

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 984

Short Title: Enhance Stormwater Regs.

(Public)

Sponsors: Senator Reeves.

Referred to: Agriculture/Environment/Natural Resources.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION SHALL ASSESS THE PROBLEM OF SEDIMENTATION IN CERTAIN WATERS OF THE STATE, REVISE THE STORMWATER RULES AND PROGRAM TO ADDRESS MORE COMPLETELY THE INTERRELATIONSHIP BETWEEN SEDIMENTATION AND WATER QUALITY IN CERTAIN AREAS, AND SURVEY OTHER WATERS OF THE STATE TO ESTABLISH A HYDROGRAPHIC BASELINE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-214.7A. Stormwater rules and programs—erosion and sedimentation control component.**

(a) The following definitions apply in this section:

- (1) Developed area. – Any area that is subject to federal stormwater regulations under Phase I or Phase II as provided by 64 FR 68722.
- (2) Erosion. – Defined in G.S. 113A-52.
- (3) Land-disturbing activities. – Defined in G.S. 113A-52.01.
- (4) Sediment. – Defined in G.S. 113A-52.
- (5) Sedimentation. – The process that occurs from the erosion or depositing of sediment, soil, and other materials into the waters.
- (6) Sensitive waters. – Classified shellfish waters, water supply watersheds, outstanding resource waters, high quality waters.
- (7) Undeveloped areas. – Any area that is not subject to federal stormwater regulations under Phase I or Phase II as provided by 64 FR 68722.

(b) The Commission shall survey the State's waters located in developed areas to identify the threat, if any, posed to those waters by sedimentation and erosion resulting

1 from construction and other land-disturbing activities. The Commission shall conduct  
2 its survey following the priorities set out in G.S. 143-214.7(b).

3 (c) Based on the data collected in its surveys the Commission shall revise the  
4 stormwater rules and model program adopted under G.S. 143-214.7 to include a soil and  
5 erosion component that does all of the following:

6 (1) In sensitive waters, require that the best available scientific methods  
7 for protecting waters from sedimentation and erosion be implemented  
8 before water quality degradation occurs.

9 (2) Require that consideration be given to the long-range cumulative effect  
10 a land-disturbing activity may have on the flow of stormwater and  
11 whether existing management techniques are sufficient to avoid long-  
12 term damage to the waters on both the immediate sites and those sites  
13 located further downstream.

14 (3) Establish a list of structural and nonstructural measures and best  
15 management practice that may be used effectively to control quality,  
16 quantity, velocity, and temperature of stormwater runoff after the  
17 completion of a land-disturbing project and require that all  
18 development in the 14-digit watershed immediately adjacent to WSI  
19 waters comply with those measures.

20 (4) Require that any Tier A or Tier B city as defined in the federal Clean  
21 Water Act obtain a general permit based on water quality  
22 classification, water quality standards, and structural and nonstructural  
23 measures and best management practices that meet those  
24 classifications and standards.

25 (d) In revising the stormwater rules and programs as required by this section, the  
26 Commission shall consider other existing water quality and sedimentation control rules,  
27 programs, plans, and permits and how the revised stormwater rules and programs should  
28 interrelate with those.

29 (e) Each local government shall establish an office of stormwater management  
30 charged with the goal of reducing surface runoff through either retention or shallow  
31 surface infiltration of runoff waters into soils.

32 (f) In addition, the Commission shall survey the State's waters located in  
33 undeveloped areas for the purpose of developing a hydrographic baseline for those  
34 areas. The Commission shall collect data regarding the hydrographic regimes, stream  
35 temperatures, and any other data required to establish a hydrographic baseline. Upon  
36 completion of its survey, the Commission shall develop a hydrographic baseline to be  
37 used to establish stormwater standards for undeveloped areas that preserve the  
38 predevelopment hydrography of the area to the extent that it is scientifically and  
39 economically feasible.

40 (g) Subsections (b) through (e) of this section apply only to developed areas.  
41 Subsection (f) of this section applies only to undeveloped areas."

42 **SECTION 2.** G.S. 113A-57 reads as rewritten:

43 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

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

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

20 (2) The angle for graded slopes and fills shall be no greater than the angle  
21 which can be retained by vegetative cover or other adequate  
22 erosion-control devices or structures. In any event, slopes left exposed  
23 will, within 15 working days or 30 calendar days of completion of any  
24 phase of grading, whichever period is shorter, be planted or otherwise  
25 provided with ground cover, devices, or structures sufficient to restrain  
26 erosion.

27 (3) Whenever land-disturbing activity is undertaken on a tract comprising  
28 more than ~~one acre~~, one quarter acre, if more than ~~one acre~~ one quarter  
29 acre is uncovered, the person conducting the land-disturbing activity  
30 shall install such sedimentation and erosion control devices and  
31 practices as are sufficient to retain the sediment generated by the  
32 land-disturbing activity within the boundaries of the tract during  
33 construction upon and development of said tract, and shall plant or  
34 otherwise provide a permanent ground cover sufficient to restrain  
35 erosion after completion of construction or development within a time  
36 period to be specified by rule of the Commission.

37 (4) No person shall initiate any land-disturbing activity on a tract if more  
38 than one acre is to be uncovered unless, 30 or more days prior to  
39 initiating the activity, an erosion and sedimentation control plan for  
40 such activity is filed with the agency having jurisdiction. The agency  
41 having jurisdiction shall forward to the Director of the Division of  
42 Water Quality a copy of each erosion and sedimentation control plan  
43 for a land-disturbing activity that involves the utilization of ditches for  
44 the purpose of de-watering or lowering the water table of the tract."

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**SECTION 3.** This act is effective when it becomes law.