

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 352
Committee Substitute Favorable 3/25/25
Senate Agriculture, Energy, and Environment Committee Substitute Adopted 6/17/25

Short Title: Bid Reqs/Permitting/Inundation Maps/CAMA.

(Public)

Sponsors:

Referred to:

March 11, 2025

A BILL TO BE ENTITLED
AN ACT TO PROVIDE THAT CONTRACTS FOR CONSTRUCTION OF WATER AND
SEWAGE SYSTEMS OR FACILITIES MAY BE AWARDED WHEN AT LEAST TWO
COMPETITIVE BIDS HAVE BEEN RECEIVED, TO LIMIT REPEATED REQUESTS
FOR ADDITIONAL INFORMATION IN ENVIRONMENTAL PERMITTING, TO
CLARIFY THAT CERTAIN DOWNSTREAM INUNDATION MAPS ARE SUBJECT TO
DISCLOSURE, TO CLARIFY THAT CERTAIN MAN-MADE DITCHES ARE NOT
COVERED UNDER THE COASTAL AREA MANAGEMENT ACT, AND TO REFORM
PERMITTING RELATED TO UPLAND BASINS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-132 is amended by adding a new subsection to read:

"(a1) Notwithstanding the provisions of subsection (a) of this section, no contract to which G.S. 143-129 applies for construction of water systems or facilities, or sewage disposal systems or facilities, shall be awarded by any board or governing board of the State, or any political subdivision of the State, unless two competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor. Except as provided in this subsection, all requirements of subsection (a) of this section apply to the receipt of bids and the award of construction contracts. For purposes of this subsection, the following definitions shall apply:

(1) Sewage disposal systems or facilities. – Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.

(2) Water systems or facilities. – Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use."

SECTION 1.(b) This section is effective when it becomes law and applies to contracts entered into on or before December 31, 2030.

SECTION 2.(a) G.S. 143-214.7(b6) reads as rewritten:

"(b6) Permitting under the authority granted to the Commission by this section shall comply with the procedures and time lines set forth in this subsection. For any development necessitating stormwater measures subject to this section, applications for new permits, permit modifications, permit transfers, permit renewals, and decisions to deny an application for a new permit, permit modification, transfer, or renewal shall be in writing. Where the Commission has provided a digital submission option, such submission shall constitute a written submission. The



Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit or for a renewal of a permit as specified in this subsection after the applicant submits all information required by the Commission, the application shall be deemed approved without modification. ~~The following provisions apply:~~ The following provisions apply:

- (1) The Commission shall perform an administrative review of a new application and of a resubmittal of an application determined to be incomplete under subdivision (3) of this subsection within 10 working days of receipt to determine if the information is administratively complete. If complete, the Commission shall issue a receipt letter or electronic response stating that the application is complete and that a 70-calendar day technical review period has started as of the original date the application was received. If required items or information is not included, the application shall be deemed incomplete, and the Commission shall issue an application receipt letter or electronic response identifying the information required to complete the application package before the technical review begins. When the required information is received, the Commission shall then issue a receipt letter or electronic response specifying that it is complete and that the 70-calendar day review period has started as of the date of receipt of all required information. The Commission shall develop an application package checklist identifying the items and information required for an application to be considered administratively complete. After issuing a letter or electronic response requesting additional information based on the original submittal under this subdivision, the Commission shall not subsequently request additional information that was not previously identified as missing or required in that additional information letter or electronic response from the original submittal. The Commission may, however, respond to subsequent additional information letters or electronic responses with a request for additional information limited to information missing from that subsequent additional information letter or electronic response.

...."

SECTION 2.(b) G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System Extensions and Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

- (1) Application in writing. – All applications for new permits and for renewals of existing permits for sewer systems, sewer system extensions and for disposal systems, and for land application of waste, or treatment works which do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. Where the Commission has provided a digital submission option, the submission shall constitute a written submission.

- (1a) Application review. – The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. After issuing a request for additional information based on the original application submittal, the Commission shall not subsequently request additional information that

was not previously identified as missing or required in that request for additional information based on the original application submittal. The Commission may, however, respond to subsequent submissions of additional information with a request for additional information limited to information missing from that subsequent submission. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. If the Commission fails to act on an application for a permit or for a renewal of a permit as specified in this subdivision after the applicant submits all information required by the Commission, the application shall be deemed approved.

(1c) Notice for land application of bulk residuals. – Prior to acting on a permit application for the land application of bulk residuals resulting from the operation of a wastewater treatment facility, the Commission shall provide notice and an opportunity for comment from the governing board of the county in which the site of the land application of bulk residuals is proposed to be located.

(1d) Pretreatment programs. – Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received. ~~If the Commission fails to act on an application for a permit or for a renewal of a permit as specified in this subdivision after the applicant submits all information required by the Commission, the application shall be deemed approved.~~

a.(1e) Fast-track sewer extensions. – Where a professional engineer provides certification that the design meets or exceeds Minimum Design Criteria developed by the Department applicable to the project, the Commission shall perform a review of a new application for a sewer system extension permit within 45 days of receipt of a complete ~~application.~~ application as provided in this subdivision. A complete application is defined as an application that includes all the required components described in the application form.

a. Administrative review. – The Commission shall perform an administrative review of a new application within 10 days of receipt to determine if all the required information is included in the application. If complete, the Commission shall issue a receipt letter or electronic response stating that the application is complete and that a 45-calendar day technical review period has started as of the original date the complete application was received.

b. Application incomplete. – If required items or information is not included, the application shall be deemed incomplete, and the Commission shall issue an application receipt letter or electronic response identifying the information required to complete the application package before the technical review begins. When the required information is received, the Commission shall then issue a receipt letter or electronic response specifying that it is complete and that the 45-calendar day review period has started as of the date of receipt of all required information. If additional information is required to complete the technical review, the Commission shall issue a request for additional information required to complete the review, and the review time shall pause until the additional information is received. If the requested additional information is not received within

30 days, the application shall be returned to the applicant. Upon receipt of the requested additional information, the review time shall restart at the same day it was paused by the additional information request. After issuing a request for additional information based on the original submittal under this sub-subdivision, the Commission shall not subsequently request additional information that was not previously identified as missing or required in that request for additional information based on the original submittal. The Commission may, however, respond to subsequent submissions of additional information with a request for additional information limited to information missing from that subsequent submission.

c. Application approved. – If approved, the Commission shall issue an approval letter or electronic correspondence indicating approval of the application. After construction of the sewer system is completed, and within 14 days of receiving all necessary certifications from a professional engineer that the sewer system extension complies with all applicable rules and Minimum Design Criteria, the Commission shall issue a receipt of certification. Applications for alternative sewer systems as defined in sub-subdivision ~~b-d.~~ of this subdivision are not eligible for this fast-track review.

~~b-d.~~ ~~[Alternative sewer system defined.]~~ Alternative sewer system defined. – "Alternative sewer system" means any sewer system or collection system other than a gravity system or standard pump station and force main. These include pressure sewer systems, septic tank with effluent pump (STEP) sewer systems, vacuum sewer system, and small diameter variable grade gravity sewers.

...."

SECTION 2.(c) G.S. 130A-328(c1) reads as rewritten:

"(c1) The Department shall perform a review of an application for a water distribution system authorization subject to the following requirements:

- (1) The Department shall review the application within 45 days of receipt of a complete application when a professional engineer provides certification that the design meets or exceeds the Minimum Design Criteria developed by the Department applicable to the project. For purposes of this section, a complete application is defined as an application that includes all of the required components described in the application form.
- (2) The Department shall perform an administrative review of a new application within 10 days of receipt to determine if all required information is included in the application. If the application is complete, the Department shall issue a receipt letter or electronic response stating that the application is complete and that a 45-calendar day technical review period has started as of the date on which the Department received the complete application. If required items or information are not included in the application, the application is incomplete, and the Department shall issue an application receipt letter or electronic response identifying the information required to complete the application before the technical review begins. When the Department receives the required information, the Department shall issue a receipt letter or electronic response specifying that the application is complete and that the 45-calendar day review period has started as of the date on which the Department received the remaining required information. After issuing a request for additional information based on the original submittal under this subdivision, the

Department shall not subsequently request additional information that was not previously identified as missing or required in that request for additional information based on the original submittal. The Department may, however, respond to subsequent submissions of additional information with a request for additional information limited to information missing from that subsequent submission.

- (3) If additional information is required to complete the technical review, the Department shall issue a request for additional information required to complete the review, and the 45-calendar day technical review period shall pause until the additional information is received. If the Department does not receive the requested additional information from the applicant within 30 calendar days, the Department shall return the application to the applicant.
- (4) If the Department receives the additional information from the applicant within 30 days, the technical review period review time shall restart, and the Department shall complete its review within the number of days that remained in the technical review period on the date the technical review period was paused by the request for additional information.
- (5) Should the Department not complete its review of the application within the 45-day technical review period, the application shall be considered deemed approved."

SECTION 2.(d) G.S. 143-215.108 reads as rewritten:

"§ 143-215.108. Control of sources of air pollution; permits required.

...

- (d)(1) The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. A permit application may not be deemed complete unless it is accompanied by a copy of the request for determination as provided in subsection (f) of this section that bears a date of receipt entered by the clerk of the local government and until the 15-day period for issuance of a determination has elapsed.
- (2) **(Effective until contingency met – see note)** The Commission shall adopt rules specifying the times within which it must act upon applications for permits required by Title V and other permits required by this section. The times specified shall be extended for the period during which the Commission is prohibited from issuing a permit under subdivisions (3) and (4) of this subsection. The Commission shall inform a permit applicant as to whether or not the application is complete within the time specified in the rules for action on the application. If the Commission fails to act on an application for a permit required by Title V or this section within the time period specified, the failure to act on the application constitutes a final agency decision to deny the permit. A permit applicant, permittee, or other person aggrieved, as defined in G.S. 150B-2, may seek judicial review of a failure to act on the application as provided in G.S. 143-215.5 and Article 4 of Chapter 150B of the General Statutes. Notwithstanding the provisions of G.S. 150B-51, upon review of a failure to act on an application for a permit required by Title V or this section, a court may either: (i) affirm the denial of the permit or (ii) remand the application to the Commission for action upon the application within a specified time.
- (2) **(Effective once contingency met – see note)** The Commission shall adopt rules specifying the times within which it must act upon applications for

permits required by Title V and other permits required by this section. The rules shall provide, at a minimum, that the Department shall issue the permit, deny the permit, or publish the permit for public notice and comment within 90 calendar days of receipt of an administratively complete application for a minor modification, or within 270 calendar days of receipt of an administratively complete application for a major modification. The Commission shall inform a permit applicant as to whether or not the application is complete within the time specified in the rules for action on the application. If the Commission fails to act on an application for a permit required by Title V or this section within the time period specified, the permit applicant, permittee, or other person aggrieved, as defined in G.S. 150B-2, may commence a contested case under G.S. 150B-23(a4).

(2a) After issuing a request for additional information based on an original submittal for a small or synthetic minor permit, the Department shall not subsequently request additional information that was not previously identified as missing or required in that request for additional information based on the original submittal. The Department may, however, respond to subsequent submissions of additional information with a request for additional information limited to information missing from that subsequent submission.

(3) If the Administrator of the United States Environmental Protection Agency validly objects to the issuance of a permit required by Title V within 45 days after the Administrator receives the proposed permit and the required portions of the permit application, the Commission shall not issue the permit until the Commission revises the proposed permit to meet all objections noted by the Administrator or otherwise satisfies all objections consistent with Title V and implementing regulations adopted by the United States Environmental Protection Agency.

(4) If the Administrator of the United States Environmental Protection Agency validly objects to the issuance of a permit required by Title V after the expiration of the 45-day review period specified in subdivision (3) of this subsection as a result of a petition filed pursuant to section 505(b)(2) of Title V (42 U.S.C. § 7661d(b)(2)) and prior to the issuance of the permit by the Commission, the Commission shall not issue the permit until the Commission revises the proposed permit to meet all objections noted by the Administrator or otherwise satisfies all objections consistent with Title V and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) Expedited Review of Applications Certified by a Professional Engineer. – The Commission shall adopt rules governing the submittal of permit applications certified by a professional engineer, including draft permits, that can be sent to public notice and hearing upon receipt and subjected to technical review by personnel within the Department. These rules shall specify, at a minimum, any forms to be used; a checklist for applicants that lists all items of information required to prepare a complete permit application; the form of the certification required on the application by a professional engineer; and the information that must be included in the draft permit. The Department shall process an application that is certified by a professional engineer as provided in subdivisions (1) through (7) of this subsection.

(1) Initiation of Review. – Upon receipt of an application certified by a professional engineer in accordance with this subsection and the rules adopted pursuant to this subsection, the Department shall determine whether the application is complete as provided in subdivision (2) of this subsection.

1 Within 30 days after the date on which an application is determined to be
2 complete, the Department shall:

- 3 a. Publish any required notices, using the draft permit included with the
4 application;
- 5 b. Schedule any required public meetings or hearings on the application
6 and permit; and
- 7 c. Initiate any and all technical review of the application in a manner to
8 ensure substantial completion of the technical review by the time of
9 any public hearing on the application, or if there is no hearing, by the
10 close of the notice period.

11 (2) Completeness Review. – Within 10 working days of receipt of the permit
12 application certified by a professional engineer under this subsection, the
13 Department shall determine whether the application is complete for purposes
14 of this subsection. The Department shall determine whether the permit
15 application certified by a professional engineer is complete by comparing the
16 information provided in the application with the checklist contained in the
17 rules adopted by the Commission pursuant to this subsection.

- 18 a. If the application is not complete, the Department shall promptly
19 notify the applicant in writing of all deficiencies of the application,
20 specifying the items that need to be included, modified, or
21 supplemented in order to make the application complete, and the
22 10-day time period is suspended after this request for further
23 information. If the applicant submits the requested information within
24 the time specified, the 10-day time period shall begin again on the day
25 the additional information was submitted. If the additional information
26 is not submitted within the time periods specified, the Department
27 shall return the application to the applicant, and the applicant may treat
28 the return of the application as a denial of the application or may
29 resubmit the application at a later time. After issuing a request for
30 additional information based on the original submittal under this
31 subdivision, the Department shall not subsequently request additional
32 information that was not previously identified as missing or required
33 in that request for additional information based on the original
34 submittal. The Department may, however, respond to subsequent
35 submissions of additional information with a request for additional
36 information limited to information missing from that subsequent
37 submission.

- 38 b. If the Department fails to notify the applicant that an application is not
39 complete within the time period set forth in this subsection, the
40 application shall be deemed to be complete.

41"

42 **SECTION 2.(e)** G.S. 130A-295.8 reads as rewritten:

43 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

44 ...

45 (e) The Department shall determine whether an application for a permit for a solid waste
46 management facility that is subject to a fee under this section is complete within 90 days after
47 the Department receives the application for the permit. A determination of completeness means
48 that the application includes all required components but does not mean that the required
49 components provide all of the information that is required for the Department to make a decision
50 on the application. If the Department determines that an application is not complete, the
51 Department shall notify the applicant of the components needed to complete the application. An

applicant may submit additional information to the Department to cure the deficiencies in the application. After issuing a request for additional information based on the original submittal under this subsection, the Department shall not subsequently request additional information that was not previously identified as missing or required in that request for additional information based on the original submittal. The Department may, however, respond to subsequent submissions of additional information with a request for additional information limited to information missing from that subsequent submission. The Department shall make a final determination as to whether the application is complete within the later of: (i) 90 days after the Department receives the application for the permit less the number of days that the applicant uses to provide the additional information; or (ii) 30 days after the Department receives the additional information from the applicant. The Department shall issue a draft permit decision on an application for a permit within one year after the Department determines that the application is complete. The Department shall hold a public hearing and accept written comment on the draft permit decision for a period of not less than 30 or more than 60 days after the Department issues a draft permit decision. The Department shall issue a final permit decision on an application for a permit within 90 days after the comment period on the draft permit decision closes. The Department and the applicant may mutually agree to extend any time period under this subsection. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes."

SECTION 2.(f) This section is effective when it becomes law and applies to permit applications submitted on or after that date.

SECTION 3. G.S. 143-215.31 reads as rewritten:

"§ 143-215.31. Supervision over maintenance and operation of dams.

...

(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection:

...

(6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" ~~shall include~~ includes Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in ~~48 C.F.R. § 388.112~~ 18 C.F.R. § 388.112, but does not include Emergency Action Plans or downstream inundation maps associated with impoundments or dams not regulated by the Federal Energy Regulatory Commission.

...."

SECTION 4.(a) G.S. 113A-103 is amended by adding a new subdivision to read:

"(8a) "Man-made ditches" mean constructed, altered, or excavated features used to convey water, including, but not limited to, artificial ponds, culverts, canals, swales, storm channels, minor-drainage features, and roadside ditches. For purposes of this subdivision, the term "altered" does not include the alteration of a natural shoreline, and the term "excavated" does not include submerged lands that have been dredged for the purpose of navigation."

SECTION 4.(b) G.S. 113A-113 reads as rewritten:

"§ 113A-113. Areas of environmental concern; in general.

...

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

...

(2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and ~~tributaries~~ tributaries, excluding man-made ditches under G.S. 113A-103(8a) thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Environmental Quality;

...

(5) Areas such as waterways and lands under or flowed by tidal waters or navigable waters, excluding man-made ditches under G.S. 113A-103(8a), to which the public may have rights of access or public trust rights, and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Sec. 5 of the North Carolina Constitution;

...

(b1) The Commission may not designate man-made ditches, as defined under G.S. 113A-103(8a), as areas of environmental concern.

...."

SECTION 4.(c) G.S. 113-229(n)(3) reads as rewritten:

"(3) "Marshland" means any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tidewaters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides. Salt marshland or other marsh shall be those areas upon which grow some, but not necessarily all, of the following salt marsh and marsh plant species: Smooth or salt water Cordgrass (*Spartina alterniflora*), Black Needlerush (*Juncus roemerianus*), Glasswort (*Salicornia* spp.), Salt Grass (*Distichlis spicata*), Sea Lavender (*Limonium* spp.), Bulrush (*Scirpus* spp.), Saw Grass (*Cladium jamaicense*), Cattail (*Typha* spp.), Salt-Meadow Grass(*Spartina patens*), and Salt Reed-Grass (*Spartina cynosuroides*). A marshland shall not include any area contained within a man-made ditch as defined under G.S. 113A-103(8a)."

SECTION 5.(a) Article 7 of Chapter 113A of the General Statutes is amended by adding a new Part to read:

"Part 5A. Upland Basins.

"§ 113A-129.10. Legislative findings; broad construction.

(a) The General Assembly finds that development of properly sited and planned upland basins to accommodate vessels promotes the public welfare for a number of reasons, including all of the following:

(1) Increasing riparian property owner access to the State's public trust waters.

(2) Expanding the total area of the State's public trust waters.

(3) Reducing and confining potential storm debris.

(4) Reducing the need for additional onshore impervious surfaces associated with parking.

(5) Promoting the use of innovative technologies.

(6) Promoting the collection of site-specific data designed to assure compliance with applicable water quality standards.

(7) Maintaining or improving overall water quality when sited, designed, constructed, and operated in conformance with the provisions of this Part.

(b) Accordingly, it is the intent of the General Assembly that this Part be broadly construed to further the general purposes stated in this Part.

"§ 113A-129.11. Definitions.

As used in this Part, the following definitions apply:

- (1) AEC or Area of Environmental Concern. – An area designated by the Coastal Resources Commission pursuant to G.S. 113A-113.
- (2) Boat slip. – Any structure adjoining, attached to, or part of a pier which has the capacity to store one boat.
- (3) Upland basin. – A marina constructed by excavating or dredging lands of elevations above the current mean or ordinary high-water mark and designed to accommodate more than 10 vessels or boat slips. Upland basins shall be considered a water dependent use for purposes of general use standards adopted by the Coastal Resources Commission.

"§ 113A-129.12. Upland basin permitting and development.

(a) Unless the Director of the Division of Water Resources makes a finding, based on site-specific technical information, that the applicant cannot comply with one or more of the criteria listed in subsection (b) of this section, the Division of Water Resources and the Division of Coastal Management shall approve an application for the development of an upland basin project, within 60 days after the applicant submits a completed application or supplemental information requested by the Department to demonstrate compliance with all of the criteria set forth in subsection (b) of this section. The Department may make one written request for any supplemental information necessary to make its finding within 30 days after the applicant submits a complete application, and the permit may be conditioned upon measures that are necessary to ensure that the applicant complies with all of the criteria set forth in subsection (b) of this section. When the Department requests supplemental information, the 60-day review period restarts upon receipt of the supplemental information requested by the Department. If the Department fails to act on an application for the development of an upland basin project within the 60-day review period, the application shall be deemed approved.

(b) The criteria with which an upland basin shall comply to qualify for permitting pursuant to subsection (a) of this section are all of the following:

- (1) The upland basin is designed to accommodate 10 or more vessels, including individual homeowner boat slips, boat lifts, or dry stack storage.
- (2) The waters contained in the upland basin have a dissolved oxygen content equal to or greater than the dissolved oxygen content of the water located 50 feet plus or minus 5 feet from the entrance to the upland basin before development. As part of the application, an applicant shall provide to the Division of Water Resources and the Division of Coastal Management site-specific sampling data documenting pre-project dissolved oxygen levels of the water located 50 feet plus or minus 5 feet from each proposed entrance to the proposed upland basin. Waters located within the upland basin shall be classified the same as the waters in the immediate vicinity of any entrance to the upland basin.
- (3) The project has a bond or set-aside funds for the long-term operation and maintenance of any technology required to meet or exceed then-applicable water quality standards. The applicant shall provide an estimate of annual operation and maintenance costs and the bond or set-aside funds shall be equal to five years of the estimated annual operation and maintenance costs.
- (4) Construction of the upland basin impacts or removes a total area of coastal wetlands that is no more than five percent (5%) of the total area of the proposed upland basin waters.

- (5) Construction of the upland basin impacts or removes a total linear footage of coastal wetlands fringe that is no more than ten percent (10%) of the total linear footage of existing coastal wetlands along the shoreline of the property or properties of the permit applicant.
- (6) The proposed upland basin project complies with specific use standards adopted by the Coastal Resources Commission for navigation channels, canals, and boat basins. An upland basin project shall not be considered a "finger canal" or "finger canal system" if the project does not contain right angle corners.
- (7) The upland basin has a 30-foot vegetated buffer or buffers along the post-project shoreline, excluding any newly created inside shorelines, if required by the Department.
- (8) The proposed upland basin project complies with specific use standards adopted by the Coastal Resources Commission for marinas, except that a stormwater management system may be located within the 30-foot buffer area described in subdivision (7) of this subsection.
- (9) The project includes mitigation or has mitigation credits for wetland impacts caused by excavation or construction of entrances, exits, and upland vessel accommodation areas, where such entrances, exits, and upland vessel accommodation areas exceed 125 linear feet of shoreline in total.
- (10) The upland basin is sited and designed to avoid significant adverse impacts to the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation, water quality, and spawning and primary nursery areas. Compliance with subdivisions (1) through (10) of this subsection shall create a presumption that the project has avoided significant adverse impacts to the productivity and biologic integrity of coastal wetlands, non-coastal wetlands, shellfish beds, submerged aquatic vegetation, water quality, spawning areas, and primary nursery areas and to have complied with State water quality antidegradation requirements. Compliance constitutes appropriate avoidance of significant adverse environmental impacts, including those identified in this Part.

(c) The submission of a Major Development Coastal Area Management Act (CAMA) permit application for an upland basin project shall constitute a complete application for purposes of water quality certification review by the Division of Water Resources. Unless the Director of the Division of Water Resources objects in writing or requests additional information necessary to evaluate compliance with water quality standards as provided in subsection (a) of this section, no further information shall be required by the Department for purposes of evaluating whether the upland basin project will comply with water quality standards or CAMA use standards referenced in this Part. Compliance with the Major Development CAMA permitting process shall also constitute compliance with all relevant provisions of Article 1 of this Chapter.

(d) The Department shall allow an applicant for an upland basin project to use innovative technology to maintain dissolved oxygen levels or improve dissolved oxygen above pre-project ambient dissolved oxygen levels in the immediate vicinity of the entrance to the upland basin. If the applicant proposes the use of innovative technology, the Department shall require the permit holder to provide financial assurance, in the form of a bond or set-aside funds, for long-term operation and maintenance of the innovative technology, in accordance with subdivision (b)(3) of this section. If the applicant provides a certification from a North Carolina licensed professional engineer that the proposed innovative technology is capable of attaining required dissolved oxygen levels within the proposed upland basin, the Department shall not require any additional information.

(e) In the absence of site-specific technical concerns provided to the applicant by the Director of the Division of Water Resources based on information provided during the permit review process, an upland basin project that satisfies the criteria provided in subsection (b) of this section shall be deemed to satisfy all of the following:

(1) CAMA management objectives and relevant use standards of the estuarine and ocean system AECs.

(2) CAMA management objectives and use standards of the coastal wetlands AEC.

(3) The policy goals stated in G.S. 113-102(b).

(f) Nothing in this section shall be construed to abrogate the Department's authority to ensure long-term compliance with applicable water quality standards in light of the goals and requirements set forth in this Part. If data collected as part of the requirements of this Part, or otherwise, indicate noncompliance with applicable water quality standards in the waters within the upland basin or adjacent waters within the vicinity of each entrance to the upland basin, the Department may require the owner of the upland basin development at the time of the noncompliance to bring the waters within the upland basin and adjacent waters into compliance with applicable water quality standards, in light of the overall goals and policies set forth in this Part to promote the construction and use of upland basins.

(g) Nothing in this section shall obviate the need for an applicant to obtain all relevant federal permits required for the upland basin project."

SECTION 5.(b) G.S. 143-214.1A reads as rewritten:

"§ 143-214.1A. Water quality certification requirements for certain projects.

(a) The following requirements shall govern applications for certification filed with the Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), for (i) maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed ~~Fund and Fund~~, (ii) projects involving the distribution or transmission of energy or fuel, including natural gas, diesel, petroleum, or ~~electricity~~; electricity, and (iii) projects involving construction of an upland basin, as defined in G.S. 113A-129.11:

...."

SECTION 5.(c) Subsection (b) of this section is effective when it becomes law and applies to applications for section 401 certification pending or submitted on or after that date.

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.