

# Local Ordinances

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## Public Comment on Related NCDA&CS Authority

**11/1/2014**



S.L. 2014-120, Section 32.(b), the Regulatory Reform Act of 2014, required the N.C. Department of Agriculture and Consumer Services to report to the Environmental Review Commission on any local government ordinances that impinge on, or interfere with, any area subject to regulation by the Department by November 1, 2014. To fulfill this requirement, the Department was required to solicit public input.

The following report provides information on the Department's solicitation, review and response to public input.

### Public Input

The NCDA&CS issued a press release on September 16, 2014 requesting public input. A website portal was created, and Environmental Program Specialist Keith Larick was established as the point of contact. Public comment was received through October 15, 2014.

The NCDA&CS partnered with several entities, including the N.C. Department of Environment and Natural Resources to further solicit input. Additionally, information was published in the N.C. Farm Bureau's member bulletin, distributed by the N.C. Soil and Water Commission to their District offices, and promoted on the N.C. Agriculture Network.

Through these efforts the Department received five comments.

### Comment Review

The following section summarizes the five public comments received, with NCDA&CS responses in italics:

- Uniform Environmental Covenants (UEC) is being used in several states to link laws and regulations together and establish standardized and defensible groundwater, soil, and waste cleanups. The UEC is often written to force various agencies to accept one standard or another for cleanups to avoid internal conflicts and discrepancies on how laws, regulations and policy is implemented. UEC should be used in NC to leverage best practices and standards among all agencies that enforce permits and oversee cleanups.

*This comment refers to groundwater and soil cleanup standards that are regulated through the N.C. Department of Environment and Natural Resources (NCDENR). This comment was forwarded to NCDENR for their consideration.*

- What is the applicability and use of Guilford County's Well Fees for monitor and/or recovery wells? They charge \$60/well application fee, and \$60/well annual for the well program, but they don't really have the right staff mix to oversee remediation projects, so they are essentially charging fees to fund other parts of the Guilford County Health Department, and then reducing the level of regulatory input / oversight, that clients/consultants might otherwise have directly with NCDENR. Assigning experienced

NCDENR staff working in the GCHD office would be one of several potential solutions. I have good relations with several folks in the GCHD, so not suggesting their department should be dissolved. But Clients should have greater access to regulatory support (not less) since they are paying extra fees that are not charged in most other areas of NC.

*This comment refers to well permits and fees, which are regulated through NCDENR and county health departments. This comment was forwarded to NCDENR for their consideration.*

- The Columbus County Health Department board adopted a set of standards for "Operating Guidelines and Standards for Poultry Production Operations in Columbus County" on December 11, 2007. These guidelines also include a set of Columbus County Rules for Intensive Livestock Operations (ILO). The ILO rules were adopted to become effective August 29, 2002.

*This comment does appear to reference a specific county ordinance that impacts the livestock and poultry industry, however, these programs are regulated by NCDENR. This comment was forwarded to NCDENR for their consideration.*

- An internal staff member was contacted on a local rule that involved signage for road side stands on the farm in an ETJ. A town had ordered a long time stand to remove signs, banners, etc, and the farmer sought relief.

*This issue was resolved locally after the town in question was made aware of G.S. 153A-340, which exempts "bona fide farms" from zoning and development regulation ordinances.*

- I have worked with both Buncombe and Henderson County Soil & Water Conservation Districts for a total of 12 years (6 years each). In both counties we have had recurring questions of what agricultural best management practices do and don't require permits. Over the years this has included: County (Flood plain/erosion control), State (NCDENR) and Federal (ACOE) agencies. In some cases, projects were required to perform a full no-rise study, which can be hugely time consuming. Clarification on what ag BMP's are/are not exempt from permitting would be helpful.

*This comment does not directly relate to any local ordinance issue, but rather addresses the need for coordination between agencies at the local, state, and federal levels.*

### Agency Response

Having reviewed all public comment and surveyed our staff internally, the NCDA&CS does not know of any local ordinances that impinge or interfere with our regulatory authority as this time. The next report is due to the Environmental Review Commission on November 1, 2015. The NCDA&CS will continue to monitor this area for any changes or recommendations.