A BILL TO BE ENTITLED
AN ACT TO PREVENT INTERFERENCE WITH PROPERTY RIGHTS, ENVIRONMENTAL DAMAGE, AND HARM TO PUBLIC HEALTH RESULTING FROM THE SITING AND OPERATION OF RENEWABLE ENERGY FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 21C of Chapter 143 of the General Statutes reads as rewritten:

"Article 21C.


In addition to the definitions set forth in G.S. 143-212, the following definitions apply to this Article:

(1) "Major military installation" means Fort Bragg, Pope Army Airfield, Marine Corps Base Camp Lejeune, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(1a) "Renewable energy facility" means a facility, other than a "wind energy facility," as defined in G.S. 62-133.8. This term does not include (i) solar collectors that gather solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a detached single-family residence or (ii) biomass resources.

(2) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

(3) "Wind energy facility expansion" means any activity that (i) adds or substantially modifies turbines or transmission facilities, including increasing the height of such equipment, over that which was initially permitted or (ii) increases the footprint of the wind energy facility over that which was initially permitted.

"§ 143-215.116. Permit to site wind or renewable energy facilities."
No person shall undertake construction, operation, or expansion activities associated with a wind or renewable energy facility in this State without first obtaining a permit from the Department.

§ 143-215.117A. Permit preapplication site evaluation meeting; notice; preapplication package requirements.

(a) Permit Preapplication Site Evaluation Meeting. – No less than 180 days prior to filing an application for a permit to construct, operate, or expand a renewable energy facility, a person shall request a preapplication site evaluation meeting to be held between the applicant and the Department. The preapplication site evaluation meeting shall be held no less than 120 days prior to filing an application for a permit to construct, operate, or expand a renewable energy facility and may be used by the participants to do the following:

1. Conduct a preliminary evaluation of the site or sites for the proposed renewable energy facility or renewable energy facility expansion. The preliminary evaluation of the proposed renewable energy facility or proposed renewable energy facility expansion shall determine if the site or sites do the following:
   a. Pose serious risk to civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.
   b. Pose serious risk to natural resources and uses, including to species of concern or their habitats.

2. Identify areas where proposed construction or expansion activities pose minimal risk of interference with civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations.

3. Identify areas where proposed construction or expansion activities pose minimal risk to natural resources and uses, including avian, bat, and endangered and threatened species.

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a renewable energy facility or renewable energy facility expansion shall submit a preapplication package to the Department. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

1. A narrative description of the proposed renewable energy facility or proposed renewable energy facility expansion, including (i) type and physical dimensions of renewable energy equipment to be constructed; (ii) the total planned capacity of the facility; and (iii) a description of any ancillary facilities.

2. A map showing the approximate location of the proposed renewable energy facility or proposed renewable energy facility expansion.

3. A description of any known potential impacts of the proposed renewable energy project location on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations. The applicant may use data made available by the Department pursuant to G.S. 143-215.123 to satisfy this requirement.

4. A list of the federal, State, and local agencies from which approvals will be obtained and the name of those approvals required in order to authorize the construction, operation, or expansion of the proposed renewable energy facility.
(5) A schedule showing the anticipated dates for commencement of construction, testing, and commercial operation of the proposed renewable energy facility or proposed renewable energy facility expansion.

(c) Notice to Interested Parties. – No less than 21 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the Department shall provide written notice of the meeting to the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the commanding military officer or the commanding military officer's designee of any potentially affected major military installation, and any other party that the Department deems relevant. The notice shall include an invitation to participate in the permit preapplication site evaluation meeting.

§ 143-215.118. Permit application scoping meeting and notice.

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant and the Department. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion. The applicant and the Department shall review the permit for the proposed wind or renewable energy facility or proposed facility expansion at the scoping meeting.

(b) Notice of Scoping Meeting. – No less than 21 days prior to the scheduled permit application scoping meeting with an applicant, the Department shall provide written notice of the meeting to the commanding military officer of each major military installation, or the commanding military officer's designee, the Federal Aviation Administration, the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service, the board of commissioners for each county and the governing body of each municipality in which the wind or renewable energy facility or proposed wind or renewable energy facility expansion is proposed to be located, and those local governments with jurisdictions over areas in which a major military installation is located. The notice shall include an invitation to participate in the scoping meeting.

§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.

(a) Permit Requirements. – A person applying for a permit for a proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion shall include all of the following in an application for the permit:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion.

(2) A map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that identifies the specific location of each turbine or other renewable energy equipment.

(3) A copy of a deed, purchase agreement, lease agreement, or other legal instrument demonstrating the right to construct, expand, or otherwise develop a wind or renewable energy facility on the property.

(4) Identification by name and address of property owners adjacent to the proposed wind energy facility or proposed wind energy facility expansion. The applicant shall notify every property owner identified pursuant to this subdivision by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4, in a form approved by the Department. The notice shall include all of the following:

a. The location of the proposed wind energy facility or proposed wind energy facility expansion and the specific location of each turbine or
other renewable energy equipment proposed to be located within one
and one-half miles of the boundary of the adjacent property owner.

b. A description of the proposed wind energy facility or proposed wind
energy facility expansion.

(5) A description of civil air navigation or military air navigation routes, air traffic
control areas, military training routes, special-use air space, radar, or other
military operations that may be affected by the construction or operation of the
proposed wind energy facility or proposed wind energy facility expansion.

(6) Documentation that addresses any potential adverse impact on military
operations and readiness as identified by the Department of Defense
Clearinghouse pursuant to Part 211 of Title 32 Code of Federal Regulations
(July 1, 2012 edition, or the most updated regulation at the time of
application) and any mitigation actions agreed to by the applicant.

(7) Documentation that the applicant has either (i) submitted Federal Aviation
Administration Form 7460-1 for the turbines associated with the proposed wind
energy facility or proposed wind energy facility expansion or (ii) initiated an
informal review by the Department of Defense Siting Clearinghouse of the
proposed wind energy facility or proposed wind energy facility expansion. If
the applicant has submitted Federal Aviation Administration Form 7460-1 in
order to fulfill the requirements of this subdivision, the applicant shall provide
any determination reached by the Federal Aviation Administration at the time
the application is submitted to the Department. If the Federal Aviation
Administration has not made a determination at the time the application is
submitted to the Department, the application shall include a description of the
status of the applicant’s engagement with the Federal Aviation Administration
and the Department of Defense Siting Clearinghouse.

(8) A study, conducted by an independent entity, selected from a list of
Department-approved providers, and paid for by the applicant, of the noise
impacts of the turbines to be associated with the proposed wind energy facility
or proposed wind energy facility expansion.

(9) A study, conducted by an independent entity, selected from a list of
Department-approved providers, and paid for by the applicant, on shadow
flicker impacts of the turbines to be associated with the proposed wind energy
facility or proposed wind energy facility expansion, unless the turbines will be
located in a sound or in offshore waters.

(10) A study, conducted by an independent entity, selected from a list of
Department-approved providers, and paid for by the applicant, of the impact of
the proposed wind or renewable energy facility or proposed wind or renewable
energy facility expansion on natural resources and uses, including avian, bat,
and endangered and threatened species.

(11) An explanation of how the proposed wind or renewable energy facility or
proposed wind or renewable energy facility expansion would be consistent with
the criteria in subsection (a) of G.S. 143-215.120.

(12) The application fee required by subsection (c) of this section.

(13) A plan regarding the action to be taken upon the decommissioning and removal
of the wind or renewable energy facility. The plan shall include an estimate of
the cost to decommission and remove the wind or renewable energy facility.
The plan shall also include the anticipated life of the project, an estimate of the
cost to decommission and remove the wind or renewable energy facility, a
description of the manner in which the facility will be decommissioned, and a
description of the expected condition of the site once the wind or renewable energy facility has been decommissioned and removed.

(14) Other data or information the Department may reasonably require.

(b) Confidentiality of Trade Secrets and Business Information. – To the extent that any documents included in the permit application contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act.

(c) Fees. – An applicant for a permit for a proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion under this section shall submit with the application required pursuant to subsection (a) of this section, an application fee of three thousand five hundred dollars ($3,500).

(d) Notice of Receipt of Complete Permit Application. – Within 10 days of receipt of a complete permit application for a proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion submitted pursuant to subsection (a) of this section, the Department shall provide notice of the permit application to (i) the commanding military officer of all major military installations, (ii) the commanding military officer of any military installation located outside the State that is located within 50 nautical miles of the location of the proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion, and (iii) the board of commissioners for each county and the governing body of each municipality in which the wind or renewable energy facility or wind or renewable energy facility expansion is proposed to be located. The notice shall include:

(1) A copy of the map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that includes the specific locations of wind turbines, turbines or other renewable energy equipment.

(2) A written request to the commanding military officer of a major military installation or the commanding military officer's designee, for technical information related to any adverse impact on the installation's operations, training, or mission, including military air navigation routes, air traffic control areas, military training routes, special-use air space, radar or other military operations that may be affected.

(3) A written request for information related to potential adverse impacts of the proposed wind energy facility or proposed wind energy facility expansion on local governments from the board of commissioners for each county and the governing body of each municipality.

(e) Provision of Permit Application to Affected Entities. – Except as provided by G.S. 143-215.124, within 10 days of receipt of a written request from the commanding military officer of any major military installation or the commanding military officer's designee, the board of commissioners for any county in which the site is proposed to be located or the governing body of any municipality in which the site is proposed to be located, the Department shall provide a copy of a permit application filed pursuant to subsection (a) of this section, in addition to any supplements, changes, or amendments to the permit application to the requesting commanding military officer or local government.

(f) Public Hearing and Comment. – The Department shall hold a public hearing in each county in which the wind or renewable energy facility or wind or renewable energy facility expansion is proposed to be located within 75 days of receipt of a completed permit application. The Department shall provide notice including the time and location of the public hearing in a newspaper of general circulation in each applicable county. The notice of public hearing shall be published for at least two consecutive weeks beginning no less than 45 days prior to the scheduled date of the hearing. The notice shall provide that any comments on the proposed wind or renewable energy facility or proposed wind or renewable energy facility expansion should be submitted to the Department by a specified date, not less than 15 days from the date of the
newspaper publication of the notice or 15 days after distribution of the mailed notice, whichever is
later. No less than 30 days prior to the scheduled public hearing, the Department shall provide
written notice of the hearing to:

(2) The Office of the Attorney General of North Carolina.
(3) The commanding military officer of any potentially affected major military
installation or the commanding military officer’s designee.
(4) The board of commissioners for each county and the governing body of each
municipality with jurisdictions over areas in which a potentially affected major
military installation is located.

"§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other
approvals required.

(a) Permit Approval. – The Department shall approve an application for a permit for a
proposed wind or renewable energy facility or proposed wind or renewable energy facility
expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would be inconsistent with or violate rules
adopted by the Department or any other provision of law.

(2) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would encroach upon or would otherwise have a
significant adverse impact on the mission, training, or operations of any major
military installation or branch of military in North Carolina and result in a
detriment to continued military presence in the State. In its evaluation, the
Department may consider whether the proposed wind energy facility or
proposed wind energy facility expansion would cause interference with air
navigation routes, air traffic control areas, military training routes, or radar
based on information submitted by the applicant pursuant to subdivisions (5)
and (6) of subsection (a) of G.S. 143-215.119, and any information received by
the Department pursuant to subdivision (2) of subsection (d) of
G.S. 143-215.119.

(3) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would result in significant adverse impacts to
ecological systems, natural resources, cultural sites, recreation areas, or historic
sites of more than local significance; including national or State parks or
forests, wilderness areas, historic sites, recreation areas, segments of the natural
and scenic rivers system, wildlife refuges, preserves and management areas,
areas that provide habitat for threatened or endangered species, primary nursery
areas designated by the Marine Fisheries Commission and the Wildlife
Resources Commission, and critical fisheries habitat identified pursuant to the
Coastal Habitat Protection Plan.

(4) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would have a significant adverse impact on fish
or wildlife.

(5) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would have a significant adverse impact on
views from any State or national park, wilderness area, significant natural
heritage area as compiled by the North Carolina Natural Heritage Program, or
other public lands or private conservation lands designated or dedicated due to
their high recreational values.

(6) Construction or operation of the proposed wind energy facility or proposed
wind energy facility expansion would obstruct major navigation channels or
create a significant obstacle to navigation in coastal waters, as determined by
the United States Army Corps of Engineers and the United States Coast Guard.

(7) A permit for a proposed wind energy facility or proposed wind energy facility
expansion would be denied under any other criteria set out in G.S. 113A-120.

(8) Construction of the proposed wind energy facility or proposed wind energy
facility expansion would be prohibited under Article 14 of Chapter 113A of the
General Statutes, the Mountain Ridge Protection Act of 1983.

(9) The applicant is not in compliance with all applicable federal, State, or local
permit requirements, licenses, or approvals, including local zoning
requirements.

(10) Operation of the proposed facility would create an ambient noise measurement
exceeding 35 decibels, as measured from the property line of any adjacent
parcel.

(11) The applicant has failed to establish adequate financial assurance for
decommissioning in accordance with G.S. 143-215.128.

(b) Permit Decision. – The Department shall make a final decision on a permit application
within 90 days following receipt of a completed application, except that, for wind energy
facility applications, the Department shall not be required to make a final decision until the
Department has received a written "Determination of No Hazard to Air Navigation" issued by the
Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of
Federal Regulations (January 1, 2012 edition), or the most updated regulation at the time
of application. If the Department requests additional information following the receipt of a
completed application, the Department shall make a final decision on a permit application within
30 days of receipt of the requested information. If the Department determines that an application
for a wind or renewable energy facility or a wind or renewable energy facility expansion fails to
meet the requirements for a permit under this section, the Department shall deny the application,
and the application shall be returned to the applicant accompanied by a written statement of the
reasons for the denial and any modifications to the permit application that would make the
application acceptable. If the Department fails to act within the time period set forth in this
subsection, the applicant may treat the failure to act as a denial of the permit and may challenge
the denial as provided under Chapter 150B of the General Statutes.

(c) Permit Conditions. – The Department may include as a condition of a permit
for a proposed wind or renewable energy facility or proposed wind or renewable energy facility
expansion a requirement that the permit holder mitigate any adverse impacts and (ii) impacts. The
Department shall include as a condition of a permit for a proposed wind energy facility or
proposed wind energy facility expansion a requirement that the permit holder obtain a written
"Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration
pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012
edition), or the most updated regulation at the time of application), for the facility. No
permit for a wind energy facility or wind energy facility expansion shall become effective until the
Department has received and reviewed the "Determination of No Hazard to Air Navigation"
issued by the Federal Aviation Administration for the facility. If the specific location of a turbine
authorized to be constructed pursuant to a "Determination of No Hazard to Air Navigation" or the
configuration of the wind energy facility varies from the information submitted by the applicant
upon which the Department has made its permit decision, the Department may reevaluate the
permit application and require the applicant to submit any additional information the Department
deems necessary to approve or deny a permit for the facility as reconfigured.

(d) Other Approvals Required. – The issuance of a permit under this section shall not
obviate the need for the applicant to obtain any and all other applicable local, State, or federal
permits, licenses, or approvals. Furthermore, nothing in this Article shall be interpreted to limit, as
applicable, (i) the application of Article 7 of Chapter 113A of the General Statutes to facilities
permitted under this section, including the permitting requirements of G.S. 113A-118, (ii) the ability of a city or county to plan for and regulate the siting of a wind or renewable energy facility in accordance with land-use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes, or (iii) the applicable requirements of Chapter 62 of the General Statutes.

"§ 143-215.121. Financial assurance requirements.

The applicant for a permit or a permit holder for a wind or renewable energy facility shall establish financial assurance that will ensure that sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities on the site, even if the applicant or permit holder becomes insolvent or ceases to reside in, be incorporated, do business, or maintain assets in the State. To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder for a wind or renewable energy facility may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

"§ 143-215.122. Monitoring and reporting.

The applicant shall annually submit copies to the Department of any post-construction monitoring, such as reports on ambient noise levels, groundwater testing, the impacts on wildlife in the location of and in the area proximate to the wind or renewable energy facility or wind or renewable energy facility expansion, and any impacts on military operations that are required by the United States Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the North Carolina Utilities Commission, or any other government agency.

…

"§ 143-215.126. Civil penalties.

(a) The Secretary of Environmental Quality may shall impose an administrative penalty on a person who constructs a wind or renewable energy facility or wind or renewable energy facility expansion without obtaining a permit under this Article or who constructs or operates a wind or renewable energy facility in violation of its permit terms and conditions. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed ten thousand dollars ($10,000) per day.

(b) The Secretary of Environmental Quality, irrespective of all other remedies at law, may institute an action for injunctive relief against a person who constructs a wind or renewable energy facility without first obtaining a permit under this Article or who constructs or operates a wind or renewable energy facility or wind or renewable energy facility expansion in violation of its permit terms and conditions.

"§ 143-215.127. Setback and landscape buffer requirements.

(a) Setback requirements. – A wind or renewable energy facility shall be sited no nearer than one and one-half miles from the property line of any adjacent parcels. The one and one-half mile setback requirement shall not apply to adjacent parcels having common ownership with the facility or the parcel where the facility is situated.

A wind or renewable energy facility shall maintain a minimum setback of at least two and one-half times the height of a turbine from all easements and the right-of-way of any roadway maintained by the State or a municipality.

(b) If it is determined, based upon the input received from the written request to the commanding military officer of a major military installation or the commanding officer’s designee pursuant to G.S. 143-215.119(d), that the proximity of the proposed wind or renewable energy facility to a military installation may have an adverse impact upon the operations of that military installation, the Department may require a minimum setback for wind or renewable energy equipment or activity in excess of the minimum setback required pursuant to subsection (a) of this section. The setback distance shall be established in consultation with the commanding military
officer of the military installation or the commanding officer's designee and shall be determined in a manner that minimizes the potential for encroachment upon the operational requirements of the military installation.

(c) Landscape buffer requirements for solar farms. – A solar farm shall maintain a landscape buffer by installing native landscaping, including trees and shrubs, in a perimeter surrounding the solar farm and any equipment related to that solar farm. The landscape buffer shall provide the greatest degree of screening feasible and shall minimize visual contact with the solar farm for any adjacent parcels. For the purposes of this subsection, a "solar farm" means an array of multiple solar collectors that transmit solar energy and where the collection of solar energy is the primary land use for the parcel on which it is situated.

§ 143-215.128. Decommissioning and reclamation; recycling requirements; financial assurance requirements.

(a) The applicant for a permit or a permit holder for a wind or renewable energy facility shall be responsible for proper decommissioning of the facility and all equipment upon cessation of activities, and reclamation of the property to its condition prior to commencement of activities on the site, no later than one year following completion of the operations. Decommissioning shall include the complete removal, including any subterranean portions, of all buildings, foundations, cabling, electrical components, turbines, and any other associated facilities or structures. Upon decommissioning, the applicant for a permit or a permit holder for a wind or renewable energy facility shall be responsible for properly recycling each piece of equipment used in the facility.

(b) In addition to the requirements of G.S. 143-215.119(a)(13), the applicant for a permit or a permit holder for a wind or renewable energy facility shall establish financial assurance that will ensure that sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities on the site, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State. To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder for a wind or renewable energy facility shall provide to the Department a bond, secured with sufficient surety as approved by the Department, in an amount not less than fifteen percent (15%) of the assessed value of the real property and installed wind or renewable energy property located thereon.

(c) In order to continue to hold a permit under this Article, a permit holder must maintain financial responsibility and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility. A permit holder shall notify the Department of any significant change in the (i) identity of any person or structure of the business entity that holds the permit for the facility, (ii) identity of any person or structure of the business entity that owns or operates the facility, or (iii) assets of the permit holder, owner, or operator of the facility. The permit holder shall notify the Department within 30 days of a significant change. A change shall be considered significant if it has the potential to affect the financial responsibility of the permit holder, owner, or operator, or if it would result in a change in the identity of the permit holder, owner, or operator for purposes of either financial responsibility or environmental compliance review. Based on its review of the changes, the Department may require the permit holder to reestablish financial responsibility and may modify or revoke a permit, or require issuance of a new permit.

§ 143-215.129. Liability for damage caused.

(a) Any person who owns, operates, or controls a wind or renewable energy facility shall be strictly liable, without regard to fault, for damages to persons or property, public or private, caused by the construction, maintenance, operation, decommissioning, disassembly, or demolition of that facility.

(b) In order to provide maximum protection for the public interest, any actions brought pursuant to subsection (a) of this section may be brought against any one or more of the persons having control over the wind or renewable energy facility or the activity that caused or contributed
to the damages. All such persons shall be jointly and severally liable, but ultimate liability as
between the parties may be determined by common-law principles.
(c) There shall be no liability under this section for a person otherwise liable who can
establish by a preponderance of the evidence that the damage was caused by any of the following:

(1) An act of God.
(2) An act of war or sabotage.
(3) An act or omission by the United States government or the State of North
Carolina or its political subdivisions.
(4) An act or omission by or at the direction of a law enforcement officer or
fireman.
(5) An act or omission by a third party who is not an agent, employee, contractor,
or subcontractor of the person who is liable under this section.

(d) Nothing in this section shall deprive a claimant from electing to pursue any other cause
of action for damages or injunctive relief under statutory or common law."

SECTION 2. There is appropriated from the General Fund to the Department of
Environmental Quality for the 2016-2017 fiscal year the sum of fifty thousand dollars ($50,000)
for implementation of the permitting requirements for renewable energy facilities.

SECTION 3. Section 1 of this act becomes effective December 1, 2016, and applies
to applications for permits submitted on or after that date. Section 2 of this act becomes effective
July 1, 2017. The remainder of this act is effective when it becomes law.