

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1007
Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 10/1/02

Short Title: Environmental Technical Corrections.

(Public)

Sponsors:

Referred to:

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL
AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT,
PUBLIC HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY
THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

PART I. VARIOUS TECHNICAL CORRECTIONS.

SECTION 1.1. G.S. 87-98.2(1) reads as rewritten:

"(1) Commission. – The Well Contractors Certification ~~Commission~~Commission,
as established by G.S. 143B-301.11."

SECTION 1.2. G.S. 95-194(e) reads as rewritten:

"(e) Upon written request of the Fire Chief, an employer shall prepare an
emergency response plan for the facility ~~which shall include, but not be limited to, that~~
includes facility evacuation procedures, a list of emergency equipment available at the
facility, and copies of other emergency response plans, such as the contingency plan
required under ~~North Carolina Hazardous Waste Management Rules~~rules governing the
management of hazardous waste adopted pursuant to Article 9 of Chapter 130A of the
General Statutes. A copy of the emergency response plan or any prefire plan or
emergency response plan required under applicable North Carolina or federal statute or
rule or regulation shall, upon written request by the Fire Chief, be given to the Fire
Chief."

SECTION 1.3. The catch line for G.S. 120-70.60 reads as rewritten:

"§ ~~120-70.60. Committee~~Commission established."

SECTION 1.4. The title of Article 19 of Chapter 120 of the General Statutes
reads as rewritten:

"Article 19.

~~Commission on Agriculture, Forestry, and Seafood~~Agriculture and Forestry
Awareness."

1 **SECTION 1.5.** G.S. 143-215.104S reads as rewritten:

2 "**§ 143-215.104S. Appeals.**

3 Any person who is aggrieved by a decision of the Commission under G.S.
4 ~~143-215.104E-143-215.104F~~ through G.S. 143-215.104O may commence a contested
5 case by filing a petition under G.S. 150B-23 within 60 days after the Commission's
6 decision. If no contested case is initiated within the allotted time period, the
7 Commission's decision shall be final and not subject to review. The Commission shall
8 make the final agency decision in contested cases initiated pursuant to this section.
9 Notwithstanding the provisions of G.S. 6-19.1, no party seeking to compel remediation
10 of dry-cleaning solvent contamination in excess of that required by a dry-cleaning
11 solvent remediation agreement approved by the Commission shall be eligible to recover
12 attorneys' fees. The Commission shall not delegate its authority to make a final agency
13 decision pursuant to this section."

14 **SECTION 1.6.** G.S. 143-215.56(a)(1) reads as rewritten:

15 "(1) Request technical assistance from the competent State and federal
16 agencies, including the Army Corps of Engineers, the Natural
17 ~~Resource~~-Resources Conservation Service, the Tennessee Valley
18 Authority, the Federal Emergency Management Agency, the North
19 Carolina Department of Crime Control and Public Safety, the North
20 Carolina Geodetic Survey, the North Carolina Geological Survey, and
21 the U.S. Geological Survey, or successor agencies."

22 **SECTION 1.7.** G.S. 143-215.107(a)(9) reads as rewritten:

23 "(9) To regulate the content of motor fuels, as defined in ~~G.S. 119-16~~, G.S.
24 105-449.60, to require use of reformulated gasoline as the Commission
25 determines necessary, to implement the requirements of Title II and
26 implementing regulations adopted by the United States Environmental
27 Protection Agency, and to develop standards and plans to implement
28 this subdivision. Rules may authorize the use of marketable oxygen
29 credits for gasoline as provided in federal requirements."

30 **SECTION 1.8.** G.S. 143-258 is repealed.

31 **SECTION 1.9.** G.S. 143B-282(a) reads as rewritten:

32 "(a) There is hereby created the Environmental Management Commission of the
33 Department of Environment and Natural Resources with the power and duty to
34 promulgate rules to be followed in the protection, preservation, and enhancement of the
35 water and air resources of the State.

36 (1) Within the limitations of G.S. 143-215.9 concerning industrial health
37 and safety, the Environmental Management Commission shall have all
38 of the following powers and duties:

39 ...

40 c. To conduct and direct that investigations be conducted pursuant
41 to G.S. 143-215.3 and G.S.
42 ~~143-215.108(b)(5)-143-215.108(c)(5)~~.

43 ...

44 (2) The Environmental Management Commission shall adopt rules:

- 1 a. For air quality standards, emission control standards and
2 classifications for air contaminant sources pursuant to G.S.
3 ~~143-215.107~~; 143-215.107.
- 4 b. For water quality standards and classifications pursuant to G.S.
5 143-214.1 and ~~G.S. 143-215~~; G.S. 143-215.
- 6 c. To implement water and air quality reporting pursuant to ~~G.S.~~
7 ~~143-215.68~~; Part 7 of Article 21 of Chapter 143 of the General
8 Statutes.
- 9 d. To be applied in capacity use areas pursuant to G.S.
10 ~~143-215.14~~; 143-215.14.
- 11 e. To implement the issuance of permits for water use within
12 capacity use areas pursuant to G.S. ~~143-215.20~~; 143-215.15 and
13 G.S. 143-215.16.

14"

15 **SECTION 1.10.** G.S. 143B-290(1) reads as rewritten:

- 16 "(1) The North Carolina Mining Commission shall have the following
17 powers and duties:
- 18 a. To act as the advisory body to the ~~Interstate Mining Compact~~
19 ~~pursuant to G.S. 74-38(a)~~; Governor pursuant to Article V(a) of
20 the Interstate Mining Compact, as set out in G.S. 74-37.
- 21 b. ~~To adopt and modify rules to implement Chapter 74, Article 6,~~
22 ~~pursuant to G.S. 74-44(b)~~;
- 23 c. To hear permit appeals, conduct a full and complete hearing on
24 such controversies and affirm, modify, or overrule permit
25 decisions made by the Department pursuant to ~~G.S. 74-61~~;
26 and G.S. 74-61.
- 27 d. To promulgate rules necessary to administer the Mining Act of
28 1971, pursuant to ~~G.S. 74-63~~; G.S. 74-63.
- 29 e. To promulgate rules necessary to administer the Control of
30 Exploration for Uranium in North Carolina Act of 1983,
31 pursuant to G.S. 74-86."

32 **SECTION 1.11.** G.S. 143B-301.12(f) reads as rewritten:

33 "(f) Removal. – The Governor may remove any member of the Commission from
34 office for misfeasance, malfeasance, or nonfeasance, as provided in G.S.
35 ~~143-13.143B-13~~."

36 **SECTION 1.12.** The introductory language of Section 5 of S.L. 2002-4
37 reads as rewritten:

38 "**SECTION 5.** G.S. ~~143-215-114A~~ 143-215.114A is amended by adding a new
39 subsection to read:"

40 **PART II. SEDIMENTATION CORRECTIONS.**

41 **SECTION 2.1.** G.S. 74-49(7)(f) reads as rewritten:

- 42 "f. Excavation or grading where all of the following apply:
- 43 1. The excavation or grading is conducted to provide soil or
44 other unconsolidated material to be used without further

1 processing for a single off-site construction project for
2 which an erosion and sedimentation control plan has
3 been approved in accordance with Article 4 of Chapter
4 113A of the General Statutes.

- 5 2. The affected land, including nonpublic access roads,
6 does not exceed five acres.
- 7 3. The excavation or grading is completed within one year.
- 8 4. The excavation or grading does not involve blasting, the
9 removal of material from rivers or streams, the disposal
10 of off-site waste on the affected land, or the surface
11 disposal of groundwater beyond the affected land.
- 12 5. The excavation or grading is not in violation of any local
13 ordinance.
- 14 6. An erosion and sedimentation control plan for the
15 excavation or grading has been approved in accordance
16 with Article 4 of Chapter 113A of the General Statutes."

17 **SECTION 2.2.** G.S. 113A-54(c)(3) reads as rewritten:

18 "(3) Contain conservation standards for various types of soils and land
19 uses, which standards shall include criteria and alternative techniques
20 and methods for the control of erosion and ~~sediment~~-sedimentation
21 resulting from land-disturbing activities."

22 **SECTION 2.3.** G.S. 113A-54(d) reads as rewritten:

23 "(d) In implementing the erosion and sedimentation control program, the
24 Commission shall:

- 25 (1) Assist and encourage local governments in developing erosion and
26 ~~sediment~~-sedimentation control programs and, as a part of this
27 assistance, the Commission shall develop a model local erosion and
28 sedimentation control ordinance. The Commission shall approve,
29 approve as modified, or disapprove local programs submitted to it
30 pursuant to G.S. 113A-60.
- 31 (2) Assist and encourage other State agencies in developing erosion and
32 sedimentation control programs to be administered in their
33 jurisdictions. The Commission shall approve, approve as modified, or
34 disapprove programs submitted pursuant to G.S. 113A-56 and from
35 time to time shall review these programs for compliance with rules
36 adopted by the Commission and for adequate enforcement.
- 37 (3) Develop recommended methods of control of sedimentation and
38 prepare and make available for distribution publications and other
39 materials dealing with sedimentation control techniques appropriate
40 for use by persons engaged in land-disturbing activities, general
41 educational materials on erosion and sedimentation control, and
42 instructional materials for persons involved in the enforcement of this
43 Article and erosion and sedimentation control rules, ordinances,
44 regulations, and plans.

- 1 (4) Require submission of erosion and sedimentation control plans by
2 those responsible for initiating land-disturbing activities for approval
3 prior to commencement of the activities."

4 **SECTION 2.4.** G.S. 113A-54.2 reads as rewritten:

5 **"§ 113A-54.2. Approval Fees.**

6 (a) The Commission may establish a fee schedule for the review and approval of
7 erosion and sedimentation control plans under this Article. In establishing the fee
8 schedule, the Commission shall consider the administrative and personnel costs incurred
9 by the Department for reviewing the plans and for related compliance activities. An
10 application fee may not exceed fifty dollars (\$50.00) per acre of disturbed land shown
11 on an erosion and sedimentation control plan or of land actually disturbed during the life
12 of the project.

13 (b) The Sedimentation Account is established as a nonreverting account within
14 the Department. Fees collected under this section shall be credited to the Account and
15 shall be applied to the costs of administering this Article.

16 (c) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 1039, s. 3.

17 (d) This section may not limit the existing authority of local programs approved
18 pursuant to this Article to assess fees for the approval of erosion and sedimentation
19 control plans."

20 **SECTION 2.5.** G.S. 113A-56(b) reads as rewritten:

21 "(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a),
22 in whole or in part, to any other State agency that has submitted an erosion and
23 sedimentation control program to be administered by it, if ~~such~~the program has been
24 approved by the Commission as being in conformity with the general State program."

25 **SECTION 2.6.** G.S. 113A-57(3) reads as rewritten:

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

36 **SECTION 2.7.** G.S. 113A-58(1) reads as rewritten:

37 "(1) Inspect or cause to be inspected the sites of land-disturbing activities to
38 determine whether applicable laws, regulations or erosion and
39 sedimentation control plans are being complied with;".

40 **SECTION 2.8.** G.S. 113A-60 reads as rewritten:

41 **"§ 113A-60. Local erosion and sedimentation control programs.**

42 (a) ~~Any A~~ local government may submit to the Commission for its approval an
43 erosion and ~~sediment~~sedimentation control program for its jurisdiction, and to this end
44 local governments are authorized to adopt ordinances and regulations necessary to

1 establish and enforce erosion and ~~sediment~~sedimentation control programs. Local
2 governments are authorized to create or designate agencies or subdivisions of local
3 government to administer and enforce the programs. An ordinance adopted by a local
4 government shall at least meet and may exceed the minimum requirements of this
5 Article and the rules adopted pursuant to this Article. Two or more units of local
6 government are authorized to establish a joint program and to enter into any agreements
7 that are necessary for the proper administration and enforcement of the program. The
8 resolutions establishing any joint program must be duly recorded in the minutes of the
9 governing body of each unit of local government participating in the program, and a
10 certified copy of each resolution must be filed with the Commission.

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

16 (c) If the Commission determines that any local government is failing to
17 administer or enforce an approved erosion and ~~sediment~~sedimentation control program,
18 it shall notify the local government in writing and shall specify the deficiencies of
19 administration and enforcement. If the local government has not taken corrective action
20 within 30 days of receipt of notification from the Commission, the Commission shall
21 assume administration and enforcement of the program until such time as the local
22 government indicates its willingness and ability to resume administration and
23 enforcement of the program."

24 **SECTION 2.9.** G.S. 113A-61 reads as rewritten:

25 "**§ 113A-61. Local approval of erosion and sedimentation control plans.**

26 (a) For those land-disturbing activities for which prior approval of an erosion and
27 sedimentation control plan is required, the Commission may require that a local
28 government that administers an erosion and ~~sediment~~sedimentation control program
29 approved under G.S. 113A-60 require the applicant to submit a copy of the erosion and
30 sedimentation control plan to the appropriate soil and water conservation district or
31 districts at the same time the applicant submits the erosion and sedimentation control
32 plan to the local government for approval. The soil and water conservation district or
33 districts shall review the plan and submit any comments and recommendations to the
34 local government within 20 days after the soil and water conservation district received
35 the erosion and sedimentation control plan or within any shorter period of time as may
36 be agreed upon by the soil and water conservation district and the local government.
37 Failure of a soil and water conservation district to submit comments and
38 recommendations within 20 days or within agreed upon shorter period of time shall not
39 delay final action on the proposed plan by the local government.

40 (b) Local governments shall review each erosion and sedimentation control plan
41 submitted to them and within 30 days of receipt thereof shall notify the person
42 submitting the plan that it has been approved, approved with modifications, or
43 disapproved. A local government shall only approve a plan upon determining that it

1 complies with all applicable State and local regulations for erosion and ~~sediment~~
2 sedimentation control.

3 (b1) A local government shall condition approval of a draft erosion and
4 sedimentation control plan upon the applicant's compliance with federal and State water
5 quality laws, regulations, and rules. A local government shall disapprove an erosion and
6 sedimentation control plan if implementation of the plan would result in a violation of
7 rules adopted by the Environmental Management Commission to protect riparian
8 buffers along surface waters. A local government may disapprove an erosion and
9 sedimentation control plan upon finding that an applicant or a parent, subsidiary, or
10 other affiliate of the applicant:

- 11 (1) Is conducting or has conducted land-disturbing activity without an
12 approved plan, or has received notice of violation of a plan previously
13 approved by the Commission or a local government pursuant to this
14 Article and has not complied with the notice within the time specified
15 in the ~~notice;~~notice.
- 16 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a
17 local ordinance adopted pursuant to this Article by the time the
18 payment is ~~due;~~due.
- 19 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or
20 any criminal provision of a local ordinance adopted pursuant to this
21 ~~Article;~~ or Article.
- 22 (4) Has failed to substantially comply with State rules or local ordinances
23 and regulations adopted pursuant to this Article.

24 (b2) In the event that an erosion and sedimentation control plan is disapproved by
25 a local government pursuant to subsection (b1) of this section, the local government
26 shall so notify the Director of the Division of Land Resources within 10 days of ~~such~~the
27 disapproval. The local government shall advise the applicant and the Director in writing
28 as to the specific reasons that the plan was disapproved. Notwithstanding the provisions
29 of subsection (c) of this section, the applicant may appeal the local government's
30 disapproval of the plan directly to the Commission. For purposes of this subsection and
31 subsection (b1) of this section, an applicant's record may be considered for only the two
32 years prior to the application date.

33 (c) The disapproval or modification of any proposed erosion and sedimentation
34 control plan by a local government shall entitle the person submitting the plan to a
35 public hearing if ~~such~~the person submits written demand for a hearing within 15 days
36 after receipt of written notice of the disapproval or modification. The hearings shall be
37 conducted pursuant to procedures adopted by the local government. If the local
38 government upholds the disapproval or modification of a proposed erosion and
39 sedimentation control plan following the public hearing, the person submitting the
40 erosion and sedimentation control plan ~~shall be~~is entitled to appeal the local
41 government's action disapproving or modifying the plan to the Commission. The
42 Commission, by regulation, shall direct the Secretary to appoint such employees of the
43 Department as may be necessary to hear appeals from the disapproval or modification
44 of erosion and sedimentation control plans by local governments. In addition to

1 providing for the appeal of local government decisions disapproving or modifying
2 erosion and sedimentation control plans to designated employees of the Department, the
3 Commission shall designate an erosion and sedimentation control plan review
4 committee consisting of three members of the Commission. The person submitting the
5 erosion and sedimentation control plan may appeal the decision of an employee of the
6 Department who has heard an appeal of a local government action disapproving or
7 modifying an erosion and sedimentation control plan to the erosion and sedimentation
8 control plan review committee of the Commission. Judicial review of the final action of
9 the erosion and sedimentation control plan review committee of the Commission may
10 be had in the superior court of the county in which the local government is situated.

11 (d) Repealed by Session Laws 1989, c. 676, s. 4."

12 **SECTION 2.10.** G.S. 113A-61.1 reads as rewritten:

13 **"§ 113A-61.1. Inspection of land-disturbing activity; notice of violation.**

14 (a) The Commission, a local government that administers an erosion and
15 ~~sediment~~ sedimentation control program approved under G.S. 113A-60, or other
16 approving authority shall provide for inspection of land-disturbing activities to ensure
17 compliance with this Article and to determine whether the measures required in an
18 erosion and sedimentation control plan are effective in controlling erosion and ~~sediment~~
19 sedimentation resulting from the land-disturbing activity. Notice of this right of
20 inspection shall be included in the certificate of approval of each erosion and
21 sedimentation control plan.

22 (b) No person shall willfully resist, delay, or obstruct an authorized
23 representative of the Commission, an authorized representative of a local government,
24 or an employee or an agent of the Department while the representative, employee, or
25 agent is inspecting or attempting to inspect a land-disturbing activity under this section.

26 (c) If the Secretary, a local government that administers an erosion and ~~sediment~~
27 sedimentation control program approved under G.S. 113A-60, or other approving
28 authority determines that the person engaged in the land-disturbing activity has failed to
29 comply with this Article, the Secretary, local government, or other approving authority
30 shall immediately serve a notice of violation upon that person. The notice may be
31 served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall
32 specify a date by which the person must comply with this Article and inform the person
33 of the actions that need to be taken to comply with this Article. Any person who fails to
34 comply within the time specified is subject to additional civil and criminal penalties for
35 a continuing violation as provided in G.S. 113A-64."

36 **SECTION 2.11.** G.S. 113A-62 reads as rewritten:

37 **"§ 113A-62. Cooperation with the United States.**

38 The Commission is authorized to cooperate and enter into agreements with any
39 agency of the United States government in connection with plans for erosion and
40 sedimentation control with respect to land-disturbing activities on lands that are under
41 the jurisdiction of such agency."

42 **SECTION 2.12.** G.S. 113A-64 reads as rewritten:

43 **"§ 113A-64. Penalties.**

44 (a) Civil Penalties. –

1 (1) Any person who violates any of the provisions of this Article or any
2 ordinance, rule, or order adopted or issued pursuant to this Article by
3 the Commission or by a local government, or who initiates or
4 continues a land-disturbing activity for which an erosion and
5 sedimentation control plan is required except in accordance with the
6 terms, conditions, and provisions of an approved plan, is subject to a
7 civil penalty. The maximum civil penalty for a violation is five
8 thousand dollars (\$5,000). A civil penalty may be assessed from the
9 date of the violation. Each day of a continuing violation shall
10 constitute a separate violation.

11 (2) The Secretary or a local government that administers an erosion and
12 ~~sediment~~ sedimentation control program approved under G.S. 113A-60
13 shall determine the amount of the civil penalty and shall notify the
14 person who is assessed the civil penalty of the amount of the penalty
15 and the reason for assessing the penalty. The notice of assessment shall
16 be served by any means authorized under G.S. 1A-1, Rule 4, and shall
17 direct the violator to either pay the assessment or contest the
18 assessment within 30 days by filing a petition for a contested case
19 under Article 3 of Chapter 150B of the General Statutes. If a violator
20 does not pay a civil penalty assessed by the Secretary within 30 days
21 after it is due, the Department shall request the Attorney General to
22 institute a civil action to recover the amount of the assessment. If a
23 violator does not pay a civil penalty assessed by a local government
24 within 30 days after it is due, the local government may institute a civil
25 action to recover the amount of the assessment. The civil action may
26 be brought in the superior court of any county where the violation
27 occurred or the violator's residence or principal place of business is
28 located. A civil action must be filed within three years of the date the
29 assessment was due. An assessment that is not contested is due when
30 the violator is served with a notice of assessment. An assessment that
31 is contested is due at the conclusion of the administrative and judicial
32 review of the assessment.

33 ...

34 (b) Criminal Penalties. – Any person who knowingly or willfully violates any
35 provision of this Article or any ordinance, rule, regulation, or order duly adopted or
36 issued by the Commission or a local government, or who knowingly or willfully
37 initiates or continues a land-disturbing activity for which an erosion and sedimentation
38 control plan is required, except in accordance with the terms, conditions, and provisions
39 of an approved plan, shall be guilty of a Class 2 misdemeanor ~~which that~~ may include a
40 fine not to exceed five thousand dollars (\$5,000)."

41 **SECTION 2.13.** G.S. 113A-64.1 reads as rewritten:

42 "**§ 113A-64.1. Restoration of areas affected by failure to comply.**

43 The Secretary or a local government that administers a local erosion and ~~sediment~~
44 sedimentation control program approved under G.S. 113A-60 may require a person who

1 engaged in a land-disturbing activity and failed to retain sediment generated by the
2 activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the
3 failure so as to minimize the detrimental effects of the resulting pollution by
4 sedimentation. This authority is in addition to any other civil or criminal penalty or
5 injunctive relief authorized under this Article."

6 **SECTION 2.14.** G.S. 113A-65(b) reads as rewritten:

7 "(b) Violation of Local Program. – Whenever the governing body of a local
8 government having jurisdiction has reasonable cause to believe that any person is
9 violating or is threatening to violate any ordinance, rule, regulation, or order adopted or
10 issued by the local government pursuant to this Article, or any term, condition or
11 provision of an erosion and sedimentation control plan over which it has jurisdiction,
12 may, either before or after the institution of any other action or proceeding authorized
13 by this Article, institute a civil action in the name of the local government for injunctive
14 relief to restrain the violation or threatened violation. The action shall be brought in the
15 superior court of the county in which the violation is occurring or is threatened."

16 **SECTION 2.15.** G.S. 113A-66(a) reads as rewritten:

17 "(a) Any person injured by a violation of this Article or any ordinance, rule, or
18 order duly adopted by the Secretary or a local government, or by the initiation or
19 continuation of a land-disturbing activity for which an erosion and sedimentation
20 control plan is required other than in accordance with the terms, conditions, and
21 provisions of an approved plan, may bring a civil action against the person alleged to be
22 in violation (including the State and any local government). The action may ~~seek~~seek
23 any of the following:

24 (1) Injunctive ~~relief~~relief.

25 (2) An order enforcing the law, rule, ordinance, order, or erosion and
26 sedimentation control plan ~~violated~~or violated.

27 (3) Damages caused by the ~~violation~~or violation.

28 (4) ~~Both damages and an enforcement order.~~

29 If the amount of actual damages as found by the court or jury in suits brought under
30 this subsection is five thousand dollars (\$5,000) or less, the plaintiff shall be awarded
31 costs of litigation including reasonable attorneys fees and expert witness fees."

32 **SECTION 2.16.** G.S. 113A-125(c) reads as rewritten:

33 "(c) Within the meaning of this section, 'existing regulatory permits' include
34 dredge and fill permits issued pursuant to G.S. 113-229; sand dune permits issued
35 pursuant to G.S. 104B-4; air pollution control and water pollution control permits,
36 special orders or certificates issued pursuant to G.S. 143-215.1 and 143-215.2, or any
37 other permits, licenses, authorizations, approvals or certificates issued by the Board of
38 Water and Air Resources pursuant to Chapter 143; capacity use area permits issued
39 pursuant to G.S. 143-215.15; final approval of dams pursuant to G.S. 143-215.30;
40 floodway permits issued pursuant to G.S. 143-215.54; water diversion authorizations
41 issued pursuant to G.S. 143-354(c); oil refinery permits issued pursuant to G.S.
42 143-215.99; mining operating permits issued pursuant to G.S. 74-51; permissions for
43 construction of wells issued pursuant to G.S. 87-88; and rules concerning pesticide
44 application within the coastal area issued pursuant to G.S. 143-458; approvals by the

1 Department of Health and Human Services of plans for water supply, drainage or
2 sewerage, pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid
3 waste disposal sites and facilities, adopted by the Department of Health and Human
4 Services pursuant to Chapter 130, Article 13B; permits relating to sanitation of shellfish,
5 crustacea or scallops issued pursuant to Chapter 130, Articles 14A or 14B; permits,
6 approvals, authorizations and rules issued by the Department of Health and Human
7 Services pursuant to Articles 23 or 24 of Chapter 130 with reference to mosquito control
8 programs or districts; any permits, licenses, authorizations, rules, approvals or
9 certificates issued by the Department of Health and Human Services relating to septic
10 tanks or water wells; oil or gas well rules and orders issued for the protection of
11 environmental values or resources pursuant to G.S. 113-391; a certificate of public
12 convenience and necessity issued by the State Utilities Commission pursuant to Chapter
13 62 for any public utility plant or system, other than a carrier of persons or property;
14 permits, licenses, leases, options, authorization or approvals relating to the use of State
15 forestlands, State parks or other state-owned land issued by the State Department of
16 Administration, the State Department of Natural and Economic Resources or any other
17 State department, agency or institution; any approvals of erosion and sedimentation
18 control plans that may be issued by the North Carolina Sedimentation Control
19 Commission pursuant to G.S. 113A-60 or 113A-61; and any permits, licenses,
20 authorizations, rules, approvals or certificates issued by any State agency pursuant to
21 any environmental protection legislation not specified in this subsection that may be
22 enacted prior to the permit changeover date."

23 **SECTION 2.17.** G.S. 139-55(b)(2) reads as rewritten:

24 "(2) Nonstructural measures such as ~~sediment~~sedimentation control
25 ordinances and flood plain zoning ordinances enacted and enforced by
26 local governments to alleviate flooding;"

27 **SECTION 2.18.** G.S. 143-215.74(b)(5) reads as rewritten:

28 "(5) Funding may be provided to assist practices including conservation
29 tillage, diversions, filter strips, field borders, critical area plantings,
30 ~~sediment~~sedimentation control structures, sod-based rotations, grassed
31 waterways, strip-cropping, terraces, cropland conversion to permanent
32 vegetation, grade control structures, water control structures, closure of
33 lagoons, emergency spillways, riparian buffers or equivalent controls,
34 odor control best management practices, insect control best
35 management practices, and animal waste management systems and
36 application. Funding for animal waste management shall be allocated
37 for practices in river basins such that the funds will have the greatest
38 impact in improving water quality."

39 **SECTION 2.19.** G.S. 153A-357(b) reads as rewritten:

40 "(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing
41 activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57,
42 unless an erosion and sedimentation control plan has been approved by the
43 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a

1 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
2 including the site of the activity."

3 **SECTION 2.20.** G.S. 160A-417(b) reads as rewritten:

4 "(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing
5 activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57,
6 unless an erosion and sedimentation control plan has been approved by the
7 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a
8 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
9 including the site of the activity."

10 **PART III. EFFECTIVE DATE.**

11 **SECTION 3.1.** This act is effective when it becomes law.