

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 579

Short Title: Amend Certain DEQ/EPA Agreements/Proceedings. (Public)

Sponsors: Representatives Brody, Saine, Zenger, and N. Jackson (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Environment, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and  
Operations of the House

April 6, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND SEDIMENTATION CONTROL PERMITTING REQUIREMENTS, TO ESTABLISH NEW REQUIREMENTS FOR MEMORANDUMS OF AGREEMENT BETWEEN THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, TO REQUIRE GENERAL ASSEMBLY APPROVAL FOR RULEMAKING TO INCORPORATE BY REFERENCE FEDERAL ENVIRONMENTAL REGULATIONS, TO REVISE APPOINTMENTS TO THE SEDIMENTATION CONTROL COMMISSION, TO ESTABLISH THE ENVIRONMENTAL POLICY COUNCIL, AND TO MAKE OTHER CHANGES TO THE ADMINISTRATION OF ENVIRONMENTAL PROGRAMS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**ELIMINATE PERMITTING REDUNDANCIES WHEN NCG01 REQUIRED**

**SECTION 1.(a)** G.S. 113A-57 is rewritten to read:

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

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

- (1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.



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- 1 (2) The angle for graded slopes and fills shall be no greater than the angle that can  
2 be retained by vegetative cover or other adequate erosion-control devices or  
3 structures. In any event, slopes left exposed will, within 21 calendar days of  
4 completion of any phase of grading, be planted or otherwise provided with  
5 temporary or permanent ground cover, devices, or structures sufficient to  
6 restrain erosion.
- 7 (3) Whenever land-disturbing activity that will disturb more than one acre is  
8 undertaken on a tract, the person conducting the land-disturbing activity shall  
9 install erosion and sedimentation control devices and practices that are  
10 sufficient to retain the sediment generated by the land-disturbing activity  
11 within the boundaries of the tract during construction upon and development  
12 of the tract, and shall plant or otherwise provide a permanent ground cover  
13 sufficient to restrain erosion after completion of construction or development  
14 within a time period to be specified by rule of the Commission. Requirements  
15 for ground cover necessary to terminate coverage under an erosion and  
16 sedimentation control plan, whether those requirements are established by  
17 State law or a local government that administers a delegated erosion and  
18 sedimentation control program, shall not exceed the requirements for final  
19 vegetative or non-vegetative stabilization set forth in Part 2.2.14c. of the  
20 National Pollutant Discharge Elimination System (NPDES) Construction  
21 General Permit (CGP) for Stormwater Discharges from Construction  
22 Activities issued by the United States Environmental Protection Agency as  
23 noticed at 87 Federal Register 3522.
- 24 (4) No person shall initiate any land-disturbing activity that will disturb more than  
25 one acre on a tract unless, 30 or more days prior to initiating the activity, an  
26 erosion and sedimentation control plan for the activity is filed with the agency  
27 having jurisdiction and approved by the agency. An erosion and sedimentation  
28 control plan may be filed less than 30 days prior to initiation of a  
29 land-disturbing activity if the plan is submitted under an approved express  
30 permit program, and the land-disturbing activity may be initiated and  
31 conducted in accordance with the plan once the plan has been approved. The  
32 agency having jurisdiction shall forward to the Director of the Division of  
33 Water Resources a copy of each erosion and sedimentation control plan for a  
34 land-disturbing activity that involves the utilization of ditches for the purpose  
35 of de-watering or lowering the water table of the tract.
- 36 (5) The land-disturbing activity shall be conducted in accordance with the  
37 approved erosion and sedimentation control plan.
- 38 (6) For persons initiating land-disturbing activity that are required to obtain  
39 coverage under NPDES General Permit No. NCG01000 (NCG01), the  
40 requirements of subdivision (4) of this section shall be satisfied through  
41 application for and receipt of the NCG01. To avoid duplication of effort on  
42 the part of persons initiating such activity, unnecessary delays in project  
43 development, and inefficient use of Department personnel as a result of  
44 redundant review of such information, no additional or different requirements  
45 shall be imposed for the submission or approval of an erosion and  
46 sedimentation control plan beyond that required for the NCG01 permit,  
47 whether such permit is issued by the Department or by a local government  
48 pursuant to G.S. 113A-60(a3)."

49 **SECTION 1.(b)** The Commission shall adopt temporary rules to implement the  
50 requirements for ground cover established by G.S. 113A-57(3), as amended by Section 1(a) of

1 this act. Temporary rules adopted in accordance with this subsection shall remain in effect until  
2 permanent rules that replace the temporary rules become effective.

3 **SECTION 1.(c)** This section is effective when it becomes law and applies to  
4 applications for permits for land-disturbing activities submitted on or after that date.

5 **SECTION 2.(a)** G.S. 113A-54 reads as rewritten:

6 "**§ 113A-54. Powers and duties of the Commission.**

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

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

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

- 16 (1) Be based upon relevant physical and developmental information concerning  
17 the watershed and drainage basins of the State, including, but not limited to,  
18 data relating to land use, soils, hydrology, geology, grading, ground cover,  
19 size of land area being disturbed, proximate water bodies and their  
20 characteristics, transportation, and public facilities and ~~services;~~ services.
- 21 (2) Include such survey of lands and waters as may be deemed appropriate by the  
22 Commission or required by any applicable laws to identify those areas,  
23 including multijurisdictional and watershed areas, with critical erosion and  
24 sedimentation ~~problems; and~~ problems.
- 25 (3) Contain conservation standards for various types of soils and land uses, which  
26 standards shall include criteria and alternative techniques and methods for the  
27 control of erosion and sedimentation resulting from land-disturbing activities.
- 28 (4) Standards, policies, and procedures for permitting of grading to be adopted by  
29 any local government operating an approved erosion and sedimentation  
30 control program within its jurisdiction. A separate permit shall not be required  
31 for grading, however, where the grading is to be conducted as part of  
32 land-disturbing activity that is required to obtain coverage under NPDES  
33 General Permit No. NCG01000 (NCG01) or have an approved erosion and  
34 sedimentation control plan pursuant to the requirements of this Article. Where  
35 a grading permit is required as part of land-disturbing activity that is not  
36 required to obtain coverage under the NCG01 or have an approved erosion  
37 and sedimentation control plan pursuant to the requirements of this Article, no  
38 fee shall be charged in association with the grading permit.

39 (d) In implementing the erosion and sedimentation control program, the Commission  
40 shall:

- 41 (1) Assist and encourage local governments in developing erosion and  
42 sedimentation control programs and, as a part of this assistance, the  
43 Commission shall develop a model local erosion and sedimentation control  
44 ordinance. The Commission shall approve, approve as modified, or  
45 disapprove local programs submitted to it pursuant to G.S. 113A-60.
- 46 (2) Assist and encourage other State agencies in developing erosion and  
47 sedimentation control programs to be administered in their jurisdictions. The  
48 Commission shall approve, approve as modified, or disapprove programs  
49 submitted pursuant to G.S. 113A-56 and from time to time shall review these  
50 programs for compliance with rules adopted by the Commission and for  
51 adequate enforcement.

1 (3) Develop recommended methods of control of sedimentation and prepare and  
2 make available for distribution publications and other materials dealing with  
3 sedimentation control techniques appropriate for use by persons engaged in  
4 land-disturbing activities, general educational materials on erosion and  
5 sedimentation control, and instructional materials for persons involved in the  
6 enforcement of this Article and erosion and sedimentation control rules,  
7 ordinances, regulations, and plans.

8 (4) Require submission of erosion and sedimentation control plans by those  
9 responsible for initiating land-disturbing activities for approval prior to  
10 commencement of the activities.

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

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

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

18 **SECTION 2.(b)** The Commission shall adopt temporary rules to implement the  
19 requirements of G.S. 113A-54(c)(4), as enacted by subsection (a) of this section, no later than 60  
20 days after this act becomes law. Temporary rules adopted in accordance with this subsection shall  
21 remain in effect until permanent rules that replace the temporary rules become effective.

22 **SECTION 2.(c)** Any local government operating an approved erosion and  
23 sedimentation control program within its jurisdiction on the date this act becomes law shall, no  
24 later than October 1, 2023, submit to the Commission for its approval standards, policies, and  
25 procedures for permitting of grading to be adopted by the local government and incorporated into  
26 its erosion and sedimentation control program for its jurisdiction in compliance with rules  
27 adopted by the Commission pursuant to G.S. 113A-54(c)(4), as enacted by subsection (b) of this  
28 section. All grading permit standards, policies, and procedures of such local governments in  
29 effect when this act becomes law shall remain in effect until December 31, 2023, but thereafter  
30 shall be void and unenforceable, until such time as the Commission has approved new or revised  
31 standards, policies, and procedures for permitting of grading to be adopted by the local  
32 government and incorporated into the erosion and sedimentation control program for its  
33 jurisdiction in compliance with rules adopted by the Commission pursuant to  
34 G.S. 113A-54(c)(4), as enacted by Section 2(b) of this act. Where a local government has issued  
35 a grading permit for a multiyear project, however, that permit shall nonetheless remain in effect  
36 until the termination of the project, and no modifications to such a permit that would result in  
37 additional cost to the permittee shall be allowed. The submittal required herein may be done in  
38 conjunction with the submittal required pursuant to Section 3(b) of this act.

39  
40 **REQUIRED REVISIONS TO LOCAL SEDIMENTATION CONTROL**  
41 **PROGRAMS/STRINGENCY LIMITATIONS/AUTHORIZATION TO ISSUE NCG01**

42 **SECTION 3.(a)** G.S. 113A-60 reads as rewritten:

43 **"§ 113A-60. Local erosion and sedimentation control programs.**

44 (a) A local government may submit to the Commission for its approval an erosion and  
45 sedimentation control program for its jurisdiction and may adopt ordinances and regulations  
46 necessary to establish and enforce erosion and sedimentation control programs. An ordinance  
47 adopted by a local government may establish a fee for the review of an erosion and sedimentation  
48 control plan and related activities. The fee shall be calculated on the basis of either the number  
49 of acres disturbed or in the case of a single-family lot in a residential development or common  
50 plan of development that is less than one acre set at no more than one hundred dollars (\$100.00)  
51 per lot developed. Local governments are authorized to create or designate agencies or

1 subdivisions of local government to administer and enforce the programs. Except as otherwise  
2 provided in this Article, an ordinance adopted by a local government shall at least meet and may  
3 exceed the minimum requirements of this Article and the rules adopted pursuant to this Article.

4 (a1) Two or more units of local government are authorized to establish a joint program  
5 and to enter into any agreements that are necessary for the proper administration and enforcement  
6 of the program. The resolutions establishing any joint program must be duly recorded in the  
7 minutes of the governing body of each unit of local government participating in the program, and  
8 a certified copy of each resolution must be filed with the Commission.

9 (a2) The requirements of an approved local sedimentation control program established  
10 pursuant to subsection (a) or (a1) of this section shall meet, but not exceed, the requirements for  
11 stormwater discharges from construction activities set forth under the 2022 Clean Water Act  
12 National Pollution Discharge Elimination System (NPDES) general permit for stormwater  
13 discharges from construction activities (Construction Permit), 87 Federal Register 3522.

14 (a3) An approved local program shall be required to issue a NPDES General Permit No.  
15 NCG01000 (NCG01) to persons initiating land-disturbing activity in their jurisdictions that are  
16 required to obtain coverage under the NCG01, in lieu of a land disturbance permit or other permit  
17 or certification, issued for purposes of compliance with this Article and rules adopted thereunder.  
18 A local program may charge a fee of no more than two hundred dollars (\$200.00) for issuance of  
19 a NCG01, and no other fee may be charged under this section. Fifty percent (50%) of such fees  
20 charged by a local program shall be retained by the local program and fifty percent (50%) shall  
21 be remitted to the Department.

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

27 ...."

28 **SECTION 3.(b)** Any local government operating an approved erosion and  
29 sedimentation control program within its jurisdiction on the date this act becomes law that desires  
30 to continue operating such a program shall, no later than October 1, 2023, submit to the  
31 Commission for its approval a revised erosion and sedimentation control program for its  
32 jurisdiction and may adopt ordinances and regulations necessary to meet, but not exceed, the  
33 requirements for stormwater discharges from construction activities set forth under the 2022  
34 Clean Water Act National Pollution Discharge Elimination System (NPDES) general permit for  
35 stormwater discharges from construction activities (Construction Permit), 87 Federal Register  
36 3522. The Commission shall review each revised program submitted and within 90 days of  
37 receipt thereof shall notify the local government submitting the revised program that it has been  
38 approved, approved with modifications, or disapproved. The Commission shall only approve a  
39 revised program upon determining that it meets, but does not exceed, the requirements for  
40 stormwater discharges from construction activities set forth under the Construction Permit. After  
41 the effective date of this act, a local government shall be deemed only to have approval to  
42 administer a limited erosion and sedimentation control program for its jurisdiction that grants the  
43 local government the responsibility only for the assessment and collection of fees and for the  
44 inspection of land-disturbing activities within the jurisdiction of the local government, as  
45 described in G.S. 113A-60(d) and (e), until such time as:

- 46 (1) The Commission has approved a revised program submitted pursuant to this  
47 section; and
- 48 (2) The Commission or Department, as applicable, has established processes to  
49 enable local governments to issue NPDES General Permit No. NCG01000  
50 (NCG01) in lieu of a land disturbance permit or other permit or certification

1 issued for purposes of compliance with Article 4 of Chapter 113A of the  
2 General Statutes and rules adopted thereunder.

3 **SECTION 3.(c)** No later than 60 days after this act becomes law, the Commission  
4 shall adopt temporary rules to require approved local programs to issue a NPDES General Permit  
5 No. NCG01000 (NCG01) to persons initiating land-disturbing activity in their jurisdictions that  
6 are required to obtain coverage under the NCG01 in lieu of a land disturbance permit or other  
7 permit or certification issued for purposes of compliance with this Article and rules adopted  
8 thereunder. Temporary rules adopted in accordance with this subsection shall remain in effect  
9 until permanent rules that replace the temporary rules become effective.

10 **SECTION 3.(d)** G.S. 113A-60(a3), as enacted by subsection (a) of this section, is  
11 effective upon the date the temporary rules required by subsection (c) of this section become  
12 effective and applies to applications for permits for land-disturbing activities submitted on or  
13 after that date.

14  
15 **MEMORANDUM OF AGREEMENTS BETWEEN DEQ AND USEPA TO REQUIRE**  
16 **GENERAL ASSEMBLY APPROVAL/DEQ ADMINISTRATION OF**  
17 **ENVIRONMENTAL PROGRAMS IN EVENT OF WITHDRAWAL OF USEPA**  
18 **DELEGATION/DEQ RESERVATION OF RIGHT TO DEFINE VAGUE, AMBIGUOUS,**  
19 **OR UNDEFINED TERMS/REQUIRE GENERAL ASSEMBLY APPROVAL FOR**  
20 **RULEMAKING TO INCORPORATE FEDERAL ENVIRONMENTAL REGULATIONS**  
21 **BY REFERENCE**

22 **SECTION 4.(a)** Article 7 of Chapter 143B of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 143B-279.4A. Requirements for Department administration of federally delegated**  
25 **environmental programs.**

26 (a) All memorandums of agreement between the United States Environmental Protection  
27 Agency and the Department of Environmental Quality, the Environmental Management  
28 Commission, the Coastal Resources Commission, the Sedimentation Control Commission, and  
29 any other board or commission charged under the State's statutes with implementation of State  
30 or federal environmental law shall, prior to execution, require approval of the General Assembly  
31 by majority vote of the Senate and the House of Representatives. The Governor shall transmit  
32 any proposed memorandums of agreements of this nature, or modifications to such agreements,  
33 to the presiding officers of the Senate and the House of Representatives for confirmation by joint  
34 resolution. Implementation of the terms of such agreements shall be prohibited absent  
35 confirmation by the General Assembly.

36 (b) In the event that the United States Environmental Protection Agency (USEPA) should  
37 act to withdraw authority it has delegated to the State of North Carolina to administer the Clean  
38 Water Act, the Department of Environmental Quality is nonetheless directed by the General  
39 Assembly to continue administration of the terms of the most recent version of any applicable  
40 memorandum of agreement executed between the State and USEPA that governs the State's  
41 administration of that program and to continue to timely issue any permits associated with the  
42 program if the General Assembly issues a determination through joint resolution that USEPA  
43 lacks funding or adequate personnel to effectively administer the program's requirements, and,  
44 as such, assumption of the program's requirements by USEPA would cause serious economic  
45 hardships upon people and business in North Carolina that are subject to federal environmental  
46 law. The Department shall continue to administer the program under the terms of the most recent  
47 version of any applicable memorandum of agreement until such time as a new agreement between  
48 the State and USEPA has been approved by the General Assembly through joint resolution, and  
49 subsequently executed by the Department.

50 (c) Notwithstanding any authority to adopt rules for the protection of the environment or  
51 natural resources granted under the statutes to the Department, the Environmental Management

1 Commission, the Sedimentation Control Commission, the Coastal Resources Commission, or  
2 any other board or commission, no State agency shall incorporate by reference any federal law  
3 or regulation for the protection of the environment or natural resources until the General  
4 Assembly has enacted legislation to specifically approve the agency's adoption of the rule. If an  
5 agency seeks to adopt a rule to incorporate a federal law or regulation for the protection of the  
6 environment or natural resources by reference, the Department shall submit a petition to the  
7 General Assembly requesting approval for adoption of the rule and include the content of the  
8 federal law or regulation to be incorporated by reference.

9 (d) The Department reserves the right to define vague, ambiguous, or undefined terms  
10 that may be included in any memorandum of agreement with the United States Environmental  
11 Protection Agency or federal environmental law as issues may arise resulting from application  
12 of such terms.

13 (e) The Department shall submit a quarterly report to the Environmental Policy Council  
14 identifying all changes to federal law or regulations enacted or proposed during the previous  
15 quarter that would impact the administration of environmental regulatory programs in North  
16 Carolina."

17 **SECTION 4.(b)** G.S. 143B-279.4A(a), as enacted by subsection (a) of this section,  
18 shall apply to memorandums of agreement, or modifications to such agreements, proposed for  
19 execution on or after the effective date of this act. The first report due pursuant to  
20 G.S. 143B-279.4A(e), as enacted by subsection (a) of this section, shall be submitted October 1,  
21 2023.

## 22 **REVISE SEDIMENTATION CONTROL COMMISSION APPOINTMENTS**

23 **SECTION 5.** G.S. 143B-299 reads as rewritten:

24 **"§ 143B-299. Sedimentation Control Commission – members; selection; compensation;**  
25 **meetings.**

26 (a) ~~Creation; Membership.~~ Creation. – There is hereby created in the Department of  
27 Environmental Quality the North Carolina Sedimentation Control Commission, which is charged  
28 with the duty of developing and administering the sedimentation control program provided for  
29 in this Article. ~~The Commission shall consist of the following members:~~

- 30
- 31 (1) ~~A person to be nominated jointly by the boards of the North Carolina League~~  
32 ~~of Municipalities and the North Carolina Association of County~~  
33 ~~Commissioners.~~
  - 34 (2) ~~A person to be nominated by the Board of the North Carolina Home Builders~~  
35 ~~Association.~~
  - 36 (3) ~~A person to be nominated by the Carolinas Branch, Associated General~~  
37 ~~Contractors of America.~~
  - 38 (4) ~~A representative of a North Carolina public utility company.~~
  - 39 (5) ~~The Director of the North Carolina Water Resources Research Institute.~~
  - 40 (6) ~~A member of the North Carolina Mining Commission who shall be a~~  
41 ~~representative of nongovernmental conservation interests, as required by G.S.~~  
42 ~~74-38(b).~~
  - 43 (7) ~~A member of the State Soil and Water Conservation Commission.~~
  - 44 (8) ~~A member of the Environmental Management Commission.~~
  - 45 (9) ~~A soil scientist from the faculty of North Carolina State University.~~
  - 46 (10) ~~Two persons who shall be representatives of nongovernmental conservation~~  
47 ~~interests.~~
  - 48 (11) ~~A professional engineer registered under the provisions of Chapter 89C of the~~  
49 ~~General Statutes nominated by the Professional Engineers of North Carolina,~~  
50 ~~Inc.~~

1 (b) Appointment. The Commission members shall be appointed by the Governor. All  
2 Commission members, except the person appointed under subdivision (5) of subsection (a) of  
3 this section, shall serve staggered terms of three years and until their successors are appointed  
4 and duly qualified. The person appointed under subdivision (5) of subsection (a) of this section  
5 shall serve as a member of the Commission, subject to removal by the Governor as hereinafter  
6 specified in this section, so long as the person continues as Director of the Water Resources  
7 Research Institute. The terms of members appointed under subdivisions (2), (4), (7), and (8) of  
8 subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The terms  
9 of members appointed under subdivisions (1), (3), and (10) of subsection (a) of this section shall  
10 expire on 30 June of years that follow by one year those years that are evenly divisible by three.  
11 The terms of members appointed under subdivisions (6), (9), and (11) of subsection (a) of this  
12 section shall expire on 30 June of years that precede by one year those years that are evenly  
13 divisible by three. Except for the person appointed under subdivision (5) of subsection (a) of this  
14 section, no member of the Commission shall serve more than two complete consecutive  
15 three-year terms. Any member appointed by the Governor to fill a vacancy occurring in any of  
16 the appointments shall be appointed for the remainder of the term of the member causing the  
17 vacancy. The Governor may at any time remove any member of the Commission for inefficiency,  
18 neglect of duty, malfeasance, misfeasance, nonfeasance, or because they no longer possess the  
19 required qualifications for membership. The office of the North Carolina Sedimentation Control  
20 Commission is declared to be an office that may be held concurrently with any other elective or  
21 appointive office, under the authority of Article VI, Sec. 9, of the North Carolina Constitution.

22 (a1) The Commission shall consist of 12 members appointed as follows:

- 23 (1) One person appointed by the Governor subject to confirmation in  
24 conformance with Section 5(8) of Article III of the North Carolina  
25 Constitution, upon joint recommendation of the boards of the North Carolina  
26 League of Municipalities and the North Carolina Association of County  
27 Commissioners.
- 28 (2) One person appointed by the Governor subject to confirmation in  
29 conformance with Section 5(8) of Article III of the North Carolina  
30 Constitution, upon recommendation of the Carolinas Branch, Associated  
31 General Contractors of America, that specializes in commercial site  
32 development.
- 33 (3) One person appointed by the Governor subject to confirmation in  
34 conformance with Section 5(8) of Article III of the North Carolina  
35 Constitution, who is a professional engineer registered under the provisions  
36 of Chapter 89C of the General Statutes, upon recommendation of the  
37 Professional Engineers of North Carolina, Inc., that specializes in stormwater  
38 and erosion control and design.
- 39 (4) One person appointed by the Governor subject to confirmation in  
40 conformance with Section 5(8) of Article III of the North Carolina  
41 Constitution, who is a member of the State Soil and Water Conservation  
42 Commission.
- 43 (5) One person appointed by the Governor subject to confirmation in  
44 conformance with Section 5(8) of Article III of the North Carolina  
45 Constitution, who is a member of the North Carolina Mining Commission.
- 46 (6) One person appointed by the General Assembly upon recommendation of the  
47 Speaker of the House of Representatives in conformance with G.S. 120-121,  
48 upon recommendation of the Board of the North Carolina Home Builders  
49 Association.



- 1           (7)    One person appointed by the General Assembly upon recommendation of the  
2           Speaker of the House of Representatives in conformance with G.S. 120-121,  
3           who is a contractor that specializes in coastal construction.
- 4           (8)    One person appointed by the General Assembly upon recommendation of the  
5           Speaker of the House of Representatives in conformance with G.S. 120-121,  
6           who is a licensed soil scientist, as defined in G.S. 89F-3.
- 7           (9)    One person appointed by the General Assembly upon recommendation of the  
8           President Pro Tempore of the Senate in conformance with G.S. 120-121, upon  
9           recommendation of the Board of the North Carolina Home Builders  
10          Association that specializes in residential site development.
- 11          (10)   One person appointed by the General Assembly upon recommendation of the  
12          President Pro Tempore of the Senate in conformance with G.S. 120-121, who  
13          is a design professional that specializes in site development in the piedmont  
14          area of the State.
- 15          (11)   One person appointed by the General Assembly upon recommendation of the  
16          President Pro Tempore of the Senate in conformance with G.S. 120-121, who  
17          is a design professional that specializes in site development in the  
18          highland/mountain area of the State.
- 19          (12)   The Director of the North Carolina Water Resources Research Institute, ex  
20          officio and nonvoting.

21          (a2)   Process for Appointments by the Governor. – The Governor shall transmit to the  
22          presiding officers of the Senate and the House of Representatives, within four weeks of the  
23          convening of the session of the General Assembly in the year for which the terms in question are  
24          to expire, the names of the persons to be appointed by the Governor and submitted to the General  
25          Assembly for confirmation by joint resolution. If an appointment is required pursuant to this  
26          subsection when the General Assembly is not in session, the member may be appointed and serve  
27          on an interim basis pending confirmation by the General Assembly. For the purpose of this  
28          subsection, the General Assembly is not in session only (i) prior to convening of the regular  
29          session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after  
30          sine die adjournment of the regular session.

31          (a3)   Terms. – The term of office of members of the Commission is four years, beginning  
32          effective January 1 of the year of appointment and terminating on December 31 of the year of  
33          expiration. A member may be reappointed to no more than two consecutive four-year terms. The  
34          term of a member who no longer meets the qualifications of their respective appointment, as set  
35          forth in subsection (a1) of this section, shall terminate but the member may continue to serve  
36          until a new member who meets the qualifications is appointed. In order to establish regularly  
37          overlapping terms, initial appointments shall be made effective June 1, 2023, or as soon as  
38          feasible thereafter, and expire as follows:

- 39           (1)    The initial appointments made by the Governor:
- 40           a.     Pursuant to subdivision (a1)(1) of this section shall expire December  
41           31, 2025.
- 42           b.     Pursuant to subdivision (a1)(2) of this section shall expire December  
43           31, 2026.
- 44           c.     Pursuant to subdivision (a1)(3) of this section shall expire December  
45           31, 2026.
- 46           d.     Pursuant to subdivision (a1)(4) of this section shall expire December  
47           31, 2027.
- 48           e.     Pursuant to subdivision (a1)(5) of this section shall expire December  
49           31, 2027.
- 50          (2)    The initial appointments made by the General Assembly upon  
51          recommendation of the Speaker of the House of Representatives:

- 1                   a.     Pursuant to subdivision (a1)(6) of this section shall expire December  
2                             31, 2025.
- 3                   b.     Pursuant to subdivision (a1)(7) of this section shall expire December  
4                             31, 2026.
- 5                   c.     Pursuant to subdivision (a1)(8) of this section shall expire December  
6                             31, 2027.
- 7           (3)   The initial appointments made by the General Assembly upon  
8                   recommendation of the President Pro Tempore of the Senate:
- 9                   a.     Pursuant to subdivision (a1)(9) of this section shall expire December  
10                            31, 2025.
- 11                   b.     Pursuant to subdivision (a1)(10) of this section shall expire December  
12                            31, 2026.
- 13                   c.     Pursuant to subdivision (a1)(11) of this section shall expire December  
14                            31, 2027.
- 15           (a4)   Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason  
16                   in the office of any member appointed by the Governor, prior to the expiration of the member's  
17                   term of office, the name of the successor shall be submitted by the Governor within four weeks  
18                   after the vacancy arises to the General Assembly for confirmation by the General Assembly. In  
19                   case of death, incapacity, resignation, or vacancy for any other reason in the office of any member  
20                   appointed by the General Assembly, vacancies in those appointments shall be filled in  
21                   conformance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not  
22                   in session and the appointment is deemed urgent by the Governor, the member may be appointed  
23                   by the Governor and serve on an interim basis pending confirmation or appointment by the  
24                   General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired  
25                   balance of the term.
- 26           (a5)   Removal. – The Governor shall have the power to remove any member of the  
27                   Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the  
28                   provisions of G.S. 143B-13 of the Executive Organization Act of 1973 or for good cause.
- 29           (b1)   Chair. – The Governor shall designate a member of the Commission to serve as chair.
- 30           (c)     Compensation. – ~~The members of the Commission shall receive the usual and~~  
31                   ~~eustomary per diem allowed for the other members of boards and commissions of the State and~~  
32                   ~~as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission~~  
33                   ~~shall receive subsistence and travel expenses according to the prevailing State practice and as~~  
34                   ~~allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed~~  
35                   ~~while going to or from any place of meeting or when on official business for the Commission.~~  
36                   ~~The per diem payments made to each member of the Commission shall include necessary time~~  
37                   ~~spent in traveling to and from their places of residence within the State to any place of meeting~~  
38                   ~~or while traveling on official business for the Commission.~~ shall receive per diem and necessary  
39                   traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.
- 40           (d)     Meetings of Commission. – The Commission shall meet at the call of the chair and  
41                   shall hold special meetings at the call of a majority of the members.
- 42           (e)     Quorum. – The affirmative vote of seven members present at meetings of the  
43                   Commission shall be necessary for action to be taken by the Commission.
- 44           (f)     Staff. – All clerical and other services required by the Commission shall be supplied  
45                   by the Secretary of Environmental Quality.
- 46           (g)     Office May Be Held Concurrently With Others. – Membership on the Commission is  
47                   hereby declared to be an office that may be held concurrently with other elective or appointive  
48                   offices in addition to the maximum number of offices permitted to be held by one person under  
49                   G.S. 128-1.1."

50           **SECTION 6.** Chapter 120 of the General Statutes is amended by adding a new  
51 Article to read:

"Article 37.

"Environmental Policy Council.

**"§ 120-320. Creation and membership of the Environmental Policy Council.**

(a) The Environmental Policy Council is established. The Council consists of the following members:

- (1) One member appointed by the Governor who is a registered professional engineer licensed under Chapter 89C of the General Statutes with expertise in site development.
- (2) One member appointed by the Governor who is a representative of nongovernmental conservation interests.
- (3) One member appointed by the Governor, at large.
- (4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon the recommendation of the North Carolina Home Builders Association.
- (5) One member appointed by the General Assembly upon recommendation of the President Pro Tempore who is a registered professional engineer licensed under Chapter 89C of the General Statutes with expertise in stormwater and sedimentation and erosion control plan and design.
- (6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, at large.
- (7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who has experience in economic development.
- (8) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives upon recommendation of the Carolinas Branch, Associated General Contractors of America, or other similar organization.
- (9) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, at large.
- (10) A cochair of the House Environment Committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.
- (11) A cochair of the Senate Committee on Agriculture, Energy, and the Environment, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.
- (12) One member of the Senate appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.
- (13) One member of the House of Representatives appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.
- (14) The Secretary of Environmental Quality, or the Secretary's designee.
- (15) The Chair of the Environmental Management Commission, or the Chair's designee.
- (16) The Chair of the Sedimentation Control Commission, or the Chair's designee.
- (17) The Chair of the Coastal Resources Commission, or the Chair's designee.

(b) Terms on the Council are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Council even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Council.

1       (c)     A member continues to serve until a successor is appointed. A vacancy shall be filled  
2 within 30 days by the officer who made the original appointment.

3 **"§ 120-321. Purpose and powers of Council.**

4       (a)     The Environmental Policy Council shall review:

5           (1)   The efficacy of State and local programs regulating environmental and natural  
6 resource matters in North Carolina, and costs associated with those programs.

7           (2)   Current federal laws and regulations for the protection of the environment or  
8 natural resources, and how those requirements are implemented by State and  
9 local entities.

10          (3)   Proposed changes to federal laws and regulations for the protection of the  
11 environment or natural resources, and potential impacts from those proposed  
12 changes.

13       (b)     The Environmental Policy Council shall make recommendations for legislative action  
14 on a continuing basis on any of the matters set forth in subsection (a) of this section, and  
15 specifically legislative action to approve or disapprove the authority of any State agency, board,  
16 or commission to adopt rules that incorporate proposed changes to federal laws and regulations  
17 for the protection of the environment or natural resources by reference pursuant to  
18 G.S. 143B-279.4A(c).

19 **"§ 120-322. Subsistence and travel expenses.**

20       The members of the Council who are members of the General Assembly shall receive  
21 subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members who are officials  
22 or employees of the State of North Carolina shall receive subsistence and travel allowances at  
23 the rate set forth in G.S. 138-6. All other members shall be paid the per diem allowances at the  
24 rates set forth in G.S. 138-5.

25 **"§ 120-323. Meetings; quorum; chair; and staff.**

26       (a)     The Council may hold its meetings in the State Legislative Building with the approval  
27 of the Legislative Services Commission. The Council may meet at any time upon the call of  
28 either cochairman, whether or not the General Assembly is in session.

29       (b)     The affirmative vote of nine members present at meetings of the Council shall be  
30 necessary for action to be taken by the Council.

31       (c)     Chair. – A chair shall be elected by a majority vote of the Council to serve a term of  
32 two years.

33       (d)     The Legislative Services Commission shall provide necessary professional and  
34 clerical assistance to the Council."

35  
36 **DEQ TO INITIATE DISCUSSIONS WITH USEPA TO REVISE MEMORANDUM OF**  
37 **AGREEMENT(S) GOVERNING IMPLEMENTATION OF SEDIMENTATION**  
38 **REQUIREMENTS IN THE STATE**

39       **SECTION 7.** No later than July 1, 2023, the Department of Environmental Quality  
40 shall notify the United States Environmental Protection Agency (USEPA) of its intent to initiate  
41 discussions to revise the National Pollutant Discharge Elimination System Memorandum of  
42 Agreement between the State of North Carolina and USEPA Region 4, and any other agreement  
43 with USEPA, that governs the State's Sedimentation Pollution Control Act of 1973 (Act), and its  
44 implementation of NPDES General Permit NCG010000 (NCG01) to streamline the regulatory  
45 requirements of the Act and NCG01 for the purpose of eliminating program redundancies to  
46 minimize (i) unnecessary costs to, and duplication of efforts by, persons initiating land-disturbing  
47 activities, (ii) unnecessary delays in project development, and (iii) inefficient use of Department  
48 personnel and staff of local governments that administer delegated erosion and sedimentation  
49 control programs. The Department shall report to the Environmental Policy Council on the status  
50 of their activities pursuant to this section quarterly, beginning August 1, 2024, until such time as  
51 the General Assembly repeals this reporting requirement.

1  
2 **DEQ TO REQUEST THAT USEPA CONSULT DEQ ON PROPOSED CHANGES TO**  
3 **ALL APPLICABLE FEDERAL REGULATIONS PRIOR TO NOTICE OF SAME IN**  
4 **THE FEDERAL REGISTER**

5 **SECTION 8.** No later than July 1, 2023, the Department of Environmental Quality  
6 shall request that the United States Environmental Protection Agency (USEPA) consult with the  
7 Department on any proposed changes to federal regulations that would impact the State's  
8 administration of federal environmental programs in North Carolina, prior to the USEPA's notice  
9 of such proposed changes in the Federal Register, so that the State may have opportunity for  
10 meaningful collaborative input on development of regulations that it may be charged with  
11 administering. The Department shall report to the Environmental Policy Council on the status of  
12 their activities pursuant to this section quarterly, beginning August 1, 2024, until such time as  
13 the General Assembly repeals this reporting requirement.  
14

15 **DEQ TO PROVIDE COPIES OF AGREEMENTS WITH USEPA, AND ASSOCIATED**  
16 **FUNDING INFORMATION**

17 **SECTION 9.** No later than July 1, 2023, the Department of Environmental Quality  
18 shall submit copies of any agreements executed between the Department and the United States  
19 Environmental Protection Agency that govern the State's administration of programs under the  
20 Clean Water Act to the House Local Government – Land Use, Planning and Development  
21 Committee. In addition, the Department shall provide information to the Committee on:

- 22 (1) Any federal funds received by the State in connection with the State's  
23 administration of such programs, and all federal requirements for receipt of  
24 such funds; and  
25 (2) The adequacy of funding from all sources to fully implement the requirements  
26 of such agreements.  
27

28 **SEVERABILITY CLAUSE**

29 **SECTION 10.** If any section or provision of this act is declared unconstitutional or  
30 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
31 the part declared to be unconstitutional or invalid.  
32

33 **EFFECTIVE DATE**

34 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes  
35 law.