

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 245

Short Title: DEQ/Policy Changes.-AB

(Public)

Sponsors: Representative McGrady.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 4, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE ENVIRONMENTAL LAWS, AS
3 RECOMMENDED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

4 The General Assembly of North Carolina enacts:

5
6 **COASTAL AREA MANAGEMENT ACT PERMIT THIRD PARTY APPEAL REVIEW**
7 **TIMELINE**

8 **SECTION 1.** G.S. 113A-121.1(b) reads as rewritten:

9 "(b) A person other than a permit applicant or the Secretary who is dissatisfied with a
10 decision to deny or grant a minor or major development permit may file a petition for a contested
11 case hearing only if the Commission determines that a hearing is appropriate. A request for a
12 determination of the appropriateness of a contested case hearing shall be made in writing and
13 received by the Commission within 20 days after the disputed permit decision is made. A
14 determination of the appropriateness of a contested case shall be made within ~~45~~30 days after a
15 request for a determination is received and shall be based on whether the person seeking to
16 commence a contested case:

- 17 (1) Has alleged that the decision is contrary to a statute or rule;
18 (2) Is directly affected by the decision; and
19 (3) Has alleged facts or made legal arguments that demonstrate that the request
20 for the hearing is not frivolous.

21 If the Commission determines a contested case is appropriate, the petition for a contested
22 case shall be filed within 20 days after the Commission makes its determination. A determination
23 that a person may not commence a contested case is a final agency decision and is subject to
24 judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review,
25 the court determines that the Commission erred in determining that a contested case would not
26 be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23
27 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be
28 rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of
29 the commencement of the contested case."
30

31 **DEQ AUTHORITY FOR SPECIAL ORDERS GOVERNING WASTE MANAGEMENT**
32 **WHEN STATE OF EMERGENCY OR DISASTER DECLARATIONS ISSUED**

33 **SECTION 2.** G.S. 130A-303 reads as rewritten:

34 **"§ 130A-303. Imminent ~~hazard~~-hazard; emergency solid waste measures and procedures**
35 **during declaration of states of emergency or disaster.**



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1 (a) The judgment of the Secretary that an imminent hazard exists concerning solid waste
2 shall be supported by findings of fact made by the Secretary.

3 (b) In order to eliminate an imminent hazard, the Secretary may, without notice or
4 hearing, issue an order requiring that immediate action be taken to protect the public health or
5 the environment. This order may be directed to a generator or transporter of solid waste or to the
6 owner or operator of a solid waste management facility. Where the imminent hazard is caused
7 by an inactive hazardous substance or waste disposal site, the Secretary shall follow the
8 procedures set forth in G.S. 130A-310.5.

9 (c) In the event that a state of emergency has been declared by the Governor pursuant to
10 G.S. 166A-19.20, or a disaster declaration has been issued pursuant to G.S. 166A-19.21 as a
11 result of an outbreak of human or animal disease, or as a result of a natural disaster such as a
12 hurricane, tornado, or flood, the Secretary, or an authorized representative, after finding an
13 imminent hazard exists under subsection (a) of this section, may develop and implement
14 emergency measures and procedures that the Secretary deems necessary to protect the public
15 health, safety, or welfare, or the environment with respect to the proper management of solid
16 waste resulting from the event for which the declaration was issued. Notwithstanding any other
17 provision of law, such emergency procedures and measures may include restrictions on the
18 collection, storage, transportation, and disposal of solid waste, restrictions on operational
19 conditions of solid waste management facilities, including adjustment of operational times and
20 requirements pertaining to acceptance of solid waste, and any other measures the Secretary deems
21 necessary for the proper disposal of solid waste within the emergency area, as that term is defined
22 under G.S. 166A-19.3.

23 When emergency procedures and measures are developed and implemented pursuant to this
24 subsection, the Secretary shall issue an order accordingly, which shall be posted to the
25 Department's Web site, delivered to print and electronic news media within the emergency area,
26 solid waste management facilities and associated organizations, State and local governmental
27 units, and any other interested or affected parties as determined by the Secretary. In cases of mass
28 animal mortality resulting from a natural disaster or disease, the Secretary shall consult with the
29 State Veterinarian and the Commissioner of Agriculture prior to issuance of an order pursuant to
30 this section on matters concerning disposal of deceased animals. All State agencies and political
31 subdivisions of the State shall cooperate with the implementation of the emergency procedures
32 and measures set forth in the order. An order issued by the Secretary pursuant to this section shall
33 expire no more than 60 days after termination of the declaration by the Governor under which
34 the Secretary's order was issued."

36 MINE OPERATIONS REPORT DUE DATE REVISION

37 SECTION 3. G.S. 74-55 reads as rewritten:

38 "§ 74-55. Reclamation report.

39 (a) By ~~July 1~~ September 1 of each year, the operator shall file a report of activities
40 completed during the preceding year on a form prescribed by the Department, which includes all
41 of the following:

- 42 (1) Identify the mine, the operator and the permit number.
- 43 (2) State acreage disturbed by mining in the last 12-month period.
- 44 (3) State and describe amount and type of reclamation carried out in the last
45 12-month period.
- 46 (4) Estimate acreage to be newly disturbed by mining in the next 12-month
47 period.
- 48 (5) Provide such maps as may be specifically requested by the Department.
- 49 (6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

50 (b) When filing the annual report, the permittee shall pay the annual operating fee for the
51 permit to the Department by September 1 of each year until the permit has been terminated by

1 the Department. The Department may assess and collect a monthly penalty for each annual report
2 or annual operating fee not filed by ~~July 31~~ September 30 of each year until the annual report
3 and annual operating fee are filed with the Department. If the required annual report and
4 operating fee, including any late payment penalties, are not filed by ~~December 31~~ March 1 of
5 ~~each year, the year following the year the operating fee and annual report were due under this~~
6 subsection, the Department shall give written notice to the operator and shall then initiate permit
7 revocation proceedings in accordance with G.S. 74-58."
8

9 **COMPENSATORY MITIGATION AMENDMENTS**

10 **SECTION 4.** G.S. 143-214.15 reads as rewritten:

11 "**§ 143-214.15. Compensatory mitigation for diverse habitats.**

12 ...

13 (d) ~~The Office of Land and Water Stewardship Program~~ Program of the Department of
14 Environmental Quality shall catalog an inventory of all its land holdings and determine how
15 many of those holdings are potential wildlife habitats, either as currently held or with some
16 modification. The Wildlife Resources Commission shall conduct a third-party review of this
17 inventory, and the Commission and the ~~Office of Land and Water Stewardship Program~~ shall
18 both report their findings to the Environmental Review Commission as part of the report required
19 under subsection ~~(f)~~ (e) of this section.

20 (e) ~~If private individuals, corporations, or other nongovernmental entities wish to~~
21 ~~purchase any of the inventory of land suitable for wildlife habitat, then the Office of Land and~~
22 ~~Water Stewardship of the Department of Environmental Quality shall issue a request for proposal~~
23 ~~to all interested respondents for the purchase of the land, and the State shall accept a proposal~~
24 ~~and proceed to dispose of the land only if the Department determines that the proposal meets~~
25 ~~both of the following requirements:~~

26 (1) ~~The proposal provides for the maintenance in perpetuity of management~~
27 ~~measures listed in the original mitigation instrument or otherwise needed on~~
28 ~~an ongoing or periodic basis to maintain the functions of the mitigation site.~~

29 (2) ~~Where the functions of the mitigation site include provision of recreation or~~
30 ~~hunting opportunities to members of the general public, the proposal includes~~
31 ~~measures needed to continue that level of access.~~

32 ~~The instrument conveying a property interest in a mitigation site shall be executed in the~~
33 ~~manner required by Article 16 of Chapter 146 of the General Statutes, and shall reflect the~~
34 ~~requirements of this subsection.~~

35"

36 **EFFECTIVE DATE**

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