

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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HOUSE BILL 1402  
Committee Substitute Favorable 8/12/98  
Committee Substitute #2 Favorable 8/24/98

Short Title: Disapprove/Revise Neuse River Basin Rule.

(Public)

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Sponsors:

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Referred to:

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May 21, 1998

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO DISAPPROVE 15A NCAC 2B.0233 (THE NEUSE RIVER NUTRIENT  
3 SENSITIVE WATERS MANAGEMENT STRATEGY) AS A PERMANENT  
4 RULE, TO CONTINUE 15A NCAC 2B.0233 IN EFFECT AS A TEMPORARY  
5 RULE, TO SPECIFY HOW THE TEMPORARY RULE IS TO BE  
6 IMPLEMENTED, TO REQUIRE THE ENVIRONMENTAL MANAGEMENT  
7 COMMISSION (EMC) TO ADOPT RULES TO PROVIDE ALTERNATIVES TO  
8 MAINTAINING RIPARIAN BUFFERS AND TO ESTABLISH COMPENSATORY  
9 MITIGATION FEES, TO ESTABLISH THE RIPARIAN BUFFER RESTORATION  
10 FUND, TO REQUIRE THE EMC TO ADOPT RULES TO PROVIDE FOR  
11 DELEGATION OF THE RIPARIAN BUFFER PROGRAM TO UNITS OF LOCAL  
12 GOVERNMENT THAT SEEK SUCH DELEGATION, TO RECOGNIZE VESTED  
13 DEVELOPMENT RIGHTS, TO REQUIRE THE EMC TO REVISE THE  
14 TEMPORARY RULE CONTINUED IN EFFECT BY THIS ACT AND TO ADOPT  
15 A REVISED PERMANENT RULE WITH THE ASSISTANCE OF A  
16 STAKEHOLDER ADVISORY COMMITTEE, TO PROVIDE THAT EROSION  
17 CONTROL PLANS WILL BE CONSISTENT WITH RIPARIAN BUFFER  
18 REQUIREMENTS, TO REQUIRE THE EMC TO ESTABLISH A RIPARIAN

1 BUFFER MAINTENANCE AND RESTORATION GOAL, TO AUTHORIZE THE  
2 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO  
3 ACCEPT DONATIONS OF REAL PROPERTY, TO PROVIDE FOR PERIODIC  
4 REVIEW OF THE IMPLEMENTATION OF THE NEUSE RIVER NUTRIENT  
5 SENSITIVE WATERS MANAGEMENT STRATEGY AND REPORTS TO THE  
6 ENVIRONMENTAL REVIEW COMMISSION, AND TO AUTHORIZE THE EMC  
7 TO ADOPT TEMPORARY RULES TO IMPLEMENT THIS ACT.

8 The General Assembly of North Carolina enacts:

9 Section 1. **Definitions.** – Unless otherwise required by the context, the  
10 following definitions apply throughout this act:

- 11 (1) " Commission" means the Environmental Management Commission.  
12 (2) " Department" means the Department of Environment and Natural  
13 Resources.  
14 (3) " Secretary" means the Secretary of Environment and Natural Resources.  
15 (4) " Temporary rule 15A NCAC 2B.0233" means 15A NCAC 2B.0233  
16 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy:  
17 Protection and Maintenance of Riparian Areas with Existing Forest  
18 Vegetation), adopted as a temporary rule by the Commission effective  
19 22 July 1997, amended by the Commission effective 22 April 1998, and  
20 continued in effect by Section 2 of this act.

21 Section 2. **Permanent rule disapproved; temporary rule continued in**  
22 **effect.** – Pursuant to G.S. 150B-21.3(b), 15A NCAC 2B.0233 (Neuse River Basin:  
23 Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian  
24 Areas with Existing Forest Vegetation), as amended by the Commission and approved by  
25 the Rules Review Commission on 19 February 1998, is disapproved as a permanent rule.  
26 Notwithstanding G.S. 150B-21.1(d), 15A NCAC 2B.0233 (Neuse River Basin: Nutrient  
27 Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Areas  
28 with Existing Forest Vegetation), as amended by the Commission effective 22 April  
29 1998, shall remain in effect as a temporary rule until the revised temporary rule required  
30 by Section 8 of this act becomes effective. The Commission and the Department shall  
31 implement temporary rule 15A NCAC 2B.0233 as provided in Section 3 of this act.

32 Section 3. **Implementation of the temporary rule: determination of surface**  
33 **waters; forest vegetation defined.** – (a) Until the effective date of the revised temporary  
34 rule that the Commission is required to adopt by Section 8 of this act, the Commission  
35 and the Department shall implement temporary rule 15A NCAC 2B.0233 as provided in  
36 this section.

37 (b) For purposes of implementing temporary rule 15A NCAC 2B.0233, the  
38 presence of surface waters in the Neuse River Basin, including intermittent streams,  
39 perennial streams, lakes, ponds, and estuaries shall be determined solely as provided in  
40 this subsection and subsection (c) of this section. Surface water is presumed to be present  
41 on a particular parcel or tract of land if surface water appears on either the most recent  
42 versions of the soil survey maps prepared by the Natural Resources Conservation Service  
43 of the United States Department of Agriculture or the most recent versions of the

1 1:24,000 scale (7.5 minute quadrangle) topographic maps prepared by the United States  
2 Geological Survey (USGS).

3 (c) The General Assembly recognizes that the soil survey maps and the USGS  
4 topographic maps may be in error in that these maps may indicate the presence of surface  
5 water where no surface water is actually present and may fail to indicate the presence of  
6 surface water where surface water is actually present. Any question as to the accuracy or  
7 application of the maps to a particular parcel or tract of land shall be referred to the  
8 Director of the Division of Water Quality of the Department. A determination of the  
9 Director as to the accuracy or application of the maps is subject to review as provided in  
10 Articles 3 and 4 of Chapter 150B of the General Statutes. The Commission shall make  
11 the final agency decision in a contested case involving a determination under this section.  
12 A determination of the presence of surface waters pursuant to this section applies only to  
13 the implementation of temporary rule 15A NCAC 2B.0233.

14 (d) As used in temporary rule 15A NCAC 2B.0233, "forest vegetation" is not  
15 defined by 15A NCAC 2B.0202 but instead means vegetation consisting of trees and  
16 woody perennial plants with associated herbaceous vegetation in conjunction with a  
17 defined surface layer consisting of leaves, branches, and other plant material. "Forest  
18 vegetation" includes mature and successional forest areas and cutover areas.

19 Section 4. **Alternatives to maintaining riparian buffers; compensatory**  
20 **mitigation fees.** – (a) The Commission shall establish a program to provide alternatives  
21 for persons who would otherwise be required to maintain existing riparian buffers and  
22 who can demonstrate that they have attempted to avoid and minimize the loss of the  
23 riparian buffer and that there is no practical alternative to the loss of the buffer. This  
24 program is intended to allow these persons to perform compensatory mitigation in lieu of  
25 complying with the requirements of the revised temporary rule and permanent rule  
26 required by Section 8 of this act. Alternatives shall include, but are not limited to:

- 27 (1) Payment of a compensatory mitigation fee into the Riparian Buffer  
28 Restoration Fund.
- 29 (2) Donation of real property or of an interest in real property to the  
30 Department, another State agency, a unit of local government, or a  
31 private nonprofit conservation organization if both the donee  
32 organization and the donated real property or interest in real property  
33 are approved by the Department. The Department may approve a donee  
34 organization only if the donee agrees to maintain the real property or  
35 interest in real property as a riparian buffer. The Department may  
36 approve a donation of real property or an interest in real property only if  
37 the real property or interest in real property is either:
- 38 a. A riparian buffer that will provide protection of water quality that  
39 is equivalent to or greater than that provided by the riparian  
40 buffer that is lost; or
- 41 b. Will be used to restore, create, enhance, or maintain a riparian  
42 buffer that will provide protection of water quality that is

1 equivalent to or greater than that provided by the riparian buffer  
2 that is lost.

3 (3) Establishment, restoration, or enhancement of a riparian buffer that is  
4 not otherwise required to be protected.

5 (b) Compensatory mitigation is only available for loss of a riparian buffer along an  
6 intermittent stream. Compensatory mitigation shall be conducted within the Neuse River  
7 Basin.

8 (c) The Commission shall establish a standard schedule of compensatory  
9 mitigation fees. The compensatory mitigation fee schedule shall be based on the area of  
10 the riparian buffer that is permitted to be lost and the cost to provide equivalent or greater  
11 protection of water quality by:

12 (1) Restoring existing riparian buffers.

13 (2) Acquiring land for and creation of new riparian buffers.

14 (3) Monitoring and maintaining the restored or created riparian buffers over  
15 time.

16 (d) The Commission may adopt rules to implement this section and may  
17 recommend any legislation it determines to be necessary or desirable to achieve the  
18 purposes of this section. Rules to implement this section shall not be codified as a part of  
19 15A NCAC 2B.0233 but shall be set out as a separately numbered rule.

20 Section 5. **Riparian Buffer Restoration Fund.** – (a) G.S. 143-214.15 through  
21 G.S. 143-214.20 are reserved for future codification purposes.

22 (b) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 143-214.21. Riparian Buffer Protection Program: Riparian Buffer Restoration**  
25 **Fund.**

26 The Riparian Buffer Restoration Fund is established as a nonreverting fund within the  
27 Department. The Fund shall be treated as a special trust fund and shall be credited with  
28 interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The  
29 Riparian Buffer Restoration Fund shall provide a repository for monetary contributions to  
30 promote projects for the restoration, enhancement, or creation of riparian buffers and for  
31 compensatory mitigation fees paid to the Department. The Fund shall be administered by  
32 the Division of Water Quality within the Department. Monies shall be expended from  
33 the Fund only for those purposes directly related to the restoration, acquisition, creation,  
34 enhancement, and maintenance of riparian buffers to offset the benefits to water quality,  
35 including the removal of nutrients, lost through the loss of buffers. Compensatory  
36 mitigation fees paid into the Fund in connection with the loss of riparian buffers in a river  
37 basin and the interest earned on those fees may be used only for projects in that river  
38 basin."

39 Section 6. **Delegation of riparian buffer protection requirements to local**  
40 **governments.** – (a) The Commission may delegate responsibility for the implementation  
41 and enforcement of the State's riparian buffer protection requirements in the Neuse River  
42 Basin to units of local government that have the power to regulate land use. A delegation  
43 under this section shall not affect the jurisdiction of the Commission over State agencies

1 and units of local government. Any unit of local government in the Neuse River Basin  
2 that has the power to regulate land use may request that responsibility for the  
3 implementation and enforcement of the State's riparian buffer protection requirements be  
4 delegated to the unit of local government. To this end, units of local government may  
5 adopt ordinances and regulations necessary to establish and enforce the State's riparian  
6 buffer protection requirements.

7 (b) Within 90 days after the Commission receives a complete application  
8 requesting delegation of responsibility for the implementation and enforcement of the  
9 State's riparian buffer protection requirement, the Commission shall review the  
10 application and notify the unit of local government that submitted the application whether  
11 the application has been approved, approved with modifications, or disapproved. The  
12 Commission shall not approve a delegation unless the Commission finds that local  
13 implementation and enforcement of the State's riparian buffer protection requirements  
14 will equal implementation and enforcement by the State.

15 (c) If the Commission determines that any unit of local government is failing to  
16 implement or enforce the State's riparian buffer protection requirements, the Commission  
17 shall notify the unit of local government in writing and shall specify the deficiencies in  
18 implementation and enforcement. If the local government has not corrected the  
19 deficiencies within 90 days after the unit of local government receives the notification,  
20 the Commission shall rescind delegation and shall implement and enforce the State's  
21 riparian buffer protection program. If the unit of local government indicates that it is  
22 willing and able to resume implementation and enforcement of the State's riparian buffer  
23 protection requirements, the unit of local government may reapply for delegation under  
24 this section.

25 (d) The Division of Water Quality in the Department shall provide technical  
26 assistance to units of local government in the development, implementation, and  
27 enforcement of the State's riparian buffer protection requirements.

28 (e) The Commission may adopt rules to implement this section and may  
29 recommend any legislation it determines to be necessary or desirable to achieve the  
30 purposes of this section. Rules to implement this section shall not be codified as a part of  
31 15A NCAC 2B.0233 but shall be set out as a separately numbered rule.

32 Section 7. **Recognition of vested development rights.** – (a) Vested rights  
33 recognized or established under the common law or by G.S. 153A-344(b), 153A-344.1,  
34 160A-385(b), or 160A-385.1 shall include the right as provided in this section, to  
35 undertake and complete development in the Neuse River Basin without application of  
36 temporary rule 15A NCAC 2B.0233 and the revised temporary rule required by Section 8  
37 of this act. The Commission and the Department shall not apply temporary rule 15A  
38 NCAC 2B.0233 and the revised temporary rule required by Section 8 of this act to  
39 development with vested rights recognized or established under G.S. 153A-344(b),  
40 153A-344.1, 160A-385(b), or 160A-385.1 prior to 22 July 1997. The Commission and  
41 the Department shall not apply temporary rule 15A NCAC 2B.0233 and the revised  
42 temporary rule required by Section 8 of this act to development with vested rights  
43 recognized or established under the common law prior to the date this act becomes

1 effective if the Commission has issued a certification pursuant to G.S. 143B-282(a)(1)u.  
2 prior to 22 July 1997.

3 (b) The Commission shall not adopt rules that confer or restrict a vested right to  
4 undertake or complete development.

5 (c) It is the intent of the General Assembly that this section apply only to the  
6 particular circumstances that are the subject of this act. This section does not establish a  
7 precedent as to the application of vesting under a zoning or land-use planning program  
8 administered by a local government to any other environmental program.

9 Section 8. **Revision of temporary rule 15A NCAC 2B.0233; adoption of a**  
10 **permanent rule to replace the temporary rule.** – (a) The Commission shall revise  
11 temporary rule 15A NCAC 2B.0233 in accordance with this section. The Commission  
12 shall:

13 (1) Establish a method for determining the presence of surface waters on a  
14 particular parcel or tract of land in the Neuse River Basin. The  
15 Commission shall establish a method that is scientifically valid, easily  
16 understandable, efficient, consistent, reliable, and cost-effective,  
17 including a method for resolving disputes regarding the presence of  
18 surface waters on any particular parcel or tract of land.

19 (2) Establish methods to determine the point from which to measure the  
20 landward extent of zones within a protected riparian buffer appropriate  
21 to the different regions of the Neuse River Basin.

22 (3) Determine, based on drainage area, those segments of intermittent  
23 streams to which the riparian buffer protection requirements do not  
24 apply. The Commission may establish different drainage areas for  
25 segments of intermittent streams located in different parts of the Neuse  
26 River Basin on the basis of topography and other relevant factors.

27 (4) Define forest vegetation.

28 (5) Establish a clearly defined set of exemptions and uses that will be  
29 allowed within a riparian area.

30 (6) Establish criteria to determine whether there exists a practical  
31 alternative to the loss of the riparian buffer.

32 (b) All provisions that the Commission finds to be necessary to revise temporary  
33 rule 15A NCAC 2B.0233 and to implement the revised temporary rule shall be set out in  
34 the revised temporary rule. The Commission and the Department may develop and use  
35 guidance documents and other statements that concern only the internal management of  
36 the Commission and the Department. Neither the Commission nor the Department may  
37 develop or use any guidance document or other statement that directly or substantially  
38 affects the procedural or substantive rights or duties of any person not employed by the  
39 Commission or the Department unless those documents are set out in rules adopted in  
40 accordance with the provisions of Article 2A of Chapter 150B of the General Statutes.

41 (c) The Commission shall develop revisions to temporary rule 15A NCAC  
42 2B.0233 with the assistance and advice of the Stakeholder Advisory Committee  
43 appointed for that purpose as provided in Section 10 of this act. Notwithstanding G.S.

1 150B-21.1(d), the revised temporary rule shall not expire until the permanent rule  
2 required by subsection (d) of this section becomes effective.

3 (d) Once temporary rule 15A NCAC 2B.0233 has been revised as required by this  
4 section, the Commission shall proceed, in accordance with Article 2A of Chapter 150B of  
5 the General Statutes, with the adoption of a permanent rule to replace the revised  
6 temporary rule.

7 Section 9. **Commission to review the implementation of the Neuse River**  
8 **Nutrient Sensitive Waters (NSW) Management Strategy.** – The Commission shall  
9 review the implementation of the Neuse River Basin Nutrient Sensitive Waters (NSW)  
10 Management Strategy. As a part of this review, the Commission shall assess progress  
11 toward implementation of the Management Strategy, achievement of the nitrogen  
12 reduction goal established by Chapter 572 of the 1995 Session Laws (1996 Regular  
13 Session) and any other milestones related to the effort to improve water quality in the  
14 Neuse River and Neuse estuary established by the Commission, and the impact of the  
15 implementation of the Neuse River Nutrient Sensitive Waters (NSW) Management  
16 Strategy on the regulated community. The Commission shall report the results of this  
17 review, including any recommendations relative to water quality in the Neuse River and  
18 Neuse estuary, to the Environmental Review Commission no later than 1 December  
19 2000. The Commission shall conduct a second review and report the results, including  
20 any recommendations, to the Environmental Review Commission no later than 1  
21 December 2001.

22 Section 10. **Stakeholder Advisory Committee.** – (a) The Commission shall  
23 develop the rules required by Sections 4 and 6 of this act and the revisions to temporary  
24 rule 15A NCAC 2B.0233 and the permanent rule required by Section 8 of this act with  
25 the assistance of a Stakeholder Advisory Committee. The Stakeholder Advisory  
26 Committee shall consist of 23 members as follows:

- 27 (1) A member of the public at large who shall serve as Chair of the  
28 Stakeholder Advisory Committee, appointed by the Secretary.
- 29 (2) A member of the Environmental Management Commission, appointed  
30 by the Chair of the Commission.
- 31 (3) The Director of the Division of Water Quality or the Director's  
32 designee.
- 33 (4) The Chief, Regulatory Branch, Wilmington District, United States  
34 Army Corps of Engineers or the Chief's designee, if the Wilmington  
35 District office agrees to make an appointment.
- 36 (5) The President of the North Carolina Association of Soil and Water  
37 Conservation Districts or the President's designee.
- 38 (6) The Executive Director of the North Carolina Association of County  
39 Commissioners or the Executive Director's designee.
- 40 (7) The Executive Director of the North Carolina League of Municipalities  
41 or the Executive Director's designee.
- 42 (8) The Director of the Water Resources Research Institute of The  
43 University of North Carolina or the Director's designee.

- 1 (9) The Chair of the Upper Neuse River Basin Association or the Chair's  
2 designee.
- 3 (10) The President of the Lower Neuse River Basin Association or the  
4 President's designee.
- 5 (11) The President of the North Carolina Association of Environmental  
6 Professionals or the President's designee.
- 7 (12) The President of the North Carolina Chapter of the American Planning  
8 Association or the President's designee.
- 9 (13) The Executive Director of the North Carolina Aggregates Association,  
10 Inc., or the Executive Director's designee.
- 11 (14) The President of North Carolina Citizens for Business and Industry or  
12 the President's designee.
- 13 (15) The President of the North Carolina Farm Bureau Federation, Inc., or  
14 the President's designee.
- 15 (16) The Executive Vice-President of the North Carolina Forestry  
16 Association, Inc., or the Executive Vice-President's designee.
- 17 (17) The Executive Vice-President of the North Carolina Home Builders  
18 Association, Inc., or the Executive Vice-President's designee.
- 19 (18) A commercial land developer appointed by the Secretary.
- 20 (19) The President of the Conservation Council of North Carolina, Inc., or  
21 the President's designee.
- 22 (20) The Director of the North Carolina Environmental Defense Fund or the  
23 Director's designee.
- 24 (21) The President of the Neuse River Foundation, Inc., or the President's  
25 designee.
- 26 (22) The Chair of the North Carolina Chapter of the Sierra Club or the  
27 Chair's designee.
- 28 (23) The President of the North Carolina Wildlife Federation, Inc., or the  
29 President's designee.

30 (b) The Director of the Division of Water Quality of the Department shall assign  
31 appropriate professional and clerical staff to assist the Stakeholder Advisory Committee  
32 in the performance of its duties under this act.

33 (c) The Stakeholder Advisory Committee created by this section shall terminate  
34 when it makes its final recommendations to the Commission.

35 Section 11. Erosion control plans consistent with riparian buffer requirements. – (a)  
36 G.S. 113A-54.1(c) reads as rewritten:

37 "(c) The Director of the Division of Land Resources shall disapprove an erosion  
38 control plan if the plan, when implemented, would result in a violation of rules adopted  
39 by the Environmental Management Commission to protect riparian buffers along surface  
40 waters. The Director of the Division of Land Resources may disapprove an erosion  
41 control plan upon finding that an applicant or a parent, subsidiary, or other affiliate of the  
42 applicant:



- 1 (1) Is conducting or has conducted land-disturbing activity without an  
2 approved plan, or has received notice of violation of a plan previously  
3 approved by the Commission or a local government pursuant to this  
4 Article and has not complied with the notice within the time specified in  
5 the notice;  
6 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a  
7 local ordinance adopted pursuant to this Article by the time the payment  
8 is due;  
9 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or  
10 any criminal provision of a local ordinance adopted pursuant to this  
11 Article; or  
12 (4) Has failed to substantially comply with State rules or local ordinances  
13 and regulations adopted pursuant to this Article."

14 (b) G.S. 113A-61(b1) reads as rewritten:

15 "(b1) A local government shall disapprove an erosion control plan if the plan, when  
16 implemented, would result in a violation of rules adopted by the Environmental  
17 Management Commission to protect riparian buffers along surface waters. A local  
18 government may disapprove an erosion control plan upon finding that an applicant or a  
19 parent, subsidiary, or other affiliate of the applicant:

- 20 (1) Is conducting or has conducted land-disturbing activity without an  
21 approved plan, or has received notice of violation of a plan previously  
22 approved by the Commission or a local government pursuant to this  
23 Article and has not complied with the notice within the time specified in  
24 the notice;  
25 (2) Has failed to pay a civil penalty assessed pursuant to this Article or a  
26 local ordinance adopted pursuant to this Article by the time the payment  
27 is due;  
28 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or  
29 any criminal provision of a local ordinance adopted pursuant to this  
30 Article; or  
31 (4) Has failed to substantially comply with State rules or local ordinances  
32 and regulations adopted pursuant to this Article."

33 Section 12. **Temporary rules authorized.** – (a) Notwithstanding G.S. 150B-  
34 21.1(a)(2) and 26 NCAC 2C.0102(11), the Commission may adopt temporary rules to  
35 implement this act and to correct other rules related to the Neuse River Nutrient Sensitive  
36 Waters (NSW) Management Strategy until 1 July 1999. It is the intention of the General  
37 Assembly that the Commission first address the revisions to temporary rule 15A NCAC  
38 2B.0233 required by subdivision (1) of subsection (a) of Section 8 of this act and that the  
39 Commission adopt all temporary rules required by or necessary to implement this act no  
40 later than 15 February 1999.

41 (b) Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the  
42 Sedimentation Control Commission may adopt temporary rules to implement Section 11  
43 of this act until 1 July 1999. It is the intention of the General Assembly that the

1 Sedimentation Control Commission adopt any temporary rules that may be necessary to  
2 implement Section 11 of this act no later than 15 February 1999. If the Sedimentation  
3 Control Commission determines that adoption of a temporary rule is necessary to  
4 implement Section 11 of this act, the Sedimentation Control Commission shall proceed,  
5 in accordance with Article 2A of Chapter 150B of the General Statutes, with the adoption  
6 of a permanent rule to replace the temporary rule. The Sedimentation Control  
7 Commission shall require local erosion control programs approved under G.S. 113A-60  
8 to implement the requirements of G.S. 113A-61(b1), as amended by Section 11 of this  
9 act.

10 Section 13. **Department may accept donations of real property.** – The  
11 Department may accept donations of real property and interests in real property if the real  
12 property or interest in real property is a riparian buffer or will be used to restore, create,  
13 enhance, or maintain a riparian buffer that will provide protection of water quality.

14 Section 14. **Commission to establish riparian buffer maintenance and  
15 restoration goal.** – The Commission shall establish a goal for the maintenance and  
16 restoration of riparian buffers that is consistent with the thirty percent (30%) nitrogen  
17 reduction goal for the Neuse River estuary established by Chapter 572 of the 1995  
18 Session Laws (1996 Regular Session).

19 Section 15. **Report on implementation of act to the Environmental Review  
20 Commission.** – The Commission and the Department shall jointly report to the  
21 Environmental Review Commission on progress in implementing this act on or before 1  
22 December 1998 and 1 March 1999. The reports shall include any proposed legislation  
23 that the Commission or the Department recommends as necessary or desirable to achieve  
24 the purposes of this act, to improve water quality in the Neuse River or the Neuse estuary,  
25 or to better achieve the purposes of the Neuse River Nutrient Sensitive Waters (NSW)  
26 Management Strategy.

27 Section 16. **Repeal of unnecessary reporting requirement.** – Section 3 of  
28 Chapter 572 of the 1995 Session Laws (1996 Regular Session) is repealed.

29 Section 17. **Headings for convenience only.** – The headings to the sections of  
30 this act are a convenience to the reader and are for reference only. The headings do not  
31 expand, limit, or define the text of this act.

32 Section 18. **Severability provision.** – If any section or provision of this act is  
33 declared unconstitutional or invalid by the courts, the unconstitutional or invalid section  
34 or provision does not affect the validity of this act as a whole or any part of this act other  
35 than the part declared to be unconstitutional or invalid.

36 Section 19. **Effective date of act.** – This act is effective when it becomes law.