## Regulatory Reform Proposal Submitted by the NC Chamber and MCIC

### Authorizations to Construct Wastewater Treatment Facilities

**Problem**: After a wastewater discharge permit **(NPDES Permit)** has been issued by NCDENR-Division of Water Quality (NCDWQ), construction, extension, or alteration of **any** sewer system, wastewater treatment facilities or disposal system cannot begin until final plans and specifications have been submitted to the Construction Grants and Loans Section (NCDWQ) and an Authorization to Construct (ATC) has been issued to the permittee. This authorization is currently required for publicly-owned sewer collection and wastewater treatment facilities AND privately-owned facilities. ATCs for privately owned facilities are unnecessary, burdensome, and costlyto private entities and the state, and frequently lead to significant project completion delays.

**Impacts**: The basis of this program in its infancy was to ensure that public funds were being spent on sound and effective wastewater treatment facilities, and compliance would be achieved. As the program grew, private facilities were also required to obtain ATCs. NC is relatively unique in this regard and it should be noted that permitees must meet permit discharge limits regardless of whether or not ATCs have been issued. Furthermore, no one can even enter into a contract for the above mentioned construction, or alteration activities without the ATC.

**Solution**: All wastewater treatment, sewer systems and disposal systems are required to be designed by a licensed Professional Engineer (NCGS 89C) who is subject to disciplinary action by the NC Board of Examiners for Engineers & Surveyors. Reviews of these systems by NCDWQ do not result in substantial improvements in design and thus these technical reviews should be eliminated. In most cases, the engineer that plans and designs a project is more qualified to manage the standards of that project and ensure compliance, than the current state employee performing the review for NCDENR. A similar argument can also be made for private drinking water systems.

**Benefits**: Reduce costs for regulators and regulated community; allow NCDWQ to focus limited resources on publicly financed projects; reduce permitting delays and result in "faster to market" production improvements.

## Regulatory Reform Proposal Submitted by the NC Chamber and MCIC

### Adoption of EPA Definition of Solid Waste

**Problem:** In October 2008, the Environmental Protection Agency (EPA) published a final rule that revises the definition of solid waste to exclude certain hazardous secondary materials from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). In explaining the rule, EPA noted that the purpose of the final rule is to encourage safe, environmentally sound recycling and resource conservation and to respond to several court decisions concerning the definition of solid waste. EPA's Federal Register Notice (see http://edocket.access.gpo.gov/2008/pdf/E8-24399.pdf) went on to say that by removing unnecessary controls over certain hazardous secondary materials, and by providing more explicit and consistent actors for determining the legitimacy of recycling practices, EPA expects that the amended definition of Solid Waste will encourage and expand the safe, beneficial recycling of additional hazardous secondary materials. The revised definition became effective on December 29, 2008. **However, the North Carolina Division of Waste Management took steps to block what would have amounted to an "automatic adoption" of the federal rule in NC** (see NC Register June 1, 2009, pages 2252-2254).

**Impacts:** As a result of NC DWM's actions to block implementation of the new Solid Waste definition in NC, many NC companies that generate byproducts that could otherwise be managed and recycled in a significantly less-costly manner as non-hazardous materials under EPA rule, are not allowed to do so. Many byproducts that can be safely and productively recycled are required to be managed as hazardous wastes in NC. Some companies that could sell their byproducts to other manufacturers who use those products as raw materials to produce other beneficial products find that the buyers will not purchase their byproducts when they have to manage them as hazardous wastes, due in large part to the extensive handling and record-keeping requirements attendant to managing hazardous wastes. Thus, rather than encouraging beneficial reuse of these materials, NC DWM's regulations serve to encourage their non-beneficial disposal in hazardous waste landfills.

**Solution:** Simply adopt the EPA definition of Solid Waste.

**Benefits:** Increase beneficial use of manufacturing byproducts; increase recycling; consistency between federal and state rules; substantial cost savings to NC companies (ranging from a few thousand dollars to hundreds of thousands of dollars for individual companies); decrease landfill disposal of beneficial materials.

### Background Information

North Carolina's Division of Waste Management (DWM) holds a delegation from EPA to administer and enforce the Resource Conservation and Recovery Act in North Carolina. DWM

has adopted rules to implement this program in NC. The way those rules are written, changes that EPA makes to its federal rules are "automatically" adopted by the DWM.

When EPA adopted the revised definition of Solid Waste, instead of allowing the rule to be "automatically" adopted in NC, DWM took steps to block its implementation. DWM adopted "temporary rules" on January 1, 2009, the effect of which was to maintain DWM's current definitions of solid waste and block implementation of the new EPA definition of Solid Waste.

## Regulatory Reform Proposal Submitted by the NC Chamber and MCIC

### Changes to the NC Groundwater Rules/Standards:

**Problem**: North Carolina, unlike most surrounding states, has adopted groundwater standards that are more stringent than federal drinking water standards. Most states adopt federal safe drinking water standards in regulating both their municipal drinking water supplies and groundwater.

**Impacts**: Groundwater standards more stringent than the federal drinking water standards increase the cost of cleanup of spills or contaminated sites and limit the ability to conduct certain recycling activities such as spray irrigation of water and waste water.

**Solution**: For at least the list of compounds regulated under the Safe Drinking Water Act, NC should adopt as groundwater standards in the state, the same level established as the national standards for drinking water.

**Benefits**: Provide consistency, lower costs and increase reuse options.

### Background information

North Carolina's groundwater policy states that "best usage of the groundwaters of the state is as a source of drinking water".

The Environmental Protection Agency utilizes a National Science Advisory Board and National Drinking Water Council to establish federal safe drinking water standards which assure protection of human health.

All states including North Carolina adopt the safe drinking water standards as their municipal drinking water standards.

It would be sensible to have one set of drinking water standards regardless of whether a NC citizen is drinking municipal water or groundwater. Two thirds of NC citizens obtain their drinking water from a municipal water source; one third obtain their primary supply of drinking water from groundwater. Because municipal water quality standards are protective of human health, these standards will also protect the health of citizens whose primary source of drinking water is groundwater.

## Regulatory Reform Proposal Submitted by the NC Chamber and MCIC

### Regulating Stormwater Runoff from Construction Sites

**Problem:** Currently, most construction projects ("land disturbing activities") are regulated by NCDENR – Division of Land Resources under the Sedimentation Pollution Control Act. That act, and the associated rules (15A NCAC 4B), require monitoring, self-inspection and record-keeping.

These same activities are regulated by NCDENR – Division of Water Quality under the NPDES construction stormwater program, which also requires monitoring, self-inspection and record-keeping. The two (2) programs are directed, respectfully, at off-site sedimentation and water pollution. In reality, both focus primarily on preventing sediment and turbidity impacts on water quality. The monitoring, self-inspection, and reporting requirements and forms are unique to each agency.

**Impacts:** The current regulatory approach is duplicative and inefficient for both the agencies and the regulated community.

**Solution:** The Divisions of Land Resources and Water Quality should enter into a Memorandum of Agreement or similar legal instrument that calls for one of the two (2) agencies to implement both of the permitting programs now being administered the two (2) divisions. Duplicative inspection and reporting requirements of the two (2) programs should be unified under one program.

**Benefits:** Increase efficiency (for both regulators and regulated community); eliminate duplication of effort; streamline permitting.

### Background Information

DENR's Division of Land Resources has, for more than three (3) decades, implemented a program to prevent sediment runoff from construction sites. More recently, spurred by new EPA stormwater management requirements, DENR's Division of Water Quality has begun issuing permits for stormwater management on construction sites. Although the two (2) programs are managed by different divisions, the targeted pollutants (sediment and turbidity) and program goals (protection of water quality) are the same.