

Basketball vs. Bureaucracy

North Carolina's swift approach to permitting reform

By James Broughel

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North Carolina's permitting reforms in recent years have significantly reshaped the state's regulatory landscape, focusing on accelerating project approvals and reducing bureaucratic delays. Key changes to the State Environmental Policy Act (SEPA) raised the threshold for environmental reviews and introduced exemptions for various development projects, including those with public funding incentives. Reforms in 2010 and 2015 reduced the number of projects requiring SEPA review, specifically those under \$20 million or involving smaller land disturbances. Most recently, reforms in 2023 imposed strict timelines (called "shot clocks" in this state of intense basketball fandom) on local governments for issuing permits. As rebuilding efforts in response to Hurricane Helene continue, the reforms of recent years will be put to the test. The governor and state legislature should monitor the situation closely and look carefully at regulations that could be waived to speed up reconstruction efforts rather than allowing bureaucratic buzzer beaters.

North Carolina's SEPA framework

The North Carolina State Environmental Policy Act was enacted in 1971 during a period of growing national and state-level environmental consciousness.¹ Modeled after the federal National Environmental Policy Act (NEPA),² SEPA aimed to ensure that state agencies carefully considered the environmental effects of their actions, especially those involving public lands and the expenditure of public funds. Over the past five decades, SEPA has undergone several revisions, reflecting shifting priorities in the Tar Heel State.

When SEPA was first passed, its primary purpose was to establish a framework requiring state agencies to evaluate the environmental consequences of major decisions. These included activities that significantly affected the natural environment, such as large infrastructure projects, the use of state lands, and projects funded by public money. The law imposed several obligations on agencies, including the need to prepare Environmental Impact Statements (EIS) for projects with potentially significant environmental effects.³

SEPA's core requirements were relatively straightforward. For projects or programs significantly affecting the quality of the environment, state agencies are required to consider:

1. The direct environmental effect of the proposed action.
2. Any significant adverse environmental effects that could not be avoided.
3. Mitigation measures to reduce environmental harm.
4. Alternatives to the proposed action.
5. The relationship between short-term environmental effects and long-term productivity.
6. Any irreversible environmental changes that would result from the project.⁴



¹ North Carolina General Statutes, §§ 113A-1-20.

² National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.*

³ N.C.G.S. § 113A-4, § 113A-9.

⁴ N.C.G.S. § 113A-4.



The statute also emphasizes the importance of public transparency and interagency cooperation. Before proceeding with projects, agencies are expected to consult with other relevant state and federal bodies and allow for public comment,⁵ incorporating a broader array of views into the decision-making process.

How SEPA changed over time

In its original form, SEPA was designed to ensure that environmental considerations were central to the planning and approval of public projects, much like NEPA at the federal level. However, over time, SEPA has been altered to reflect changing views.

By the 1990s, SEPA had begun to show its age. Policymakers sought ways to streamline the process. One of the early adjustments came through the creation of exemptions for specific types of projects that were deemed to have minimal environmental effects. This began with certain utility projects, like the construction of power or water lines. Such projects were allowed to bypass the lengthy EIS process so long as they met specific conditions.⁶

Additionally, the threshold for what constituted a major project began to shift. Originally, SEPA was broadly applied to many activities involving public land or funds, but as regulatory complexity grew, pressure increased to raise the bar for when an EIS was required. The idea was to reduce the burden on smaller projects while still maintaining oversight of large, high-impact developments.

One overhaul to SEPA came in 2010 with the passage of Senate Bill 778.⁷ This reform targeted projects funded

by public money through economic incentive programs. The law exempted projects that received public funding in the form of incentive payments for job creation or capital investment. The rationale behind the change was that North Carolina could become less competitive at attracting businesses if economic development projects were delayed by the lengthy environmental review process. Reducing delays would presumably save taxpayers money as well, in cases where public funds were involved.

A 2015 SEPA reform (H795) introduced several additional updates that further limited the scope of the law.⁸ One of the most important changes was the increase in the monetary threshold for what constituted a “significant expenditure of public moneys.” Under this reform, SEPA only applied to projects where the public investment exceeded \$20 million. This threshold reduced the number of projects subject to the environmental review process.

The 2015 reforms also narrowed the definition of what constitutes the “use of public land.”⁹ Whereas SEPA originally applied to any activity that altered the topography or natural cover of state land, the new definition restricted the law’s reach to land-disturbing activities covering more than 20 acres. This threshold was subsequently lowered to 10 acres,¹⁰ but still exempted many smaller projects that would previously have triggered an environmental review.

Additionally, the 2015 reforms expanded the list of exemptions from SEPA. The law now excluded a broader range of infrastructure projects, as well as some habitat preservation efforts and environmental mitigation projects. New exemptions also applied to some specific industries, such as coal ash impoundment closures, coastal road projects, and some educational or healthcare facilities.¹¹

Permitting resources at the North Carolina DEQ

The North Carolina DEQ offers several resources aimed at assisting businesses and developers with the permitting process. These resources are meant to help prevent common errors, costs, and regulatory confusion. Below is an overview of these resources and how they can contribute to a more effective permitting process in North Carolina.

⁵ N.C.G.S. § 113A-4(2a).

⁶ N.C.G.S. § 113A-12(1).

⁷ North Carolina Senate Bill 778, Regular Session, 2010, <https://legiscan.com/NC/bill/S778/2010>.

⁸ North Carolina Senate House Bill 795, 2015-2016 Session, <https://www.ncleg.gov/BillLookup/2015/H795>.

⁹ North Carolina Senate House Bill 795.

¹⁰ N.C.G.S. § 113A-9.

¹¹ North Carolina General Assembly, “Bill Analysis Summary for House Bill 795: SEPA Reform,” May 20, 2015, <https://www.ncleg.gov/Legislation/Bills/Summaries/2015/H795>.

The Permit Toolbox is a suite of permitting resources from the DEQ.¹² It consists of five components that help guide applicants through the regulatory process:

1. *Permitting Considerations*: This guide offers a framework for early-stage project planning.¹³ It helps applicants identify potential environmental problems, such as those related to water quality, wetland effects, and endangered species, ensuring developers think holistically about compliance. This forward-thinking approach helps prevent delays caused by overlooked environmental assessments.
2. *Scoping Meeting - What to Expect and How to Prepare?*: For complex projects requiring multi-agency review, scoping meetings provide a platform for developers to present their plans and receive feedback early in the process.¹⁴ These meetings bring together local, state, and federal officials to help applicants identify regulatory hurdles before formal submissions, ensuring smoother approvals and fewer last-minute surprises.
3. *Permit Application Pitfalls*: Based on frequent application errors, this guide helps applicants avoid common mistakes such as submitting incorrect deeds or outdated forms.¹⁵ It acts as a preemptive checklist, ensuring applications are accurate and complete before submission, which reduces rejections and delays.
4. *Permit Tips and Timesavers*: This resource emphasizes early planning and the submission of complete applications.¹⁶ It encourages developers to apply for multiple permits simultaneously to avoid delays caused by staggered reviews. It also highlights the value of working with environmental consultants to ensure all required documentation is provided upfront.

5. *Permit Assistance Request Form*: This form enables applicants to seek guidance from DEQ's Regional Environmental Assistance Coordinators.¹⁷ By submitting basic project details, applicants can receive tailored advice on necessary permits, ensuring they engage with the right regulatory processes from the start. This non-regulatory service is designed to help applicants, especially those dealing with complex or unfamiliar processes, navigate the regulatory landscape more efficiently. These coordinators can answer questions, clarify regulatory requirements, and provide practical advice so that projects start on solid footing. This personalized support is especially useful for small businesses and local governments.

Figure 1: DEQ's Permit Toolbox Resources

Permit Toolbox



Resources that have been compiled over the years to better assist you in the permitting process

- [Permitting Considerations](#)
- [Scoping Meeting - What to Expect and How to Prepare?](#)
- [Permit Application Pitfalls](#)
- [Permit Tips and Timesavers](#)
- [Permit Assistance Request Form](#)

Source:

<https://www.deq.nc.gov/permits-rules/permit-assistance-and-guidance/permit-toolbox>

The Environmental Application Tracker allows applicants and the public to track the status of permit applications.¹⁸ Featuring an interactive map and covering air quality, wastewater, and stormwater permits among others, the tracker provides transparency and regular updates as to the status of development projects. The tool allows stakeholders to stay informed throughout the application process, helping them plan and make adjustments as necessary.

¹² "Permit Toolbox," North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/permits-rules/permit-assistance-and-guidance/permit-toolbox>.

¹³ North Carolina Department of Environmental Quality, "Permit Considerations," October 2022, <https://www.deq.nc.gov/environmental-assistance-and-customer-service/permit-assistance/permitting-considerations/download>.

¹⁴ North Carolina Department of Environmental Quality, "Scoping Meeting—What to Expect and How to Prepare," July 2022, <https://www.deq.nc.gov/environmental-assistance-and-customer-service/permit-assistance/scoping-meeting/download>.

¹⁵ North Carolina Department of Environmental Quality, "Permit Application Pitfalls," July 2022, <https://www.deq.nc.gov/environmental-assistance-and-customer-service/permit-assistance/permitting-pitfalls-permit-toolbox/download>.

¹⁶ North Carolina Department of Environmental Quality, "Permitting Tips and Timesavers," July 2022, <https://www.deq.nc.gov/environmental-assistance-and-customer-service/permit-assistance/tips-and-timesavers-permit-toolbox/download>.

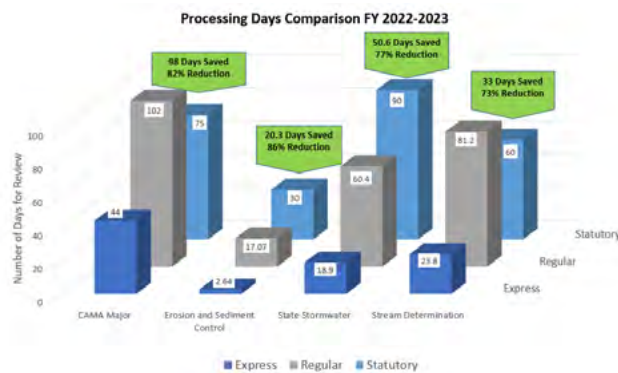
¹⁷ North Carolina Department of Environmental Quality, "Permit Assistance Request Form," accessed October 17, 2024, <https://www.deq.nc.gov/permits-rules/permit-assistance-and-guidance/permit-assistance-request-form>.

¹⁸ "Environmental Application Tracker," North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/accessdeq/environmental-application-tracker>.

The **Express Permitting Program** offers expedited reviews for certain development permits,¹⁹ providing faster processing times in exchange for higher fees. It is particularly beneficial for projects with tight deadlines, offering a quicker route through regulatory requirements without compromising standards.

The **Express Application Fee Chart** outlines the fees associated with express permit applications,²⁰ helping applicants understand the costs involved. The fee structure is based on the complexity of the permits, which can help applicants opting for expedited reviews to manage their project budgets accordingly.

Figure 2: Express vs. Regular and Statutory Permitting Times



Source: <https://www.deq.nc.gov/accessdeq/express-permitting>

The **DEQ List of Permits** is an accessible directory that centralizes information on all 129 permits, licenses, and certifications managed by the North Carolina DEQ.²¹ Applicants can identify which permits apply to their projects, access fact sheets, and download application forms. This directory simplifies the process of understanding regulatory requirements, making it easier for developers to stay compliant and avoid confusion when dealing with multiple regulatory bodies.

The **Permitting Transformation Program**, through the AccessDEQ portal,²² offers online applications for various permits,²³ such as Coastal Area Management Act Major permits and Erosion and Sediment Control Plans, with more types expected to follow. The platform centralizes application submission, tracking, and payments, making the permitting process easier and more transparent. The program, created in 2018, covers five key regulatory

divisions, including Air Quality, Coastal Management, and Water Resources.²⁴

Shot clocks for building permits

A major development in 2023 was the introduction of shot clocks for the approval of commercial and multifamily building permits.²⁵ Under this reform, which took effect in mid-2024, local governments are required to schedule pre-submittal meetings with developers within five days of a request. This is followed by a 45-day window for plan review, ensuring that applicants receive timely feedback and minimal delays in project timelines. For projects involving “at-risk” permits, such as foundation or structure permits, local authorities have up to 60 days to complete their review.

The shot clock mechanism also extends to third-party plan reviews. Developers can opt to have their plans reviewed by independent, licensed architects or engineers, which can further expedite the process by avoiding bottlenecks in municipal permitting offices.

Implications post-Hurricane Helene

North Carolina’s permitting reforms have emphasized reducing the regulatory burden on smaller developments. Reforms in recent years have introduced higher thresholds for project reviews and expanded exemptions for various types of infrastructure.

The aftermath of Hurricane Helene, which devastated parts of western North Carolina, further underscores the need for speed when it comes to economic development. As rebuilding efforts in western North Carolina get underway, the state’s permitting processes will be closely watched, offering insights into how well the state’s regulatory framework can handle both immediate recovery efforts and long-term growth.

Reconstruction thus presents an opportunity to evaluate whether the state’s current permitting framework can adequately address the unique rebuilding efforts in destroyed areas. As these efforts continue, the governor and state legislature should look carefully at where regulations could be waived to further speed up the reconstruction effort.

¹⁹ “Express Permitting,” North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/accessdeq/express-permitting>.

²⁰ “DEQ, “Express Application Review Fees,” February 2022, <https://www.deq.nc.gov/environmental-assistance-and-customer-service/permit-assistance/express-application-fee-chart/download>.

²¹ “DEQ List of Permits,” North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/accessdeq/permit-directory/deq-list-permits>.

²² “AccessDEQ,” North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/accessdeq>.

²³ “Permitting Transformation Program,” North Carolina Department of Environmental Quality, accessed October 17, 2024, <https://www.deq.nc.gov/accessdeq/permitting-transformation-program>.

²⁴ N.C. House Bill 968, 2017-2018 Session, <https://www.ncleg.gov/BillLookup/2017/H968>.

²⁵ N.C. Senate Bill 677, 2023-2024 Session, <https://www.ncleg.gov/BillLookup/2023/S677>.

Whether North Carolina can meet the challenges of future growth and recovery will depend on the state's ability to adapt its regulatory framework as new demands emerge. If existing reforms and resources prove inadequate, further streamlining could involve expanding the expedited permitting process to include additional project types, such as infrastructure critical to disaster recovery, or reducing or even waiving fees for fast-track procedures. To limit the potential for prolonged delays through legal challenges, the state could establish litigation windows for SEPA-related lawsuits, or limit who has standing to challenge projects under the law.

Moving forward, North Carolina should continue to focus on emphasizing speed and resilience, particularly in areas impacted by the recent natural disaster. As the rebuilding efforts in western North Carolina continue, the effectiveness of permitting reforms will be put to the test.

About the author

Dr. James Broughel is a Senior Fellow at the Competitive Enterprise Institute. He is an accomplished economist whose expertise lies in regulatory institutions and the effects of regulations on economic growth. Broughel is author of the book *Regulation and Economic Growth: Applying Economic Theory to Public Policy*. This research was conducted with the support of the Hoover Institution's State and Local Governance Initiative's Small Business Regulation Visiting Fellowship.

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