

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 579
Committee Substitute Favorable 5/31/23
PROPOSED COMMITTEE SUBSTITUTE H579-PCS30401-RIF-27

Short Title: Sedimentation Act & Other Env'l. Changes.

(Public)

Sponsors:

Referred to:

April 6, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND SEDIMENTATION CONTROL PERMITTING REQUIREMENTS
3 AND TO ESTABLISH OTHER REQUIREMENTS FOR DEQ TO FACILITATE THE
4 EFFICIENT AND EFFECTIVE ADMINISTRATION OF ENVIRONMENTAL
5 PROGRAMS IN NORTH CAROLINA.

6 The General Assembly of North Carolina enacts:

7
8 **STREAMLINE PERMITTING FOR LAND-DISTURBING ACTIVITIES**

9 **SECTION 1.(a)** G.S. 113A-57 reads as rewritten:

10 "**§ 113A-57. Mandatory standards for land-disturbing activity.**

11 No land-disturbing activity subject to this Article shall be undertaken except in accordance
12 with the following mandatory requirements:

13 ...

14 (6) For persons initiating land-disturbing activity that are required to obtain
15 coverage under NPDES General Permit No. NCG01000 (NCG01), the
16 requirements of subdivision (4) of this section shall be satisfied through
17 application for and receipt of the NCG01. To avoid duplication of effort on
18 the part of persons initiating such activity, unnecessary delays in project
19 development, and inefficient use of Department personnel as a result of
20 redundant review of such information, no additional or different requirements
21 shall be imposed for the submission or approval of an erosion and
22 sedimentation control plan beyond that required for the NCG01 permit,
23 whether such permit is issued by the Department or by a local government
24 pursuant to G.S. 113A-60(a3)."

25 **SECTION 1.(b)** G.S. 113A-60 reads as rewritten:

26 "**§ 113A-60. Local erosion and sedimentation control programs.**

27 (a) A local government may submit to the Commission for its approval an erosion and
28 sedimentation control program for its jurisdiction and may adopt ordinances and regulations
29 necessary to establish and enforce erosion and sedimentation control programs. An ordinance
30 adopted by a local government may establish a fee for ~~the review of an erosion and sedimentation~~
31 ~~control plan and related activities.~~ acceptance and administration of an NPDES General Permit
32 No. NCG01000 (NCG01) from persons initiating land-disturbing activity in their jurisdictions.
33 The fee shall be calculated on the basis of either be, on the option of the applicant, either (i)
34 calculated on the basis of the number of acres ~~disturbed or~~ disturbed or (ii) no more than one
35 hundred dollars (\$100.00) per lot developed in the case of a single-family lot ~~in a residential~~



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~~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.

...

(a2) The requirements of an approved local sedimentation control program established pursuant to subsection (a) or (a1) of this section, including requirements for ground cover necessary to terminate coverage under an NPDES General Permit No. NCG01000 (NCG01), shall meet, but not exceed, requirements under State law.

(a3) An approved local program shall be required to accept an NPDES General Permit No. NCG01000 (NCG01) from persons initiating land-disturbing activity in their jurisdictions that are required to obtain coverage under the NCG01, in lieu of approval of an erosion and sedimentation control plan or other land disturbance permit or other permit or certification, for purposes of compliance with this Article and rules adopted thereunder.

(b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal ~~or exceed~~ those of this Article and rules adopted pursuant to this Article.

...."

SECTION 1.(c) G.S. 113A-54 reads as rewritten:

"§ 113A-54. Powers and duties of the Commission.

(a) The Commission shall, in cooperation with the Secretary of Transportation and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(b) The Commission shall develop and adopt and shall revise as necessary from time to time, rules and regulations for the control of erosion and sedimentation resulting from land-disturbing activities. The Commission shall adopt or revise its rules and regulations in accordance with Chapter 150B of the General Statutes.

(c) The rules and regulations adopted pursuant to G.S. 113A-54(b) for carrying out the erosion and sedimentation control program ~~shall~~ shall include all of the following:

- (1) Be based upon relevant physical and developmental information concerning the watershed and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, grading, ground cover, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and ~~services;~~ services.
- (2) Include such survey of lands and waters as may be deemed appropriate by the Commission or required by any applicable laws to identify those areas, including multijurisdictional and watershed areas, with critical erosion and sedimentation ~~problems;~~ and problems.
- (3) Contain conservation standards for various types of soils and land uses, which standards shall include criteria and alternative techniques and methods for the control of erosion and sedimentation resulting from land-disturbing activities.
- (4) Standards, policies, and procedures for permitting of grading to be adopted by any local government operating an approved erosion and sedimentation control program within its jurisdiction. A separate permit shall not be required for grading, however, where the grading is to be conducted as part of land-disturbing activity that is required to obtain coverage under NPDES

1 General Permit No. NCG01000 (NCG01) or have an approved erosion and
2 sedimentation control plan pursuant to the requirements of this Article. Where
3 a grading permit is required as part of land-disturbing activity that is not
4 required to obtain coverage under the NCG01 or have an approved erosion
5 and sedimentation control plan pursuant to the requirements of this Article, no
6 fee shall be charged in association with the grading permit.

7 (d) In implementing the erosion and sedimentation control program, the Commission
8 shall:

- 9 (1) Assist and encourage local governments in developing erosion and
10 sedimentation control programs and, as a part of this assistance, the
11 Commission shall develop a model local erosion and sedimentation control
12 ordinance. The Commission shall approve, approve as modified, or
13 disapprove local programs submitted to it pursuant to G.S. 113A-60.
14 (2) Assist and encourage other State agencies in developing erosion and
15 sedimentation control programs to be administered in their jurisdictions. The
16 Commission shall approve, approve as modified, or disapprove programs
17 submitted pursuant to G.S. 113A-56 and from time to time shall review these
18 programs for compliance with rules adopted by the Commission and for
19 adequate enforcement.
20 (3) Develop recommended methods of control of sedimentation and prepare and
21 make available for distribution publications and other materials dealing with
22 sedimentation control techniques appropriate for use by persons engaged in
23 land-disturbing activities, general educational materials on erosion and
24 sedimentation control, and instructional materials for persons involved in the
25 enforcement of this Article and erosion and sedimentation control rules,
26 ordinances, regulations, and plans.
27 (4) Require submission of erosion and sedimentation control plans by those
28 responsible for initiating land-disturbing activities for approval prior to
29 commencement of the activities.

30 (e) To assist it in developing the erosion and sedimentation control program required by
31 this Article, the Commission is authorized to appoint an advisory committee consisting of
32 technical experts in the fields of water resources, soil science, engineering, and landscape
33 architecture.

34 (f) Repealed by Session Laws 1987, c. 827, s. 10, effective August 13, 1987.

35 (g) The Commission is authorized to make the final decision on a request for the
36 remission of a civil penalty under G.S. 113A-64.2."

37 **SECTION 1.(d)** No later than September 1, 2023, the Department of Environmental
38 Quality shall prepare and submit to the United States Environmental Protection Agency for
39 approval by that agency proposed changes to the State's Sedimentation Pollution Control Act of
40 1973 (Act) and its implementation of NPDES General Permit NCG01000 (NCG01 permit) as
41 enacted by Sections 1(a), 1(b), and 1(c) of this act, including to (i) eliminate the requirement
42 under the Act that a person submit a draft erosion and sedimentation control plan for the
43 Department's or an approved local program's approval, for persons otherwise required to obtain
44 an NCG01 permit, (ii) authorize an approved local program to accept NCG01 permits, in lieu of
45 approval of an erosion and sedimentation control plan or other land disturbance permit, and (iii)
46 limit approved local programs to implementation and enforcement of requirements for
47 land-disturbing activities that meet, but do not exceed, State requirements for these activities.

48 **SECTION 1.(e)** Subsections (a), (b), and (c) of this section become effective on the
49 later of the following dates and apply to permits to conduct land-disturbing activity submitted on
50 or after that date:

- 51 (1) July 1, 2024.

- 1 (2) The first day of a month that is 60 days after the Secretary of the Department
2 of Environmental Quality certifies to the Revisor of Statutes that the United
3 States Environmental Protection Agency has approved an amendment to the
4 Sedimentation Pollution Control Act as required by subsection (d) of this
5 section. The Secretary shall provide this notice along with the effective date
6 of this act on its website.

7 **SECTION 1.(f)** The Department of Environmental Quality shall report to the
8 Environmental Review Commission on the status of their activities pursuant to subsection (d) of
9 this section quarterly, beginning October 1, 2023, until such time as the General Assembly
10 repeals this reporting requirement.

11
12 **DEQ TO REQUEST THAT USEPA CONSULT DEQ ON PROPOSED CHANGES TO
13 ALL APPLICABLE FEDERAL REGULATIONS PRIOR TO NOTICE OF SAME IN
14 THE FEDERAL REGISTER**

15 **SECTION 2.** No later than July 1, 2023, the Department of Environmental Quality
16 shall request that the United States Environmental Protection Agency (USEPA) consult with the
17 Department on any proposed changes to federal regulations that would impact the State's
18 administration of federal environmental programs in North Carolina, prior to the USEPA's notice
19 of such proposed changes in the Federal Register, so that the State may have opportunity for
20 meaningful collaborative input on development of regulations that it may be charged with
21 administering. The Department shall report to the Environmental Review Commission on the
22 status of their activities pursuant to this section quarterly, beginning August 1, 2023, until such
23 time as the General Assembly repeals this reporting requirement.

24
25 **DEQ TO PROVIDE COPIES OF AGREEMENTS WITH USEPA, AND ASSOCIATED
26 FUNDING INFORMATION**

27 **SECTION 3.** No later than July 1, 2023, the Department of Environmental Quality
28 shall submit copies of any agreements executed between the Department and the United States
29 Environmental Protection Agency that govern the State's administration of programs under the
30 Clean Water Act to the House Local Government – Land Use, Planning and Development
31 Committee. In addition, the Department shall provide information to the Committee on:

- 32 (1) Any federal funds received by the State in connection with the State's
33 administration of such programs, and all federal requirements for receipt of
34 such funds; and
35 (2) The adequacy of funding from all sources to fully implement the requirements
36 of such agreements.

37
38 **SEVERABILITY CLAUSE**

39 **SECTION 4.** If any section or provision of this act is declared unconstitutional or
40 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
41 the part declared to be unconstitutional or invalid.

42
43 **EFFECTIVE DATE**

44 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
45 law.