



September 30, 2015

The Honorable Pat McCrory  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699-0301

Dear Governor McCrory,

I write to you on behalf of EDF's nearly 44,000 members in North Carolina to respectfully ask you to **veto House Bill 765 the *Regulatory Reform Act of 2015***. Environmental Defense Fund opposes this legislation because many of its provisions will increase risks for public health, the environment and North Carolina's natural resources. Some parts of this legislation may be improved with further study and a more focused debate during a future legislative session. Others are inconsistent with North Carolina's values and will allow more pollution of our air and water, degrade our land, harm wildlife, and jeopardize the health of families and communities.

H765 proposes many policy changes with harmful consequences for our natural resources. We highlight a few of special concern:

**Section 4.1 makes it possible for businesses that cut corners to profit from violating the law.** Internal enforcement policies of the N.C. Department of Environmental Quality and the U.S. Environmental Protection Agency have both provided for some relief from penalties for companies that self-report violations of environmental laws. Such policies provide an incentive designed to encourage responsible corporate behavior when violations are discovered. However, these policies have not exempted companies from the assessment of penalties necessary to recover any economic benefits generated or received as a result of violating the law. The self-reporting policy proposed in H765 does not include such a limitation.

While self-reporting should be encouraged and potentially rewarded in some way, companies should not ultimately profit from violating the law. Such an approach creates an incentive for companies to consider violating the law, punishes those companies that are more diligent in their compliance efforts, and runs counter to the underlying goal of encouraging responsible corporate behavior. In other words, the policy proposed in H765 creates a situation in which companies that cheat or cut corners can gain an advantage over competitors that are careful to comply with the law.

**Section 4.7 allows incomplete clean-up of contaminated sites to become common practice in North Carolina.** H765 lowers the bar for cleaning up soil and

groundwater contamination in exchange for restricting future use of real property, including neighbors' property, where the contamination is located. Existing state policy allows for risk-based clean-up at a limited number of industrial sites where contamination was reported to the Department of Environment and Natural Resources prior to March 2011. H765 expands this program, essentially allowing risk-based clean-up to become standard practice for addressing past and future incidents of soil and groundwater contamination.

Broadening risk-based remediation policy as proposed in H765 insulates businesses from their responsibility to fully clean-up the soil and groundwater contamination they cause. This economically flawed proposal allows a more polluted environment and forces neighboring landowners and nearby groundwater users to bear the burden.

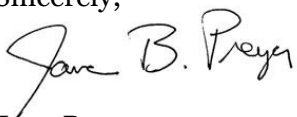
Notably, the proposal specifically excludes risk-based remediation as an option for addressing contamination resulting from leaking coal ash ponds and swine waste lagoons. Lawmakers have deemed risk-based remediation as inappropriate for addressing contamination from these sources, yet have provided no rationale to the people of North Carolina to explain why risk-based clean-up is acceptable for other lower-profile, but equally dangerous kinds of contamination.

**Section 4.31 establishes that the policy of the State of North Carolina will be to disregard impacts to intermittent streams.** North Carolina's 50,000 miles of intermittent streams account for nearly half of our 112,000 total stream miles. Intermittent streams capture and filter pollutants and help keep waterways clean and healthy. Of the 13,000 miles of streams that supply public drinking water systems in North Carolina, more than 7,000 miles are intermittent, ephemeral, or other headwater streams. Brook Trout – the only trout native to North Carolina – relies on small intermittent streams for spawning and nursery areas.

At present, project developers are obligated to account for and offset damage to intermittent streams through mitigation or environmental restoration efforts. H765 removes this obligation and will accelerate the degradation and loss of intermittent streams. The proposed policy change fails to consider the dire consequences to North Carolina's rivers, streams, fish, wildlife, and drinking water.

Careful stewardship and thoughtful conservation of our environment and natural resources are core North Carolina values. North Carolina's Governors – Republican and Democratic – have helped forge a proud legacy of conservation for our state. Please **veto House Bill 765** and send a clear message about your commitment to responsible and reverent stewardship of our lands, waters, and wildlife.

Sincerely,



Jane Preyer  
Director, North Carolina Office  
Environmental Defense Fund