

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 883
Rules and Operations of the Senate Committee Substitute Adopted 7/17/14

Short Title: Disapprove/Amend Buffer Rules.

(Public)

Sponsors:

Referred to:

June 30, 2014

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE THE MITIGATION PROGRAM REQUIREMENTS FOR PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS RULE ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT A NEW MITIGATION PROGRAM REQUIREMENTS FOR PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS RULE, AND PROVIDE THAT THE PIPING OF A STREAM ALLOWED UNDER A PERMIT ISSUED BY THE UNITED STATES ARMY CORPS OF ENGINEERS IS AN EXEMPT USE UNDER THE PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02B .0295 (Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers), as adopted by the Environmental Management Commission on May 9, 2013, and approved by the Rules Review Commission on July 18, 2013, is disapproved.

SECTION 2. No later than October 1, 2014, the Environmental Management Commission shall adopt a Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers Rule pursuant to G.S. 150B-21.1. The rule adopted pursuant to this section shall be substantively identical to the recommended rule text contained in the April 10, 2014, Consolidated Buffer Mitigation Rule Stakeholder Report.

SECTION 3.(a) Protection and Maintenance of Existing Riparian Buffers Rules. – For purposes of this section, Protection and Maintenance of Existing Riparian Buffers Rules means 15A NCAC 02B .0233, 15A NCAC 02B .0243, 15A NCAC 02B .0250, 15A NCAC 02B .0259, 15A NCAC 02B .0267, and 15A NCAC 02B .0607. Until the effective date of the revised permanent rules that the Environmental Management Commission is required to adopt pursuant to Section 3(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Protection and Maintenance of Existing Riparian Buffers Rules as provided in Section 3(b) of this act.

SECTION 3.(b) Implementation. – Notwithstanding the Protection and Maintenance of Existing Riparian Buffers Rules, any riparian buffer impacts associated with the piping of a stream allowed under a permit issued by the United States Army Corps of Engineers shall be exempt.

SECTION 3.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt rules to amend the Protection and Maintenance of Existing Riparian Buffers Rules consistent with Section 3(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be



1 substantively identical to the provisions of Section 3(b) of this act. Rules adopted pursuant to
2 this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.
3 Rules adopted pursuant to this section shall become effective as provided in
4 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
5 G.S. 150B-21.3(b2).

6 **SECTION 3.(d)** Sunset. – Section 3(b) of this act expires on the date that rules
7 adopted pursuant to Section 3(c) of this act become effective.

8 **SECTION 4.** Subdivision (2) of Section 2(c) of S.L. 2013-395 is repealed.

9 **SECTION 5.** This act is effective when it becomes law.