

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1967

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/8/08

Short Title: Improve Coastal Stormwater Management.

(Public)

Sponsors:

Referred to:

May 28, 2008

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE MANAGEMENT OF
2 STORMWATER IN THE COASTAL COUNTIES IN ORDER TO PROTECT
3 WATER QUALITY.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Disapprove Rule. – Pursuant to G.S. 150B-21.3(b1), 15A
7 NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), as adopted by the
8 Environmental Management Commission on 10 January 2008 and approved by the
9 Rules Review Commission on 20 March 2008, is disapproved.

10 **SECTION 1.(b)** Supersede Rule. – 15A NCAC 02H .1005 (Stormwater
11 Requirements: Coastal Counties), effective 1 September 1995, is superseded by this act.
12 References in the North Carolina Administrative Code to 15A NCAC 02H .1005 shall
13 be deemed to refer to the equivalent provisions of this act.

14 **SECTION 2.(a)** Definitions. – The following definitions apply to this act
15 and its implementation:

- 16 (1) The definitions set out in 15A NCAC 02H .1002 (Definitions).
17 (2) The definitions set out in G.S. 143-212 and G.S. 143-213.
18 (3) "Built upon area" has the same meaning as in Session Law 2006-246
19 and means that portion of a project that is covered by impervious or
20 partially impervious surface including, but not limited to, buildings;
21 pavement and gravel areas such as roads, parking lots, and paths; and
22 recreation facilities such as tennis courts. "Built upon area" does not
23 include a wooden slatted deck, the water area of a swimming pool, or
24 pervious or partially pervious paving material to the extent that the
25 paving material absorbs water or allows water to infiltrate through the
26 paving material.
27 (4) "Permeable pavement" means paving material that absorbs water or
28 allows water to infiltrate through the paving material. Permeable
29 paving materials include porous concrete, permeable interlocking

1 concrete pavers, concrete grid pavers, porous asphalt, and any other
2 material with similar characteristics. Compacted gravel shall not be
3 considered permeable pavement.

4 (5) "Residential development activities" has the same meaning as in 15A
5 NCAC 02B .0202(54).

6 (6) "Vegetative buffer" has the same meaning as in 15A NCAC 02H
7 .1002(22) and means an area of natural or established vegetation
8 directly adjacent to surface waters through which stormwater runoff
9 flows in a diffuse manner to protect surface waters from degradation
10 due to development activities.

11 (7) "Vegetative conveyance" means a permanent, designed waterway
12 lined with vegetation that is used to convey stormwater runoff at a
13 non-erosive velocity within or away from a developed area.

14 **SECTION 2.(b)** Requirements for Certain Nonresidential and Residential
15 Development in the Coastal Counties. – All nonresidential development activities that
16 occur within the Coastal Counties that will add more than 10,000 square feet of built
17 upon area or that require a Sedimentation and Erosion Control Plan, pursuant to
18 G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit,
19 pursuant to G.S. 113A-118 and all residential development activities within the Coastal
20 Counties that require a Sedimentation and Erosion Control Plan, pursuant to
21 G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit,
22 pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this
23 subsection. A development activity or project requires a Sedimentation and Erosion
24 Control Plan if the activity or project disturbs one acre or more of land, including an
25 activity or project that disturbs less than one acre of land that is part of a larger common
26 plan of development. Whether an activity or project that disturbs less than one acre of
27 land is part of a larger common plan of development shall be determined in a manner
28 consistent with the memorandum referenced as "Guidance Interpreting Phase 2
29 Stormwater Requirements" from the Director of the Division of Water Quality of the
30 Department of Environment and Natural Resources to Interested Parties dated 24 July
31 2006.

32 (1) Development Near Outstanding Resource Waters (ORW). –
33 Development activities within the Coastal Counties and located within
34 575 feet of the mean high waterline of areas designated by the
35 Commission as Outstanding Resource Waters (ORW) shall meet the
36 requirements of 15A NCAC 02H .1007 (Stormwater Requirements:
37 Outstanding Resource Waters) and shall be permitted as follows:

38 a. Low-Density Option. – Development shall be permitted
39 pursuant to 15A NCAC 02H .1003(d)(1) if the development
40 meets all of the following requirements:

41 1. The development has a built upon area of twelve percent
42 (12%) or less. A development project with an overall
43 density at or below the low-density threshold, but
44 containing areas with a density greater than the overall

- 1 project density, shall be considered low-density as long
2 as the project meets or exceeds the requirements for low-
3 density development and locates the higher density
4 development in upland areas and away from surface
5 waters and drainageways to the maximum extent
6 practicable.
- 7 2. Stormwater runoff from the development is transported
8 primarily by vegetated conveyances. As used in this
9 sub-sub-subdivision, "conveyance system" shall not
10 include a stormwater collection system. Stormwater
11 runoff from built upon areas that is directed to flow
12 through any wetlands shall flow into and through these
13 wetlands at a non-erosive velocity.
- 14 3. The development contains a 50-foot-wide vegetative
15 buffer for new development activities and a 30-foot-wide
16 vegetative buffer for redevelopment activities. The width
17 of a buffer is measured horizontally from the normal
18 pool elevation of impounded structures, from the bank of
19 each side of streams or rivers, and from the mean high
20 waterline of tidal waters, perpendicular to the shoreline.
21 The vegetative buffer may be cleared or graded, but must
22 be planted with and maintained in grass or any other
23 vegetative or plant material. The Division of Water
24 Quality may, on a case-by-case basis, grant a minor
25 variance from the vegetative buffer requirements of this
26 section pursuant to the procedures set out in 15A NCAC
27 02B .0233(9)(b). Vegetative buffers and filters required
28 by this section and any other buffers or filters required
29 by State water quality or coastal management rules or
30 local government requirements may be met concurrently
31 and may contain, in whole or in part, coastal, isolated, or
32 404 jurisdictional wetlands that are located landward of
33 the normal waterline.
- 34 b. High-Density Option. – Development shall be permitted
35 pursuant to 15A NCAC 02H .1003(d)(2) if the development
36 meets all of the following requirements:
- 37 1. The development has a built upon area of greater than
38 twelve percent (12%).
- 39 2. The development has no direct outlet channels or pipes
40 to Class SA waters unless permitted in accordance with
41 15A NCAC 02H .0126. Stormwater runoff from built
42 upon areas that is directed to flow through any wetlands
43 shall flow into and through these wetlands at a
44 non-erosive velocity.

- 1 3. The development utilizes control systems that are any
2 combination of infiltration systems, bioretention
3 systems, constructed stormwater wetlands, sand filters,
4 rain barrels, cisterns, rain gardens or alternative low
5 impact development stormwater management systems
6 designed in accordance with 15A NCAC 02H .1008 to
7 control and treat the runoff from all surfaces generated
8 by one and one-half inches of rainfall, or the difference
9 in the stormwater runoff from all surfaces from the
10 predevelopment and postdevelopment conditions for a
11 one-year, 24-hour storm, whichever is greater. Wet
12 detention ponds may be used as a stormwater control
13 system to meet the requirements of this
14 sub-sub-subdivision, provided that the stormwater
15 control system fully complies with the requirements of
16 this sub-subdivision. If a wet detention pond is used
17 within one-half mile of Class SA waters, installation of a
18 stormwater best management practice in series with the
19 wet detention pond shall be required to treat the
20 discharge from the wet detention pond. Secondary
21 stormwater best management practices that are used in
22 series with another stormwater best management practice
23 do not require any minimum separation from the
24 seasonal high water table. Alternatives as described in
25 15A NCAC 02H .1008(h) may also be approved if they
26 meet the requirements of this sub-subdivision.
27 4. Stormwater runoff from the development that is in
28 excess of the design volume must flow overland through
29 a vegetative filter designed in accordance with 15A
30 NCAC 02H .1008 with a minimum length of 50 feet
31 measured from mean high water of Class SA waters.
32 5. The development contains a 50-foot-wide vegetative
33 buffer for new development activities and a 30-foot-wide
34 vegetative buffer for redevelopment activities. The width
35 of a buffer is measured horizontally from the normal
36 pool elevation of impounded structures, from the bank of
37 each side of streams or rivers, and from the mean high
38 waterline of tidal waters, perpendicular to the shoreline.
39 The vegetative buffer may be cleared or graded, but must
40 be planted with, and maintained in, grass or any other
41 vegetative or plant material. Furthermore, stormwater
42 control best management practices (BMPs), or
43 stormwater control structures, with the exception of wet
44 detention ponds, may be located within this vegetative

1 buffer. The Division of Water Quality may, on a case by
2 case basis, grant a minor variance from the vegetative
3 buffer requirements of this section pursuant to the
4 procedures set out in 15A NCAC 02B .0233(9)(b).
5 Vegetative buffers and filters required by this section
6 and any other buffers or filters required by State water
7 quality or coastal management rules or local government
8 requirements may be met concurrently and may contain,
9 in whole or in part, coastal, isolated, or 404 jurisdictional
10 wetlands that are located landward of the normal water
11 line.

12 c. Stormwater Discharges Prohibited. – All development
13 activities, including both low- and high-density projects, shall
14 prohibit new points of stormwater discharge to Class SA waters
15 or an increase in the volume of stormwater flow through
16 conveyances or increase in capacity of conveyances of existing
17 stormwater conveyance systems that drain to Class SA waters.
18 Any modification or redesign of a stormwater conveyance
19 system within the contributing drainage basin must not increase
20 the net amount or rate of stormwater discharge through existing
21 outfalls to Class SA waters. The following shall not be
22 considered a direct point of stormwater discharge:

- 23 1. Infiltration of the stormwater runoff from the design
24 storm as described in sub-sub-subdivision 3. of
25 sub-subdivision b. of subdivision (1) of this subsection.
- 26 2. Diffuse flow of stormwater at a non-erosive velocity to a
27 vegetated buffer or other natural area, that is capable of
28 providing effective infiltration of the runoff from the
29 design storm as described in sub-sub-subdivision 3. of
30 sub-subdivision b. of subdivision (1) of this subsection.
31 Notwithstanding the other requirements of this section,
32 the infiltration mandated in this sub-sub-subdivision
33 does not require a minimum separation from the seasonal
34 high-water table.
- 35 3. The discharge from a wet detention pond that is treated
36 by a secondary stormwater best management practice,
37 provided that both the wet detention pond and the
38 secondary stormwater best management practice meet
39 the requirements of this sub-subdivision.

40 d. Limitation on the Density of Development. – Development
41 shall be limited to a built upon area of twenty-five percent
42 (25%) or less.

43 (2) Development Near Class SA Waters. – Development activities within
44 one-half mile of and draining to those waters classified by the

1 Commission as Class SA waters or within one-half mile of waters
2 classified by the Commission as Class SA waters and draining to
3 unnamed freshwater tributaries to Class SA waters shall meet the
4 requirements of sub-subdivisions a., b., and c. of subdivision (1) of this
5 subsection. The extent of Class SA waters is limited to those waters
6 that are determined to be at least an intermittent stream based on a site
7 stream determination made in accordance with the procedures that are
8 delineated in the Division of Water Quality's "Identification Methods
9 for the Origin of Intermittent and Perennial Streams" prepared
10 pursuant to Session Law 2001-404.

11 (3) Other Coastal Development. – Development activities within the
12 Coastal Counties except those areas described in subdivisions (1) and
13 (2) of this subsection shall meet all of the following requirements:

14 a. Low-Density Option: Development shall be permitted pursuant
15 to 15A NCAC 02H .1003(d)(1) if the development meets all of
16 the following requirements:

- 17 1. The development has a built upon area of twenty-four
18 percent (24%) or less. A development project with an
19 overall density at or below the low-density threshold, but
20 containing areas with a density greater than the overall
21 project density, shall be considered low density as long
22 as the project meets or exceeds the requirements for low-
23 density development and locates the higher density in
24 upland areas and away from surface waters and
25 drainageways to the maximum extent practicable.
- 26 2. Stormwater runoff from the development is transported
27 primarily by vegetated conveyances. As used in this
28 sub-sub-subdivision, "conveyance system" shall not
29 include a stormwater collection system. Stormwater
30 runoff from built upon areas that is directed to flow
31 through any wetlands shall flow into and through these
32 wetlands at a non-erosive velocity.
- 33 3. The development contains a 50-foot-wide vegetative
34 buffer for new development activities and a 30-foot-wide
35 vegetative buffer for redevelopment activities. The width
36 of a buffer is measured horizontally from the normal
37 pool elevation of impounded structures, from the bank of
38 each side of streams or rivers, and from the mean high
39 waterline of tidal waters, perpendicular to the shoreline.
40 The vegetative buffer may be cleared or graded, but must
41 be planted with, and maintained in, grass or any other
42 vegetative or plant material. The Division of Water
43 Quality may, on a case-by-case basis, grant a minor
44 variance from the vegetative buffer requirements of this

1 section pursuant to the procedures set out in 15A NCAC
2 02B .0233(9)(b). Vegetative buffers and filters required
3 by this section and any other buffers or filters required
4 by State water quality or coastal management rules or
5 local government requirements may be met concurrently
6 and may contain, in whole or in part, coastal, isolated, or
7 404 jurisdictional wetlands that are located landward of
8 the normal waterline.

- 9 b. High-Density Option: Higher density developments shall be
10 permitted pursuant to 15A NCAC 02H .1003(d)(2) if the
11 development meets all of the following requirements:
- 12 1. The development has a built upon area of greater than
13 twenty-four percent (24%).
 - 14 2. The development uses control systems that are any
15 combination of infiltration systems, wet detention ponds,
16 bioretention systems, constructed stormwater wetlands,
17 sand filters, rain barrels, cisterns, rain gardens or
18 alternative stormwater management systems designed in
19 accordance with 15A NCAC 02H .1008.
 - 20 3. Control systems must be designed to store, control, and
21 treat the stormwater runoff from all surfaces generated
22 by one and one-half inch of rainfall.
 - 23 4. Stormwater runoff from built upon areas that is directed
24 to flow through any wetlands shall flow into and through
25 these wetlands at a non-erosive velocity.
 - 26 5. A 50-foot-wide vegetative buffer for new development
27 activities and a 30-foot-wide vegetative buffer for
28 redevelopment activities. The width of a buffer is
29 measured horizontally from the normal pool elevation of
30 impounded structures, from the bank of each side of
31 streams or rivers, and from the mean high waterline of
32 tidal waters, perpendicular to the shoreline. The
33 vegetative buffer may be cleared or graded, but must be
34 planted with, and maintained in, grass or any other
35 vegetative or plant material. Furthermore, stormwater
36 control best management practices (BMPs), or
37 stormwater control structures, with the exception of wet
38 detention ponds, may be located within this vegetative
39 buffer. The Division of Water Quality may, on a case by
40 case basis, grant a minor variance from the vegetative
41 buffer requirements of this section pursuant to the
42 procedures set out in 15A NCAC 02B .0233(9)(b).
43 Vegetative buffers and filters required by this section
44 and any other buffers or filters required by State water

1 quality or coastal management rules or local government
2 requirements may be met concurrently and may contain,
3 in whole or in part, coastal, isolated, or 404 jurisdictional
4 wetlands that are located landward of the normal
5 waterline.

6 (4) Requirements for Structural Stormwater Controls. – Structural
7 stormwater controls required under this section shall meet all of the
8 following requirements:

- 9 a. Remove an eighty-five percent (85%) average annual amount of
10 Total Suspended Solids.
11 b. For detention ponds, draw down the treatment volume no faster
12 than 48 hours, but no slower than 120 hours.
13 c. Discharge the storage volume at a rate equal to or less than the
14 predevelopment discharge rate for the one-year, 24-hour storm.
15 d. Meet the General Engineering Design Criteria set forth in 15A
16 NCAC 02H .1008(c).
17 e. For structural stormwater controls that are required under this
18 section and that require separation from the seasonal high-water
19 table, a minimum separation of two feet is required. Where a
20 separation of two feet from the seasonal highwater table is not
21 practicable, the Division of Water Quality may grant relief from
22 the separation requirement pursuant to the Alternative Design
23 Criteria set out in 15A NCAC 02H .1008(h). No minimum
24 separation from the seasonal highwater table is required for a
25 secondary stormwater best management practice that is used in
26 a series with another stormwater best management practice.

27 (5) Certain Wetlands Excluded From Density Calculation. – For the
28 purposes of this section, areas defined as Coastal Wetlands under 15A
29 NCAC 07H .0205, as measured landward from the normal high
30 waterline, shall not be included in the overall project area to calculate
31 impervious surface density. Wetlands that are not regulated as coastal
32 wetlands pursuant to 15A NCAC 07H .0205 and that are located
33 landward of the normal high waterline may be included in the overall
34 project area to calculate impervious surface density.

35 **SECTION 2.(c)** Requirements for Limited Residential Development in
36 Coastal Counties. – For residential development activities within the 20 Coastal
37 Counties that are located within one-half mile and draining to Class SA waters, that
38 have a built upon area greater than twelve percent (12%), that do not require a
39 stormwater management permit under subsection (b) of this section, and that will add
40 more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater
41 management permit shall be obtained. The permit shall require recorded deed
42 restrictions or protective covenants to ensure that the plans and specifications approved
43 in the permit are maintained. Under this permit, stormwater runoff shall be managed
44 using any one or combination of the following practices:

- 1 (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff
2 from the first one and one-half inches of rain. Rain barrels and cisterns
3 shall be installed in such a manner as to facilitate the reuse of the
4 collected rain water on site and shall be installed in such a manner that
5 any overflow from these devices is directed to a vegetated area in a
6 diffuse flow. Construct all uncovered driveways, uncovered parking
7 areas, uncovered walkways, and uncovered patios out of permeable
8 pavement or other pervious materials.
- 9 (2) Direct rooftop runoff from the first one and one-half inches of rain to
10 an appropriately sized and designed rain garden. Construct all
11 uncovered driveways, uncovered parking areas, uncovered walkways,
12 and uncovered patios out of permeable pavement or other pervious
13 materials.
- 14 (3) Install any other stormwater best management practice that meets the
15 requirements of 15A NCAC 02H .1008 to control and treat the
16 stormwater runoff from all built upon areas of the site from the first
17 one and one-half inches of rain.

18 **SECTION 2.(d)** Exclusions. – The requirements of this section shall not
19 apply to any of the following:

- 20 (1) Activities of the North Carolina Department of Transportation that are
21 regulated in accordance with the provisions of the Department's
22 National Pollutant Discharge Elimination System (NPDES)
23 Stormwater Permit.
- 24 (2) Development activities that are conducted pursuant to and consistent
25 with one of the following authorizations, or any timely renewal
26 thereof, shall be regulated by those provisions and requirements of
27 15A NCAC 02H .1005 that were effective at the time of the original
28 issuance of the following authorizations:
- 29 a. State Stormwater Permit issued under the provisions of 15A
30 NCAC 02H .1005.
- 31 b. Stormwater Certification issued pursuant to 15A NCAC 02H
32 .1000 prior to 1 December 1995.
- 33 c. A Coastal Area Management Act Major Permit.
- 34 d. 401 Certification that contains an approved Stormwater
35 Management Plan.
- 36 e. A building permit pursuant to G.S. 153A-357 or
37 G.S. 160A-417.
- 38 f. A site-specific development plan as defined by
39 G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
- 40 g. A phased development plan approved pursuant to
41 G.S. 153A-344.1 or G.S. 160A-385.1 that shows:
- 42 1. For the initial or first phase of development, the type and
43 intensity of use for a specific parcel or parcels, including
44 at a minimum, the boundaries of the project and a

1 subdivision plan that has been approved pursuant to
2 G.S. 153A-330 through G.S. 153A-335 or
3 G.S. 160A-371 through G.S. 160A-376.

4 2. For any subsequent phase of development, sufficient
5 detail so that implementation of the requirements of this
6 section to that phase of development would require a
7 material change in that phase of the plan.

8 h. A vested right to the development pursuant to common law.

9 (3) Redevelopment activities that result in no net increase in built upon
10 area and provide stormwater control equal to the previous
11 development.

12 (4) Development activities for which a complete Stormwater Permit
13 Application has been accepted by the Division of Water Quality prior
14 to the effective date of this act, shall be regulated by the provisions and
15 requirements of 15A NCAC 02H .1005 that were effective at the time
16 that this application was accepted as complete by the Division of
17 Water Quality. For purposes of this subsection, a Stormwater Permit
18 Application is deemed accepted as complete by the Division of Water
19 Quality when the application is assigned a permit number in the
20 Division's Basinwide Information Management System.

21 (5) Development activities for which only a minor modification of a State
22 Stormwater Permit is required shall be regulated by the provisions and
23 requirements of 15A NCAC 02H .1005 that were effective at the time
24 of the original issuance of the State Stormwater Permit. For purposes
25 of this subsection, a minor modification of a State Stormwater Permit
26 is defined as a modification that does not increase the net area of built
27 upon area within the project site or does not increase the overall size of
28 the stormwater controls that have been previously approved for that
29 development activity.

30 (6) Municipalities designated as a National Pollutant Discharge
31 Elimination System (NPDES) Phase 2 municipality located within the
32 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater
33 Permit expires and is subject to renewal. Upon renewal of the NPDES
34 Phase 2 Stormwater Permits for municipalities located within the 20
35 Coastal Counties, the Department shall review the permits to
36 determine whether the permits should be amended to include the
37 provisions of this section.

38 **SECTION 2.(e)** Exemptions From Vegetative Buffer Requirements. – The
39 following activities are exempt from the vegetative buffer requirements of this section:

40 (1) Development in urban waterfronts that meets the requirements of 15A
41 NCAC 07H .0209(g),

42 (2) Development in a new urban waterfront area that meets the
43 requirements of Session Law 2004-117,

1 (3) Those activities listed in 15A NCAC 07H .0209(d)(10)(A) through
2 15A NCAC 07H .0209(d)(10)(H),

3 (4) Development of upland marinas that have received or are required to
4 secure a Coastal Area Management Act Major Permit.

5 **SECTION 2.(f)** Compliance with Other Rules. – In addition to the
6 requirements specified in this section, activities regulated under this section must also
7 comply with any requirements of any other applicable law or rule.

8 **SECTION 3.** Rescission of Phase 2 Designations. – All designations of local
9 governments within the 20 Coastal Counties as Phase 2 municipalities by the
10 Environmental Management Commission under Section 5 of Session Law 2006-246
11 that occurred after 16 August 2006 are rescinded. The provisions of this section do not
12 preclude any future designations of these areas as Phase 2 municipalities by the
13 Environmental Management Commission under Section 5 of Session Law 2006-246.

14 **SECTION 4.** Additional Rule Making. – The Commission may adopt rules
15 to replace the rules that are disapproved or superseded as provided in Section 1 of this
16 act. If the Commission adopts rules pursuant to this section, notwithstanding
17 G.S. 150B-19(4), the rules shall be substantively identical to the provisions of Section 2
18 of this act. The Commission may reorganize or renumber any of the rules to which this
19 section applies at its discretion. Rules adopted pursuant to this section are not subject to
20 G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall
21 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
22 objections had been received as provided by G.S. 150B-21.3(b2).

23 **SECTION 5.** Construction of Act. –

24 (1) Except as specifically provided in Section 4 of this act, nothing in this
25 act shall be construed to limit, expand, or otherwise alter the authority
26 of the Environmental Management Commission or any unit of local
27 government.

28 (2) This act shall not be construed to affect any delegation of any power or
29 duty by the Commission to the Department or subunit of the
30 Department.

31 (3) As used in subsection (b) of Section 2 of this act, the phrase "common
32 plan of development" shall be interpreted and implemented in a
33 manner consistent with the memorandum referenced as "Guidance
34 Interpreting Phase 2 Stormwater Requirements" from the Director of
35 the Division of Water Quality of the Department of Environment and
36 Natural Resources to Interested Parties dated 24 July 2006, and for
37 these purposes the memorandum shall be considered a part of this act
38 and as such shall be printed as a part of the Session Laws.

39 **SECTION 6.** Application of Memorandum to Prior Session Law. –
40 Subdivision (5) of Section 18 of S.L. 2006-246 reads as rewritten:

41 "(5) As used in Section 9 of this act, the phrase 'common plan of
42 development or sale' shall be interpreted and implemented in a manner
43 consistent with the memorandum referenced as 'Guidance Interpreting
44 Phase II Stormwater Requirements' from the Director of the Division

1 of Water Quality of the Department of Environment and Natural
2 Resources to Interested Parties dated 24 July 2006, and for these
3 purposes the memorandum shall be considered a part of this act and as
4 such shall be printed as a part of the Session Laws."

5 **SECTION 7.** Provisions of Act Not Codified; Set Out As Note. –
6 Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the
7 provisions of this act. The Revisor of Statutes shall set out the text of this act as a note
8 to G.S. 143-214.7 and may make notes concerning this act to other sections of the
9 General Statutes as the Revisor of Statutes deems appropriate.

10 **SECTION 8.** Effective Date. – Subsection (b) of Section 1 of this act and
11 Sections 2 and 3 of this act become effective 1 October 2008. All other sections of this
12 act are effective when this act becomes law.