



# Legislative Update

August 22, 2014

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The General Assembly reconvened on August 14 for a one day session that stretched into five days, before they finally adjourned for the year. During those five days, they passed the **Regulatory Reform Act of 2014**. During the last week of every legislative session the General Assembly passes a regulatory reform bill and its purpose is to group all of the “regulatory type” bills that have stalled in committees. This year’s bill is 40 pages with 59 regulatory changes. There are four changes that are of interest to the aggregate industry.

With Wednesday’s adjournment, the General Assembly will not re-convene until January 14, 2015 for the long session.

## **Regulatory Reform Act of 2014 - SB 734**

### Section 29 – Reform Agency Review of Engineering Work

This Section will require the regulatory agencies (NCDENR & DHHS) to reform their review process for permit submittals, licenses, and approvals. The agencies must standardize this process by December 1, 2014, and complete / report the results of a pilot study to the General Assembly by April 15, 2015. This process will include the following:

- Require that the revisions or requests for additional information from the agency that are needed to proceed with the permit, license, or approval are clearly delineated (and has identified the statute / regulation) from revisions or requests for additional information that are suggestions or recommendations by the agency.
- The suggestions or recommendations from the agency are not required in order to proceed with the permit, license, or approval.
- If the initial review was not conducted by a Professional Engineer, then the applicant may request a review by a Professional Engineer. If the agency does not employ a Professional Engineer qualified and competent to perform the review, the agency may perform the review with a consulting Professional Engineer selected from a list developed by the agency. The agency may charge the applicant for the cost of the review.
- Revise the job title of “engineer” for agency personnel that are not professional engineers.

### Section 32 – Scope of Local Authority for Ordinances

This Section will require that by November 1, 2014 and November 1, 2015, that DENR must report to the Environmental Review Commission any local government ordinances that impact or interfere with DENR’s regulations. In compiling this report, DENR shall solicit input from the public.

### Section 45 – Clarify Gravel Under Stormwater Laws

This Section removes gravel from the items excluded under “build-upon area”. It also prohibits DENR or the EMC from defining the term gravel for the purposes of implementing stormwater programs. This Section did not include the research study by NCSU on different aggregate surfaces to determine if they are pervious, impervious, or partially pervious.

### Section 54 – Amend Isolated Wetlands Regulation

- This Section exempts from permitting if the total project amount of isolated wetlands is less than 1 acre east of I-95 and 1/3 acre west of I-95. The mitigation ratio for project impacts that are greater than one acre shall be 1:1 and may be located on the same parcel.
- As defined, an isolated wetlands is not a jurisdictional wetlands under the Clean Water Act.
- An isolated wetlands does not include an isolated man-made ditch, pond constructed for stormwater management purposes, or any other man-made isolated pond.
- DENR shall study how isolated wetlands have been defined and whether the term should be clarified in order to better identify isolated wetlands.
- DENR shall study the thresholds for mountain bog isolated wetlands.
- DENR shall study whether the impacts to isolated wetlands should be combined with the project impacts to jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met.
- These reports are due by November 1, 2014.