection (b) or (c) of this section, the State Construction Office or the Legislative Services Commission shall consult with the appropriate county or city with jurisdiction with regard to all of the following:

- (1) Water and sewer services to be provided to the project.
- (2) Stormwater implications of the project.
- (3) Impacts on traffic patterns and parking.
- (4) Perimeter buffering, landscaping, tree protection, and riparian buffer requirements.
- (5) Local environmental regulations adopted under Part 2 of Article 9 of this Chapter."

SECTION 20.5.(b) This section is effective when it becomes law and applies to any erection, construction, repair, or renovation in existence on or after that date.



Section 12.13.(a) – Express Permitting Revisions

SECTION 12.13.(a) G.S. 143B-279.13 reads as rewritten:

"§ 143B-279.13. **Express permit and certification reviews.**

(a) The Department of Environmental Quality shall develop an express review program to provide express permit and certification reviews in all of its regional offices. Participation in the express review program is voluntary, and the program ~~is to become~~ shall be supported by the fees determined pursuant to subsection (b) of this section. The Department of Environmental Quality shall determine the project applications to review under the express review program from those who request to participate in the program. The express review program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water quality certifications and stormwater management. The express review program shall focus on the following permits or certifications:

- (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the General Statutes.
- (2) Stream origination certifications under Article 21 of Chapter 143 of the General Statutes.
- (3) Water quality certification under Article 21 of Chapter 143 of the General Statutes.
- (4) Erosion and sedimentation control permits under Article 4 of Chapter 113A of the General Statutes.
- (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.

(a1) The Department of Environmental Quality shall have the authority to create express permitting options for programs in addition to those listed in subsection (a) of this section where it deems there to be a need or where it determines an express permitting option would create greater efficiencies for the permitting process.

(b) The Department of Environmental Quality ~~may determine~~ shall set the fees for express application review under the express review ~~program~~ program at a level sufficient to cover all program expenses. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged under subsection (a) of this section for the express review of a project application requiring all of the permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged for the express review of a project application requiring all of the permits under subdivisions (1) through (4) of subsection (a) of this section shall not exceed four thousand five hundred dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the express review of a project application for any other combination of permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed four thousand dollars (\$4,000). Express As set forth in subsection (a1) of this section, express review of a project application involving additional permits or certifications issued by the Department of Environmental Quality other than those under subdivisions (1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application that includes a permit, approval, or certification designated for express review under subsection (a1) of this section shall not exceed four thousand dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular ~~permit~~ permit, approval, or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due to the insufficiency of the permit applications. The Department of Environmental Quality may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the express review program under this section.

...."



Section 12.13.(b) – Express Permitting Revisions

SECTION 12.13.(b) No later than July 1, 2025, the Department shall adopt permanent rules to implement the express permitting program as amended by subsection (a) of this section. In adopting permanent rules required by this section, the Department is exempt from the requirement of Chapter 150B of the General Statutes that a certification be obtained from the Office of State Budget and Management, including requirements under G.S. 150B-21.4, and from the requirement for preliminary review by the Office of State Budget and Management pursuant to G.S. 150B-21.26. As set forth in G.S. 143B-279.13(b), the Department of Environmental Quality may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the express review program.



Section 12.13.(c) – Express Permitting Revisions

SECTION 12.13.(c) Until the effective date of the rules required by subsection (b) of this section, the Department may continue to operate and administer the program as it did prior to the enactment of this section, using policies published on the Department's website and made available to the regulated community on or before July 1, 2023. These policies may be reviewed and updated by the Department as needed until the adoption of rules as required by subsection (b) of this section, provided that no policy changes shall go into effect until 30 days after the changes are published on the Department's website.



Section 12.14.(a) - Water Quality And Stormwater Fees

"§ 143-215.3D. Fee schedule for water quality permits.

- (a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –
- (1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential is ~~three thousand four hundred forty dollars (\$3,440)~~ four thousand six hundred twenty-five dollars (\$4,625).
 - (2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies is ~~eight hundred sixty dollars (\$860.00)~~ one thousand one hundred fifty dollars (\$1,150).
 - (3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence is sixty dollars (\$60.00).
 - (4) ~~Stormwater and~~ Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of ~~stormwater or~~ wastewater is one hundred dollars (\$100.00).
 - (5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit is ~~three hundred sixty dollars (\$360.00)~~ five hundred twenty dollars (\$520.00).
 - (6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land is ~~one thousand three hundred ten dollars (\$1,310)~~ one thousand seven hundred sixty dollars (\$1,760).
 - (7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land is ~~eight hundred ten dollars (\$810.00)~~ one thousand one hundred sixty dollars (\$1,160).
 - (8) Animal Waste Management Systems. – The annual fee for animal waste management systems is as set out in G.S. 143-215.10G.
 - (9) Authorizations to Construct. – The application fee for an authorization to construct for a wastewater treatment plant expansion, upgrade, replacement, or repair is one thousand dollars (\$1,000).
 - (10) NPDES Stormwater Permits. – The permit fee and annual fee for NPDES stormwater permits is as follows:
 - a. The fee for an industrial NPDES individual permit is one thousand two hundred dollars (\$1,200).
 - b. The fee for coverage under a construction or industrial NPDES general permit is one hundred twenty dollars (\$120.00).
 - c. The fee for an NPDES MS4 major permit is four thousand two hundred dollars (\$4,200).
 - d. The fee for an NPDES MS4 minor permit is one thousand dollars (\$1,000).
 - e. The fee for an NPDES no exposure certification is two hundred fifty dollars (\$250.00), only in the first year.



Section 12.14(a) - Continued

(b) Application fee for new discharge and nondischarge permits. – An application for a new permit of the type set out in subsection (a) of this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Other fees under this Article. –

(1) Sewer System Extension Permits. – The application fee for (i) a permit for the construction of a new sewer system or for system, (ii) a permit for the extension of an existing sewer system-system, or (iii) a variance request is ~~four hundred eighty dollars (\$480.00)~~ six hundred dollars (\$600.00).

(2) State Stormwater Permits. – ~~The application fee for~~ The fee for a permit regulating stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 is ~~five hundred five dollars (\$505.00)~~ G.S. 143-215.1 is as follows:

a. The fee for a new permit or a major modification of an existing development project permit is based on the number of stormwater control measures (SCMs) proposed in the permit as set forth in this sub-subdivision. The term "major modification" is defined in 15A NCAC 02H .1002.

1. For one or fewer SCMs, one thousand dollars (\$1,000).

2. For two SCMs, one thousand two hundred fifty dollars (\$1,250).

3. For three SCMs, one thousand seven hundred fifty dollars (\$1,750).

4. For four or more SCMs, two thousand two hundred fifty dollars (\$2,250).

b. The fee for a minor modification of a State stormwater permit is two hundred fifty dollars (\$250.00). The term "minor modification" is defined in 15A NCAC 02H .1002.

c. The fee for a renewal or transfer of a State stormwater permit is seven hundred fifty dollars (\$750.00).

d. The fee for a combination renewal and transfer of a State stormwater permit is one thousand five hundred dollars (\$1,500).

e. The fee for new coverage under a general permit is seven hundred dollars (\$700.00).

(3) Major Water Quality Certifications. – The fee for a water quality certification involving one acre or more of wetland fill or 150 feet or more of stream impact is ~~five hundred seventy dollars (\$570.00)~~ seven hundred sixty-seven dollars (\$767.00).

(4) Minor Water Quality Certifications. – The fee for a water quality certification involving less than one acre of wetland fill or less than 150 feet of stream impact is ~~two hundred forty dollars (\$240.00)~~ three hundred twenty-three dollars (\$323.00).



Section 12.14(p) - Provide Flexibility To Adjust Fees For Inflation

SECTION 12.14.(p) Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.18. Quadriennial adjustment of certain fees and rates.

(a) Adjustment for Legislatively Mandated Salaries and Benefits. – Beginning July 1, 2025, and every four years thereafter, the Department shall adjust the fees and rates imposed pursuant to the statutes listed in this subsection in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics during the prior two bienniums. The adjustment for per transaction rates shall be rounded to the nearest dollar (\$1.00):

- (1) G.S. 74-54.1.
- (2) G.S. 90A-42.
- (3) G.S. 90A-47.4.
- (4) G.S. 113A-54.2.
- (5) G.S. 113A-119.1.
- (6) G.S. 130A-291.1.
- (7) G.S. 130A-294.1.
- (8) G.S. 130A-295.8.
- (9) G.S. 130A-310.9.
- (10) G.S. 130A-310.39.
- (11) G.S. 130A-310.76.
- (12) G.S. 130A-328(b).
- (13) G.S. 130A-328(c).
- (14) G.S. 143-215.3D.
- (15) G.S. 143-215.10G.
- (16) G.S. 143-215.28A.
- (17) G.S. 143-215.94C.
- (18) G.S. 143-215.119.
- (19) G.S. 143-215.125A.
- (20) G.S. 143B-279.13.



Section 12.14(p) – (Continued)

(b) Rulemaking Exemption. – The fee adjustments required by this section are not subject to the requirements of Article 2A of Chapter 150B of the General Statutes.

(c) Consultation and Publication. – Notwithstanding any provision of G.S. 12-3.1 to the contrary, prior to implementing an adjustment pursuant to subsection (a) of this section the Department must, no later than 90 days prior to the end of the fiscal biennium, (i) consult with the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, (ii) report the proposed fee adjustments to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division, and (iii) publish notice of the fees that will be in effect in the offices of the Department and on the Department's website. After making the adjustment, the Department shall notify the Revisor of Statutes, who shall adjust the amounts in statute.

(d) Effective Date; Grandfathering. – Any adjustment to fees or rates under this section applicable to an application or request for a permit, certification, or other Department approval submitted to the Department is only applicable to an application or request for a permit, certification, or other Department approval submitted to the Department on or after the effective date of the fee or rate adjustment. No adjustment to fees or rates under this section applies to an application or request for a permit, certification, or other Department approval submitted to the Department prior to the effective date of the fee or rate adjustment."



SL 2023-137 (H600) – Regulatory Reform

- Section 1 – “Water Supply Watershed Protection Changes”
- Section 2 – “Stormwater Program Changes”
- Section 3 – “Amend Stormwater Fee Considerations”
- Section 4 – “Exemption From Requirements Of Post-construction Stormwater Rule”
- Section 5 – “Modify Certain Rules Related To Development Density In Water Supply Watersheds, As Applicable In Iredell County And The Town Of Mooresville”
- Section 13 – “Require Statutory Or Regulatory Citation For Any Conditions In A Permit Issued By The Department Of Environmental Quality”



Section 1 - Water Supply Watershed Protection Changes

SECTION 1. G.S. 143-214.5 reads as rewritten:

"§ 143-214.5. Water supply watershed protection.

...
(d3) A local government implementing a water supply watershed program shall allow an applicant to exceed the allowable density under the applicable water supply watershed rules if all of the following circumstances apply:

(1) The property was developed prior to the effective date of the local water supply watershed program.

(2) The property has not been combined with additional lots after January 1, 2021.

(3) The property has not been a participant in a density averaging transaction under subsection (d2) of this section.

(4) The current use of the property is nonresidential.

(5) ~~In the sole discretion, and at the voluntary election,~~ At the election of the property owner, the stormwater from ~~all of the existing and new~~ any net increase in built-upon area on the property above the preexisting development is treated in accordance with all applicable local government, State, and federal laws and regulations.

(6) The remaining vegetated buffers on the property are preserved in accordance with the local water supply watershed protection program requirements.

...."



Section 2 - Stormwater Program Changes

SECTION 2. G.S. 143-214.7 reads as rewritten:
"§ 143-214.7. Stormwater runoff rules and programs.

(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and ~~G.S. 143-214.7~~ this section provided the stormwater runoff from the entire impervious area of the development is collected, treated, and discharged so that it passes through a segment of the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements. For the purpose of this subdivision, the entire impervious area of the development shall not include any portion of a project that is within a North Carolina Department of Transportation or municipal right-of-way.

(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a redevelopment, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity. A property owner may voluntarily elect to treat all the stormwater from resulting from the net increase in built-upon area above the preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in G.S. 143-214.5(d3). This subsection applies to all local governments regardless of the source of their regulatory authority. Local governments shall include the requirements of this subsection in their stormwater ordinances.



Section 2 (continued)

(b5) An applicant for a new stormwater permit, or the reissuance of a permit due to transfer, modification, or renewal, shall have the option to submit a permit application for processing to a unit of local government with permitting authority in whose jurisdiction the project to be permitted is located, or where a unit of local government with permitting authority in whose jurisdiction the project to be permitted is located has established a joint program with one or more units of local government pursuant to subsection (c) of this section, other local governments in the joint program.

(c) The Commission shall develop model stormwater management programs that may be implemented by State agencies and units of local government. Model stormwater management programs shall be developed to protect existing water uses and assure compliance with water quality standards and classifications. A State agency or unit of local government may submit to the Commission for its approval a stormwater control program or a stormwater permitting program for implementation within its jurisdiction. To this end, State agencies may adopt rules, and units of local government are authorized to adopt ordinances and regulations necessary to establish and enforce stormwater control ~~programs~~ programs and stormwater permitting programs. Units of local government are authorized to create or designate agencies or subdivisions to administer and enforce the programs. Two or more units of local government are authorized to establish a joint program or a joint stormwater permitting program and to enter into any agreements that are necessary for the proper administration and enforcement of the program.

...
(c7) The Department shall not require an applicant for a new permit to take any action with respect to an unaffiliated adjacent property and shall not condition issuance of a new permit on action to be taken by an existing permit holder with respect to the permitting of an unaffiliated adjacent property. For purposes of this section, the following definitions apply:

(1) "Applicant" means the person applying for a new permit to be issued pursuant to this section and, if the applicant is a business entity, applicant also includes (i) the parent, subsidiary, or other affiliate of the applicant, (ii) a partner, officer, director, member, or manager of the business entity, parent, subsidiary, or other affiliate of the applicant, and (iii) any person with a direct or indirect interest in the applicant, other than a minority shareholder of a publicly traded corporation who has no involvement in management or control of the corporation or any of its parents, subsidiaries, or affiliates.

(2) "Unaffiliated adjacent property" means a property (i) for which the applicant does not have, and has not had, an ownership interest and (ii) that is not subject to a permit issued pursuant to this section that also governs the property for which the new permit is sought.

(3) As used in this section, the words "affiliate," "parent," and "subsidiary" have the same meaning as in 17 Code of Federal Regulations § 240.12b-2.

(c8) The Department shall rescind a permit issued under this section without the consent of the permit holder where the permitted development has not been initiated within five years after the date of permit issuance. No less than 90 days prior to rescission, the Department shall notify the permit holder of its intent to rescind the permit and allow the permit holder 60 days in which to respond and request an extension of the permit.

...."



Section 3 - Amend Stormwater Fee Considerations

SECTION 3.(a) G.S. 160A-314(a1) reads as rewritten:

"(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, stormwater control measures in use by the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

SECTION 3.(b) G.S. 153A-277(a1) reads as rewritten:

"(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, stormwater control measures in use by the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

SECTION 3.(c) This section is effective when it becomes law and applies to stormwater program amendments and stormwater fee schedules adopted on or after that date.



Section 4 - Exemption From Requirements Of Post-Construction Stormwater Rule

SECTION 4.(a) Definitions. – For purposes of this section, "Post-Construction Stormwater Rule" means 15A NCAC 02H .1001 (Post-Construction Stormwater Management: Purpose and Scope).

SECTION 4.(b) Post-Construction Stormwater Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Post-Construction Stormwater Rule as provided in subsection (c) of this section.

SECTION 4.(c) Implementation. – Public linear transportation projects undertaken by an entity other than the North Carolina Department of Transportation or a unit of local government, which are part of a common plan of development, shall be exempt from the requirements of the Post-Construction Stormwater Rule.

SECTION 4.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Post-Construction Stormwater Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.



Section 5 - MODIFY CERTAIN RULES RELATED TO DEVELOPMENT DENSITY IN WATER SUPPLY WATERSHEDS, AS APPLICABLE IN IREDELL COUNTY AND THE TOWN OF MOORESVILLE

SECTION 5.(a) Definitions. – For purposes of this section and its implementation, "Water Supply Watershed Project Density Rule" means 15A NCAC 02B .0624 (Water Supply Watershed Protection Program: Nonpoint Source and Stormwater Pollution Control).

SECTION 5.(b) Water Supply Watershed Project Density Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Water Supply Watershed Project Density Rule as provided in subsection (c) of this section.

SECTION 5.(c) Implementation. – Notwithstanding 15A NCAC 02B .0624(7), Iredell County and the Town of Mooresville may regulate new development outside of WS-I watersheds and the critical areas of WS-II, WS-III, and WS-IV watersheds in accordance with the following requirement: a maximum of twenty percent (20%) of the land area of a water supply watershed outside of the critical area and within the local government's planning jurisdiction may be developed with new development projects and expansions of existing development of up to seventy percent (70%) built-upon area.

SECTION 5.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Water Supply Watershed Project Density Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 5.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.



Section 13 - Require Statutory Or Regulatory Citation For Any Conditions In A Permit Issued By The Department Of Environmental Quality

SECTION 13. Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.4A. Requirement for Department-issued permits to include statutory or regulatory authority for conditions.

The Department shall include in any permit issued by the Department the statutory or regulatory authority for each permit condition required by the Department."



Questions?

**Please Remember to Complete the End of Workshop
Evaluation**



<https://bit.ly/2023EscEval>





Department of Environmental Quality

