

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 554

Short Title: Erosion Control for Railroads.

(Public)

Sponsors: Senator Staton.

Referred to: Environment and Natural Resources.

April 10, 1991

A BILL TO BE ENTITLED

1
2 AN ACT TO: (1) REQUIRE THE DEPARTMENT OF ENVIRONMENT, HEALTH,
3 AND NATURAL RESOURCES TO ADOPT RAILROAD MAINTENANCE
4 GUIDELINES RELATED TO WATER QUALITY; AND (2) NO LONGER
5 REQUIRE AN EROSION CONTROL PLAN FOR CERTAIN LAND-
6 DISTURBING ACTIVITIES WITHIN THE RAILROAD RIGHTS-OF-WAY
7 WHEN THESE ACTIVITIES ARE UNDERTAKEN IN ACCORDANCE WITH
8 THE BEST MANAGEMENT PRACTICES AS SET FORTH IN THESE
9 RAILROAD MAINTENANCE GUIDELINES.

10 The General Assembly of North Carolina enacts:

11 Section 1. G.S. 113A-52 reads as rewritten:

12 "§ 113A-52. Definitions.

13 As used in this Article, unless the context otherwise requires:

- 14 (1) Repealed by Session Laws 1973, c. 1417, s. 1.
15 (2) 'Commission' means the North Carolina Sedimentation Control
16 Commission.
17 (3) 'Department' means the North Carolina Department of Environment,
18 Health, and Natural Resources.
19 (4) 'District' means any Soil and Water Conservation District created
20 pursuant to Chapter 139, North Carolina General Statutes.
21 (5) 'Erosion' means the wearing away of land surface by the action of
22 wind, water, gravity, or any combination thereof.
23 (6) 'Land-disturbing activity' means any use of the land by any person in
24 residential, industrial, educational, institutional or commercial

1 development, highway and road construction and maintenance that
2 results in a change in the natural cover or topography and that may
3 cause or contribute to sedimentation. This Article shall not apply to
4 the following land-disturbing activities:

5 a. Those undertaken on agricultural land for the production of
6 plants and animals useful to man, including but not limited to:
7 forages and sod crops, grains and feed crops, tobacco, cotton,
8 and peanuts; dairy animals and dairy products; poultry and
9 poultry products; livestock, including beef cattle, sheep, swine,
10 horses, ponies, mules or goats, including the breeding and
11 grazing of any or all such animals; bees and apiary products; fur
12 animals;

13 b. Those undertaken on forestland for the production and
14 harvesting of timber and timber products and which are
15 conducted in accordance with Forest Practice Guidelines
16 Related to Water Quality (best management practices) as
17 adopted by the Department; ~~and~~

18 c. Activities undertaken by persons as defined in G.S. 113A-52(8)
19 who are otherwise regulated by the provisions of G.S. 74-46
20 through G.S. 74-68, the Mining Act of 1971; and

21 d. Those undertaken by railroad companies for the repair,
22 maintenance, reshaping, recontouring, reconstruction, or
23 emergency reconstruction of railroad tracks, roadbeds, drainage
24 ditches, bridges, and other features within railroad rights-of-
25 way which are undertaken in accordance with the Railroad
26 Maintenance Guidelines Related to Water Quality adopted by
27 the Department pursuant to G.S. 113A-52.2.

28 (7) 'Local government' means any county, incorporated village, town, or
29 city, or any combination of counties, incorporated villages, towns, and
30 cities, acting through a joint program pursuant to the provisions of this
31 Article.

32 (8) 'Person' means any individual, partnership, firm, association, joint
33 venture, public or private corporation, trust, estate, commission, board,
34 public or private institution, utility, cooperative, interstate body, or
35 other legal entity.

36 (9) 'Secretary' means the Secretary of Environment, Health, and Natural
37 Resources.

38 (10) 'Sediment' means solid particulate matter, both mineral and organic,
39 that has been or is being transported by water, air, gravity, or ice from
40 its site of origin.

41 (11) 'Working days' means days exclusive of Saturday and Sunday during
42 which weather conditions or soil conditions permit land-disturbing
43 activity to be undertaken."

1 Sec. 2. Article 4 of Chapter 113A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 113A-52.2. Railroad Maintenance Guidelines.**

4 (a) The Department shall adopt Railroad Maintenance Guidelines Related to
5 Water Quality (best management practices). The adoption of Railroad Maintenance
6 Guidelines Related to Water Quality under this section is subject to the provisions of
7 Chapter 150B of the General Statutes.

8 (b) If land-disturbing activity undertaken on railroad rights-of-way for repair,
9 maintenance, reshaping, recontouring, reconstruction, or emergency reconstruction of
10 roadbeds, tracks, drainage ditches, bridges, and other features is not undertaken in
11 accordance with Railroad Maintenance Guidelines Related to Water Quality, the
12 provisions of this Article shall apply to such activity.

13 (c) The Secretary shall establish a Technical Advisory Committee to assist in the
14 development and periodic review of Railroad Maintenance Guidelines Related to Water
15 Quality. The Technical Advisory Committee shall consist of nine members as follows:
16 two members from the railroad industry, one member who is a consulting engineer, one
17 member who is from the Department of Transportation, one member who is from Forest
18 Resources Division of the Department of Environment, Health, and Natural Resources,
19 one member from the business community who is knowledgeable in railroads, one
20 member who is knowledgeable in erosion and sedimentation control, one member who
21 is knowledgeable in water quality, and one member from the conservation community."

22 Sec. 3. Land-disturbing activities undertaken by railroad companies for the
23 repair, maintenance, reshaping, recontouring, reconstruction, or emergency
24 reconstruction of railroad tracks, roadbeds, drainage ditches, bridges, and other features
25 within railroad rights-of-way are not subject to the provisions of Article 4 of Chapter
26 113A of the General Statutes until the Department of Environment, Health, and Natural
27 Resources has adopted the Railroad Maintenance Guidelines Related to Water Quality
28 as adopted pursuant to Section 2 of this act.

29 Sec. 4. This act is effective upon ratification.