

ARTICLE 1.

Environmental Policy Act.

§ 113A-1. Title.

This Article shall be known as the North Carolina Environmental Policy Act of 1971. (1971, c. 1203, s. 1; 1991, c. 431, s. 1.)

Editor's Note. — Session Laws 1971, c. 1203, s. 12, as amended by Session Laws 1973, c. 119, s. 1, Session Laws 1977, c. 532, s. 1, and Session Laws 1981, c. 658, s. 1, formerly provided that the act which enacted this Article would become effective on October 1, 1971, and remain in effect until September 1, 1991, and that no act or proceeding required or authorized under the act should be initiated after September 1, 1991. However, Session Laws 1991, c. 431, s. 1 amended Session Laws 1971, c. 1203, s. 12, as amended, so as to delete the sunset provision.

As to the exemption of the Office of State Budget and Management from the requirements of this Article in administration and implementation of the Prison Facilities Legislative Bond Act of 1990, see Session Laws 1989 (Reg. Sess., 1990), c. 933, s. 6(4).

As to exemption of the Office of State Budget and Management from the requirements of this Article in the implementation of the providing of prison facilities under the provisions of the State Prison and Youth Services Facilities Bond Act, see Session Laws 1989 (Reg. Sess., 1990), c. 935, s. 6(a)(4).

Session Laws 1991, c. 689, s. 239(f), as amended by 1991 (Reg. Sess., 1992), c. 1044, s. 41(b) provides: "With respect to facilities authorized for the Department of Correction, the Office of State Budget and Management may contract for and supervise all aspects of administration, technical assistance, design, construction or demolition of prison facilities in order to implement the providing of prison facilities under the provisions of this act without being subject to the requirements of the following statutes and rules implementing those statutes: G.S. 143-135.26(1), 143-128, 143-129, 143-131, 143-132, 143-134, 143-135.26, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(g), and 143-408.1; provided, however, of the funds allocated under the provisions of this act for the construction of prison facilities, the Office of State Budget and

Management shall have a verifiable ten percent (10%) goal for participation by minority and women-owned businesses. All contract for the design, construction, or demolition of prison facilities shall include a penalty for failure to complete the work by a specified date.

"The proposals for prison facilities authorized in this section shall be invited by advertisement in newspapers having general circulation in the State. The form of advertisement shall be prepared in the form of Section 301 of the State Construction Manual of the Department of Administration, and shall be published in one issue of the newspaper. A minimum of at least seven full days shall lapse between the date of publication and the date of the opening of bids. Initiation of the advertisement shall be by the Office of State Budget and Management.

"The Office of State Budget and Management shall consider alternative delivery systems that could expedite the delivery of prison facilities. Such delivery systems as design-build, using modular or conventional building systems, shall be considered. However, in order for such alternatives to be used, the Department of Correction must approve the proposed design for operational programming and cost of operations and maintenance.

"The Office of State Budget and Management shall involve the Office of State Construction of the Department of Administration in all aspects of the projects to ensure that all prison facilities are constructed consistent with Office of State Construction standards and procedures. Such involvement shall include but not be limited to the review of plans and specifications for each project prior to the award of contracts, attendance at scheduled project meetings, on-site inspections, review of all change orders, final inspections, review of punch lists of project deficiencies and written verification of the correction of such deficiencies, and certification of the identity of the designer of record on each project.

"The Office of State Budget and Management shall involve the Department of Correction in all aspects of the projects to the extent that such involvement relates to the Department's Program needs and to its responsibility for the care of the prison population.

"The Office of State Construction, the Department of Insurance, and the Department of Correction shall immediately report any concerns regarding the prison construction program to the Office of State Budget and Management. Any concerns not satisfactorily resolved with the Office of State Budget and Management shall be reported immediately to the Joint Legislative Commission on Governmental Operations. The

Office of State Construction, the Department of Insurance, and the Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations on their involvement with the Office of State Budget and Management and the project manager in the prison construction program."

Session Laws 1991, c. 689, s. 352 provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1991-93 biennium, the textual provisions of Titles I, II, and III of this act shall apply only to funds appropriated for and activities occurring during the 1991-93 biennium."

CASE NOTES

The North Carolina State Environmental Policy Act (SEPA) requires preparation of an environmental impact statement (EIS) for publicly funded actions that significantly affect the environment. For the same reasons that an EIS is required under the National Environmental Policy Act (NEPA), one must be prepared in accordance with SEPA. *Mullin v. Skinner*, 756 F. Supp. 904 (E.D.N.C. 1990).

Environmental Impact Statement Required — Bridge Construction. —

For a case holding that state and federal agencies were required to file environmental impact statements, under both federal law and this chapter, concerning a coastal bridge replacement project, see *Mullin v. Skinner*, 756 F. Supp. 904 (E.D.N.C. 1990).

§ 113A-2. Purposes.

The purposes of this Article are: to declare a State policy which will encourage the wise, productive, and beneficial use of the natural resources of the State without damage to the environment, maintain a healthy and pleasant environment, and preserve the natural beauty of the State; to encourage an educational program which will create a public awareness of our environment and its related programs; to require agencies of the State to consider and report upon environmental aspects and consequences of their actions involving the expenditure of public moneys or use of public land; and to provide means to implement these purposes. (1971, c. 1203, s. 2; 1991 (Reg. Sess., 1992), c. 945, s. 1.)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, which amended this section, in s. 6 provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to establish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at

least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."

Effect of Amendments. — The 1991 (Reg. Sess., 1992) amendment, effective October 1, 1992, and applicable to any action involving use of public land for a project or program that is authorized on

or after that date, inserted "or use of public land" near the end of the section.

§ 113A-3. Declaration of State environmental policy.

The General Assembly of North Carolina, recognizing the profound influence of man's activity on the natural environment, and desiring, in its role as trustee for future generations, to assure that an environment of high quality will be maintained for the health and well-being of all, declares that it shall be the continuing policy of the State of North Carolina to conserve and protect its natural resources and to create and maintain conditions under which man and nature can exist in productive harmony. Further, it shall be the policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic and cultural elements of our common inheritance. (1971, c. 1203, s. 3.)

CASE NOTES

Toxic Waste Disposal Falls within Zone of Protected Interests. — County had standing to challenge the creation of a toxic waste disposal site within its borders under the North Carolina Environmental Policy Act as such a site falls within the zone of interests pro-

TECTED under this section. *Warren County v. North Carolina*, 528 F. Supp. 276 (E.D.N.C. 1981).

Quoted in *Orange County Sensible Hwys. & Protected Env'ts, Inc. v. North Carolina Dep't of Transp.*, 46 N.C. App. 350, 265 S.E.2d 890 (1980); In re Envi-

ronmental Mgt. Comm'n, 53 N.C. App. 135, 280 S.E.2d 520 (1981); *State v. Wil-*

liams & Hesse, 53 N.C. App. 674, 281 S.E.2d 721 (1981).

§ 113A-4. Cooperation of agencies; reports; availability of information.

The General Assembly authorizes and directs that, to the fullest extent possible:

- (1) The policies, rules, and public laws of this State shall be interpreted and administered in accordance with the policies set forth in this Article; and
- (2) Every State agency shall include in every recommendation or report on any action involving expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:
 - a. The environmental impact of the proposed action;
 - b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
 - c. Mitigation measures proposed to minimize the impact;
 - d. Alternatives to the proposed action;
 - e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
 - f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

- (2a) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. Any unit of local government or other interested party that may be adversely affected by the proposed action may submit written comment. The responsible official shall consider written comment from units of local government and interested parties that is received within the established comment period. Copies of such detailed statement and such comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Secretary of Administration, shall be placed in the public file of the agency and shall accompany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to counties, municipalities, institutions and individuals, upon request.
- (3) The Governor, and any State agency charged with duties under this Article, may call upon any of the public institutions of higher education of this State for assistance in developing plans and procedures under this Article and in meeting the requirements of this Article, including without limitation any of the following units of the University of North Carolina: the Water Resources Research Insti-

tute, the Institute for Environmental Studies, the Triangle Universities Consortium on Air Pollution, and the Institute of Government. (1971, c. 1203, s. 4; 1987, c. 827, s. 125; 1991, c. 431, s. 2; 1991 (Reg. Sess., 1992), c. 945, s. 2.)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, which amended this section, in s. 6 provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to establish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."

Effect of Amendments. — The 1991 amendment, effective June 27, 1991,

designated the paragraph following subdivision (2)f as subdivision (2a); in subdivision (2a) added the second and third sentences, and in the second to last sentence substituted "Secretary" for "Director of Department"; and in subdivision (3) before "In the Institute of Government" deleted "The University Council on Marine Sciences."

The 1991 (Reg. Sess., 1992) amendment, effective October 1, 1992, and applicable to any action involving use of public land for a project or program that is authorized on or after that date, substituted "Every State agency shall include in every recommendation or report on any action involving expenditure of public moneys or use of public land" for "Any State agency shall include in every recommendation or report on proposals for legislation and actions involving expenditure of public moneys" in the introductory language of subdivision (2).

CASE NOTES

I. General Consideration.

I. GENERAL CONSIDERATION.

Reasons for State Environmental Impact Statements Are the Same as under Federal Law. — The North Carolina State Environmental Policy Act (SEPA) requires preparation of an environmental impact statement (EIS) for publicly funded actions that significantly affect the environment. For the

same reasons that an EIS is required under the National Environmental Policy Act (NEPA), one must be prepared in accordance with SEPA. *Mullin v. Skinner*, 756 F. Supp. 904 (E.D.N.C. 1990).

Cited in *North Buncombe Ass'n of Concerned Citizens v. Rhodes*, 100 N.C. App. 24, 394 S.E.2d 462 (1990).

§ 113A-5. Review of agency actions involving major adverse changes or conflicts.

Whenever, in the judgment of the responsible State official, the information obtained in preparing the statement indicates that a major adverse change in the environment, or conflicts concerning alternative uses of available natural resources, would result from a specific program, project or action, and that an appropriate alternative cannot be developed, such information shall be presented to the Governor for review and final decision by him or by such agency as he may designate, in the exercise of the powers of the Governor. (1971, c. 1203, s. 5.)

§ 113A-6. Conformity of administrative procedures to State environmental policy.

All agencies of the State shall periodically review their statutory authority, administrative rules, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit or hinder full compliance with the purposes and provisions of this Article and shall propose to the Governor such measures as may be necessary to bring their authority, rules, policies and procedures into conformity with the intent, purposes and procedures set forth in this Article. (1971, c. 1203, s. 6; 1987, c. 827, s. 126.)

CASE NOTES

Stated in Orange County Sensible Carolina Dep't of Transp., 46 N.C. App. Hwys. & Protected Env'ts, Inc. v. North 350, 265 S.E.2d 890 (1980).

§ 113A-7. Other statutory obligations of agencies.

Nothing in this Article shall in any way affect nor detract from specific statutory obligations of any State agency

- (1) To comply with criteria or standards of environmental quality or to perform other statutory obligations imposed upon it,
- (2) To coordinate or consult with any other State agency or federal agency, or
- (3) To act, or refrain from acting contingent upon the recommendations or certification of any other State agency or federal agency. (1971, c. 1203, s. 7.)

CASE NOTES

Relation Between Federal and State Law. — The North Carolina Board of Transportation would be acting within the North Carolina Environmental Protection Act if it were complying with either the State or federal environmental regulations or procedural requirements, and to the extent that the federal environmental law is relied upon to meet the requirements of the North

Carolina Environmental Protection Act, the federal requirements are by reference enforceable against North Carolina agencies as state law. Orange County Sensible Hwys. & Protected Env'ts, Inc. v. North Carolina Dep't of Transp., 46 N.C. App. 350, 265 S.E.2d 890, cert. denied, 301 N.C. 94, — S.E.2d — (1980).

§ 113A-8. Major development projects.

(a) The governing bodies of all cities, counties, and towns acting individually, or collectively, may by ordinance require any special-purpose unit of government or private developer of a major development project to submit detailed statements, as defined in G.S. 113A-4(2), of the impact of such projects for consideration by those governing bodies in matters within their jurisdiction. Any such ordinance may not be designed to apply to only a particular major development project, and shall be applied consistently.

(b) Any ordinance adopted pursuant to this section shall exempt those major development projects for which a detailed statement of the environmental impact of the project or a functionally equivalent permitting process is required by federal or State law, regulation, or rule.

(c) Any ordinance adopted pursuant to this section shall establish minimum criteria to be used in determining whether a statement of environmental impact is required. A detailed statement of environmental impact may not be required for a project that does not exceed the minimum criteria and any exceptions to the minimum criteria established by the ordinance. (1971, c. 1203, s. 8; 1991, c. 431, s. 3.)

Effect of Amendments. — The 1991 amendment, effective June 27, 1991, designated the former single paragraph that comprised this section as subsection (a); in subsection (a), substituted "may by ordinance" for "are hereby authorized

to," substituted "or private developer" for "and private developer," added "for consideration by those governing bodies in matter within their jurisdiction," and added the last sentence; and added subsections (b) and (c).

CASE NOTES

Cited in *North Buncombe Ass'n of Concerned Citizens v. Rhodes*, 100 N.C. App. 24, 394 S.E.2d 462 (1990).

§ 113A-9. Definitions.

As used in this Article, unless the context indicates otherwise, the term:

- (1) "Environmental assessment" (EA) means a document prepared by a State agency to evaluate whether the probable impacts of a proposed action require the preparation of an environmental impact statement under this Article.
- (2) "Environmental document" means an environmental assessment, an environmental impact statement, or a finding of no significant impact.
- (3) "Environmental impact statement" (EIS) means the detailed statement described in G.S. 113A-4(2).
- (4) "Finding of no significant impact" (FONSI) means a document prepared by a State agency that lists the probable environmental impacts of a proposed action, concludes that a proposed action will not result in a significant adverse effect on the environment, states the specific reason or reasons for such conclusion, and states that an environmental impact statement is not required under this Article.
- (5) "Major development project" shall include but is not limited to shopping centers, subdivisions and other housing developments, and industrial and commercial projects, but shall not include any projects of less than two contiguous acres in extent.

- (6) "Minimum criteria" means a rule that designates a particular action or class of actions for which the preparation of environmental documents is not required.
- (7) "Public land" means all land and interests therein, title of which is vested in the State of North Carolina, in any State agency, or in the State for the use of any State agency or political subdivision of the State, and includes all vacant and unappropriated land, swampland, submerged land, land acquired by the State by virtue of being sold for taxes, escheated land, and acquired land.
- (8) "Special-purpose unit of government" includes any special district or public authority.
- (9) "State agency" includes every department, agency, institution, public authority, board, commission, bureau, division, council, member of Council of State, or officer of the State government of the State of North Carolina, but does not include local governmental units or bodies such as cities, towns, other municipal corporations or political subdivisions of the State, county or city boards of education, other local special-purpose public districts, units or bodies of any kind, or private corporations created by act of the General Assembly, except in those instances where programs, projects and actions of local governmental units or bodies are subject to review, approval or licensing by State agencies in accordance with existing statutory authority, in which case local governmental units or bodies shall supply information which may be required by such State agencies for preparation of any environmental statement required by this Article.
- (10) "State official" means the Director, Commissioner, Secretary, Administrator or Chairman of the State agency having primary statutory authority for specific programs, projects or actions subject to this Article, or his authorized representative.
- (11) "Use of public land" means activity that results in changes in the natural cover or topography that includes:
 - a. The grant of a lease, easement, or permit authorizing private use of public land; or
 - b. The use of privately owned land for any project or program if the State or any agency of the State has agreed to purchase the property or to exchange the property for public land. (1971, c. 1203, s. 9; 1991 (Reg. Sess., 1992), c. 945, s. 3.)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, which amended this section, in s. 6 provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to establish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."

Effect of Amendments. — The 1991 (Reg. Sess., 1992) amendment, effective July 14, 1992, added "the term" in the introductory language, added subdivisions (1) through (4), redesignated former subdivision (1) as subdivision (5) and deleted "The term" at the beginning of that subdivision, added subdivisions (6) and (7), redesignated former subdivision (2) as subdivision (8) and deleted "The term" at the beginning of that subdivision, redesignated former subdivision (3) as subdivision (9) and deleted "The term" at the beginning of that subdivision, redesignated former subdivision (4) as subdivision (10) and in that subdivision deleted "The term responsible" at the beginning, and substituted "'State official,' means" for "'State official,' as used in this Article shall, mean", and added subdivision (11).

§ 113A-12. Environmental document not required in certain cases.

No environmental document shall be required in connection with:

- (1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, or natural gas line within or across the right-of-way of any street or highway.
- (2) An action approved under a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).
- (3) A lease or easement granted by a State agency for:
 - a. The use of an existing building or facility.
 - b. Placement of a wastewater line on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.
 - c. A shellfish cultivation lease granted under G.S. 113-202.
- (4) The construction of a driveway connection to a public roadway. (1991 (Reg. Sess., 1992), c. 945, ss. 5, 7(a); c. 1030, s. 51.15.)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, s. 8 made this section effective upon ratification. The act was ratified July 14, 1992.

Session Laws 1991 (Reg. Sess., 1992), c. 945, which enacted this section as § 113a-11, in s. 7(a) provided: "In the event that House Bill 1583 is ratified, G.S. 113A-11 and G.S. 113A-12, as enacted by Section 5 of this act, are redesignated as G.S. 113A-12 and G.S. 113A-13 respectively." House Bill 1583 was ratified as Session Laws 1991 (Reg. Sess., 1992), c. 899, effective July 8, 1992. This section and § 113A-13 have been renumbered accordingly.

Session Laws 1991 (Reg. Sess., 1992), c. 945, which enacted this section, in s. 6 provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to estab-

lish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."

Effect of Amendments. — Session Laws 1991 (Reg. Sess., 1992), c. 1030, s. 51.15, effective July 24, 1992, substituted "143-215.108(c)(8)" for "143-215.108(b)(8)" in subdivision (2) of this section, as enacted by Session Laws 1991 (Reg. Sess., 1992), c. 945, s. 5.

§ 113A-13. Administrative and judicial review.

The preparation of an environmental document required under this Article is intended to assist the responsible agency in determining the appropriate decision on the proposed action. An environmental document required under this Article is a necessary part of an application or other request for agency action. Administrative and judicial review of an environmental document is incidental to, and may only be undertaken in connection with, review of the agency action. No other review of an environmental document is allowed. (1991 (Reg. Sess., 1992), c. 945, ss. 5, 7(a).)

§ 113A-10. Provisions supplemental.

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental document or to comment on an environmental document under provisions of federal law, the environmental document or comment shall meet the provisions of this Article. (1971, c. 1203, s. 10; 1991 (Reg. Sess., 1992), c. 945, s. 4.)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, which amended this section, in s. 6 provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to establish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one

year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."

Effect of Amendments. — The 1991 (Reg. Sess., 1992) amendment, effective July 14, 1992, substituted "document or to comment on an environmental document under provisions of federal law, the environmental document or comment shall" for "statement, or comments thereon, under provisions of federal law, such statement or comments will" in the second sentence.

§ 113A-11. Adoption of rules.

(a) The Department of Administration shall adopt rules to implement this Article.

(b) Each State agency may adopt rules that establish minimum criteria. An agency may include a particular action or class of actions in its minimum criteria only if the agency makes a specific finding that the action or class of actions has no significant impact on the environment. Rules establishing minimum criteria shall be consistent with rules adopted by the Department of Administration. In addition to all other rule-making requirements, rules establishing minimum criteria are subject to approval by the Secretary of Administration. (1991 (Reg. Sess., 1992), c. 899, s. 1; c. 945, s. 7(b).)

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 899, s. 2 made this section effective upon ratification. The act was ratified July 8, 1992.

Session Laws 1991 (Reg. Sess., 1992), c. 945, s. 7(b) provided: "In the event that House Bill 1583 is ratified, the second sentence of G.S. 113A-11(b), as enacted by ratified House Bill 1583, is repealed." House Bill 1583 was ratified as c. 899, effective July 8, 1992, and the second sentence of subsection (b) of this section, which read: "Minimum criteria designate particular actions or classes of

actions for which the preparation of the detailed statement described in G.S. 113A-4(2) is not required," has been omitted from the text above.

Effect of Amendments. — The 1991 (Reg. Sess., 1992) amendment, effective July 14, 1992, deleted the second sentence in subsection (b), which read: "Minimum criteria designate particular actions or classes of actions for which the preparation of the detailed statement described in G.S. 113A-4(2) is not required." See the Editor's Note.

Editor's Note. — Session Laws 1991 (Reg. Sess., 1992), c. 945, s. 8 made this section effective upon ratification. The act was ratified July 14, 1992.

Session Laws 1991 (Reg. Sess., 1992), c. 945, which enacted this section as § 113A-12, in s. 7(a) provided: "In the event that House Bill 1583 is ratified, G.S. 113A-11 and G.S. 113A-12, as enacted by Section 5 of this act, are redesignated as G.S. 113A-12 and G.S. 113A-13 respectively." House Bill 1583 was ratified as Session Laws 1991 (Reg. Sess., 1992), c. 899, effective July 8, 1992. This section and § 113A-12 have been renumbered accordingly.

Session Laws 1991 (Reg. Sess., 1992), c. 945, which enacted this section, in s. 6

provides: "In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt temporary rules to implement this act, including temporary rules to establish minimum criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of the proposed temporary rule in the North Carolina Register and provides an opportunity for submitting written comment on the rule for at least 30 days after the text is published, the agency may specify an expiration date for the temporary rule of up to one year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An agency may not adopt a temporary rule under this section after 1 January 1993."