

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 229
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/3/11
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Short Title: Amend Environmental Laws 2012.

(Public)

Sponsors:

Referred to:

March 8, 2011

A BILL TO BE ENTITLED

1 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
2 LAWS TO (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL
3 RESOURCES TO REPORT ON THE INTEGRATION OF STORMWATER CAPTURE
4 AND REUSE INTO STORMWATER REGULATORY PROGRAMS; (2) DIRECT THE
5 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE
6 ADVISABILITY AND FEASIBILITY OF REALLOCATING WATER SUPPLY IN
7 JOHN H. KERR RESERVOIR FROM HYDROPOWER STORAGE TO WATER
8 SUPPLY STORAGE; (2A) AMEND EXEMPTION OF CERTAIN TRANSFERS OF
9 WATER IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA FROM
10 INTERBASIN TRANSFER CERTIFICATION REQUIREMENTS; (3) DIRECT THE
11 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY AND
12 EVALUATE DEGRADABLE PLASTIC PRODUCTS AND THEIR POTENTIAL TO
13 CONTAMINATE RECYCLED PLASTIC FEEDSTOCKS; (4) DIRECT THE DIVISION
14 OF PUBLIC HEALTH IN THE DEPARTMENT OF HEALTH AND HUMAN
15 SERVICES TO REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF
16 THE LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR
17 RENOVATION, REPAIR, AND PAINTING; (5) CLARIFY THAT THE DIVISION OF
18 WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL
19 RESOURCES SHALL NOT REQUIRE A WATER QUALITY PERMIT FOR A TYPE I
20 SOLID WASTE COMPOST FACILITY; (6) DIRECT THE DEPARTMENT OF
21 ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT ALTERNATIVE
22 MEASURES FOR STORMWATER CONTROL OTHER THAN PONDS THAT MEET
23 CERTAIN CRITERIA AT AIRPORTS; (7) PROVIDE CONDITIONS TO ALLOW FOR
24 TWO NONCONTIGUOUS PROPERTIES TO BE TREATED AS A SINGLE
25 CONTIGUOUS PROPERTY FOR PURPOSES OF COMPLIANCE WITH LOCAL
26 WATER SUPPLY WATERSHED PROGRAMS; (8) AMEND THE NEUSE AND
27 TAR-PAMLICO RIVER BASIN BUFFER RULES TO PROVIDE THAT IT IS
28 PERMISSIBLE TO DEVELOP AN EXISTING LOT LOCATED ADJACENT TO
29 SURFACE WATERS UNDER CERTAIN CONDITIONS; (8A) PROHIBIT
30 TREATMENT OF LAND WITHIN RIPARIAN BUFFERS AS LAND OF THE STATE
31 OR ITS SUBDIVISIONS; (9) PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF
32 BASINWIDE WATER QUALITY MANAGEMENT PLANS FOR RIVER BASINS
33 THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE; (10) AMEND
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1 THE DEFINITION OF COMMUNITY WATER SYSTEM; (11) ESTABLISH A
2 VARIANCE PROCESS FOR CERTAIN SETBACK REQUIREMENTS FOR EXISTING
3 PRIVATE DRINKING WATER WELLS; (12) REPEAL THE AUTHORITY OF THE
4 ENVIRONMENTAL MANAGEMENT COMMISSION TO ADD COUNTIES TO THE
5 MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM; (13) ALLOW THE
6 COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK
7 CLEANUP FUND TO BE USED FOR THE REMOVAL OF ABANDONED
8 UNDERGROUND STORAGE TANKS THAT HAVE NOT LEAKED BUT POSE AN
9 IMMINENT HAZARD; (14) ESTABLISH A MINIMUM OCEAN HAZARD SETBACK
10 OF SIXTY FEET OR THIRTY TIMES THE SHORELINE EROSION RATE,
11 WHICHEVER IS GREATER, FOR DEVELOPMENT PERMITS TO REPLACE
12 CERTAIN RESIDENTIAL DWELLINGS; (15) REQUIRE SCRAP TIRE COLLECTORS
13 TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE
14 CONTRACTING WITH ANY SCRAP TIRE PROCESSOR; (16) REQUIRE SEPTAGE
15 MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION OF AND NOTICE TO THE
16 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES BEFORE
17 PLACING A PUMPER TRUCK NOT PREVIOUSLY INCLUDED IN A PERMIT INTO
18 SERVICE; (17) AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND
19 NATURAL RESOURCES REPORTING REQUIREMENTS; (18) EXTEND THE
20 DURATION OF PERMITS FOR SANITARY LANDFILLS AND TRANSFER
21 STATIONS; (19) AMEND THE MARINE FISHERIES COMMISSION ADVISORY
22 COMMITTEES; (20) PROVIDE THAT A SUPERMAJORITY OF THE MARINE
23 FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION
24 OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR
25 REBUILDING OF FISH STOCKS; (21) PROVIDE CERTAIN PROTECTIONS TO
26 GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND
27 CONSERVATION ACT; (22) INCREASE THE CIVIL PENALTY FOR VIOLATIONS
28 OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION; (23)
29 PROVIDE THAT FUNDS RECEIVED IN SETTLEMENT OF THE LAWSUIT FILED
30 BY THE STATE AGAINST THE TENNESSEE VALLEY AUTHORITY BE USED
31 EXCLUSIVELY IN CERTAIN COUNTIES; AND (24) MAKE TECHNICAL AND
32 CONFORMING CHANGES TO ENVIRONMENTAL AND NATURAL RESOURCES
33 LAWS.

34 The General Assembly of North Carolina enacts:

35 36 **PART I. REPORT ON STORMWATER CAPTURE AND REUSE**

37 **SECTION 1.** G.S. 143-214.7(e) reads as rewritten:

38 "(e) ~~The Commission shall annually~~ On or before October 1 of each year, the
39 Commission shall report to the Environmental Review Commission on the implementation of
40 this section, including the status of any stormwater control programs administered by State
41 agencies and units of local ~~government,~~ government. The status report ~~on~~ shall include
42 information on any integration of stormwater capture and reuse into stormwater control
43 programs administered by State agencies and units of local government. ~~or before 1 October of~~
44 ~~each year."~~

45 46 **PART II. STUDY REALLOCATION OF WATER SUPPLY IN KERR LAKE**

47 **SECTION 2.(a)** The Department of Environment and Natural Resources shall
48 study the advisability and feasibility of reallocating water supply in John H. Kerr Reservoir
49 from hydropower storage to water supply storage. The study shall identify the projected future
50 water supply needs that could be met by reallocation of the water supply and identify any
51 potential impacts of a water supply reallocation. In conducting this study, the Department may:

- 1 (1) In consultation with the Virginia Department of Environmental Quality,
2 develop a Roanoke River Basin Water Supply plan that identifies future
3 water supply needs in both the North Carolina and Virginia portions of the
4 river basin. The water supply plan may provide the basis for determining
5 water supply needs that could be met by reallocation of the water supply in
6 John H. Kerr Reservoir.
- 7 (2) Include a recommendation for an agreement between the State of North
8 Carolina, the Commonwealth of Virginia, and the United States Army Corps
9 of Engineers that will provide guidance for allocations and reallocations of
10 water supply in John H. Kerr Reservoir to enhance the public health, safety,
11 and welfare by fostering efficient and sustainable use of the water that meets
12 economic, environmental, and other goals.
- 13 (3) Identify and review any other issues the Department considers relevant to
14 the topic.

15 **SECTION 2.(b)** In conducting this study, the Department shall consult with the
16 Virginia Department of Environmental Quality, the United States Army Corps of Engineers,
17 and any local government or other entity that receives an allocation from the John H. Kerr
18 Reservoir for water supply or for other purposes as of the effective date of this section. The
19 Department shall report its findings and recommendations to the Environmental Review
20 Commission on or before June 1, 2014.

21
22 **PART IIA. AMEND EXEMPTION OF CERTAIN TRANSFERS OF WATER IN THE**
23 **CENTRAL COASTAL PLAIN CAPACITY USE AREA FROM INTERBASIN**
24 **TRANSFER CERTIFICATION REQUIREMENTS**

25 **SECTION 2.1.** Section 1 of S.L. 2011-298 reads as rewritten:

26 "SECTION 1. Notwithstanding G.S. 143-215.22L, a certificate issued pursuant to
27 G.S. 143-215.22L, or G.S. 143-215.22I is not required for a transfer of water from one river
28 basin to another river basin to supplement groundwater supplies in the 15 counties designated
29 as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501."

30 **SECTION 2.2.** Section 4(b) of S.L. 2011-298 reads as rewritten:

31 "SECTION 4.(b) Section 1 of this act shall expire if the cumulative volume of water
32 transfers not regulated under a certificate from one river basin to another river basin to
33 supplement groundwater supplies in the 15 counties designated as the Central Coastal Plain
34 Capacity Use Area under 15A NCAC 2E .0501 initiated on or after August 31, 2007, ~~by any~~
35 ~~person that does not hold a certificate for an interbasin transfer on or before the effective date~~
36 ~~of this act, exceeds 8,000,000~~ exceeds 20,300,000 gallons per day."

37
38 **PART III. STUDY DEGRADABLE PLASTIC PRODUCTS**

39 **SECTION 3.(a)** The Department of Environment and Natural Resources shall
40 study and evaluate degradable plastic products and their potential to contaminate recycled
41 plastic feedstocks. As part of its study, the Department shall develop and recommend standards
42 for degradable plastic products, including labeling requirements and educational and outreach
43 programs, to prevent contamination of recycled plastic feedstocks.

44 **SECTION 3.(b)** The Department of Environment and Natural Resources shall
45 report its findings and recommendations developed pursuant to this section to the
46 Environmental Review Commission on or before January 15, 2013.

47
48 **PART IV. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO**
49 **REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE**
50 **LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION,**
51 **REPAIR, AND PAINTING**

1 **SECTION 4.(a)** On or before October 1, 2012, the Division of Public Health in the
2 Department of Health and Human Services shall hire staff to administer and implement the
3 Lead-Based Paint Hazard Management Program for Renovation, Repair, and Painting
4 (Program).

5 **SECTION 4.(b)** The Division of Public Health in the Department of Health and
6 Human Services shall conduct an analysis on the administration and implementation of the
7 Program. By January 31, 2013, the Division shall report its findings to the House of
8 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
9 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.
10 The report on the Program shall include all of the following:

- 11 (1) Historical expenditures, collection, and revenues, each by category.
- 12 (2) The amount of the running balance carried forward each year.
- 13 (3) Staff classifications, job descriptions, and dates of hire.
- 14 (4) Workload activities and performance standards.
- 15 (5) Number of site visits and inspections conducted annually.
- 16 (6) Number and description of projects authorized under the Program.
- 17 (7) Number of complaints received, methods by which complaints are
18 responded to, and the turnaround time required to respond to complaints.
- 19 (8) Number and description of revocations, suspensions, or denials of
20 certification.
- 21 (9) Description of the educational materials and training activities provided.
- 22 (10) Description of outreach activities and the amount of staff time spent on
23 outreach activities.
- 24 (11) Description of compliance assistance provided.

25 26 **PART V. CLARIFY THAT TYPE 1 SOLID WASTE COMPOST FACILITIES DO NOT** 27 **REQUIRE WATER QUALITY PERMITS**

28 **SECTION 5.** G.S. 143-214.7A reads as rewritten:

29 **"§ 143-214.7A. Stormwater control best management practices.**

30 (a) The Department of Environment and Natural Resources shall establish standard
31 stormwater control best management practices and standard process water treatment processes
32 or equivalent performance standards for composting operations that are required to be
33 permitted by the Division of Water Quality in the Department and the Division of Waste
34 Management in the Department. These practices, processes, and standards shall be developed
35 for the purpose of protecting water quality by controlling and containing stormwater that is
36 associated with composting operations, by reducing the pollutant levels of process water from
37 composting operations, and by reducing the opportunities for generation of such waters.

38 (b) ~~The Division of Water Quality shall clarify that For solid waste compost facilities,~~
39 ~~except for Type 1 solid waste compost facilities, (i) stormwater is water that does not contact~~
40 ~~anything considered a feedstock, feedstock or an intermediate product, or final product of~~
41 ~~composting operations. The Division of Water Quality shall clarify that operations, (ii) and~~
42 ~~wastewater is leachate and water that contacts feedstocks, feedstocks or intermediate products,~~
43 ~~or final product, products of composting operations. The clarifications Division of Water~~
44 Quality shall incorporate available scientifically valid information obtained from sampling and
45 analyses of North Carolina composting facilities and from valid representative data from other
46 states, states in the development of rules and permits necessary to implement this section. In
47 addition, the Division of Water Quality shall establish threshold quantities of
48 ~~feedstocks, feedstocks and intermediate products, and final products~~ above which water quality
49 permitting will be required. For purposes of this section, "Type 1 solid waste compost
50 facilities" are facilities that may receive yard and garden waste, silvicultural waste, untreated
51 and unpainted wood waste, or any combination thereof. ~~The Division of Water Quality shall~~

1 not require water quality permitting for any Type I solid waste compost facility, unless required
2 to do so by federal law.

3 (b1) The Division of Water Quality shall require water quality permits for any Type 1
4 solid waste compost facility only if the facility is required to be permitted pursuant to federal
5 law. For Type 1 solid waste compost facilities, stormwater includes any water which, during
6 manufacturing or processing, comes into direct contact with or results from the production or
7 use of any raw material, intermediate product, finished product, by-product, or waste product.
8 Type 1 solid waste compost facilities shall obtain a National Pollutant Discharge Elimination
9 System (NPDES) permit for stormwater discharges if the Commission or the Regional
10 Administrator of the United States Environmental Protection Agency determines (i) that
11 controls are needed for the discharge of stormwater from a Type 1 solid waste compost facility
12 based on waste load allocations developed to address pollutants of concern pursuant to section
13 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), for waters that are subject to a
14 total maximum daily load (TMDL); or (ii) that the discharge, or categories of discharges within
15 a geographic area, contributes to a violation of a water quality standard or is a significant
16 contributor of pollutants to surface waters. If controls for stormwater discharges from Type 1
17 solid waste compost facilities are required, the control measures shall be limited to best
18 management practices to reduce the discharge of pollutants to the maximum extent practicable
19 pursuant to 33 U.S.C. § 1342(p)(3)(B)(iii). For purposes of the stormwater NPDES permitting
20 program, a Type 1 solid waste compost facility is not an industrial or commercial activity.

21 (c) The Department shall establish revised water quality permitting procedures for the
22 composting industry. Except as otherwise provided in this section, ~~The~~ the revised permitting
23 procedures shall identify the various circumstances that determine which water quality permit
24 is required for various composting activities. The Department shall determine whether selected
25 low-risk subsets of the composting industry may be suitable for expedited or reduced water
26 quality permitting procedures. The determination shall include consideration of the economic
27 impact of regulatory decisions.

28 (d) In developing the practices, processes, and standards and the revised water quality
29 permitting procedures required by this section, the Department shall review practices,
30 processes, and standards and permitting procedures adopted by other states and similar federal
31 programs.

32 (e) The Department shall form a Compost Operation Stakeholder Advisory Group
33 composed of representatives from the North Carolina Chapter of the United States Composting
34 Council, the North Carolina Association of County Commissioners, the North Carolina League
35 of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina
36 Chapter of the American Water Works Association-Water Environment Federation, the North
37 Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North
38 America, the North Carolina Septic Tank Association, and any individual or group commenting
39 to the Department on issues related to water quality at composting operations. The Compost
40 Operation Stakeholder Advisory Group shall be convened periodically to provide input and
41 assistance to the Department.

42 (f) The practices, processes, and standards and the revised permitting procedures shall
43 address the site size of an operation, the nature of the feedstocks composted, the type of
44 compost production method employed, the quantity and water quality of the stormwater or
45 process water associated with composting facilities, the water quality of the receiving waters,
46 as well as operation and maintenance requirements for the resulting standard stormwater
47 control best management practices and standard process water treatment processes."

48
49 **PART VI. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
50 **RESOURCES TO ACCEPT ALTERNATIVE MEASURES OF STORMWATER**
51 **CONTROL AT PUBLIC AIRPORTS**

1 **SECTION 6.** G.S. 143-214.7 is amended by adding two new subsections to read:

2 "(c3) In accordance with the Federal Aviation Administration August 28, 2007 Advisory
3 Circular No. 150/5200-33B (Hazardous Wildlife Attractants On or Near Airports), the
4 Department shall not require the use of stormwater retention ponds, stormwater detention
5 ponds, or any other stormwater control measure that promotes standing water in order to
6 comply with this section at public airports that support commercial air carriers or general
7 aviation services. Development projects located within five statute miles from the farthest edge
8 of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011
9 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds,
10 or any other stormwater control measure that promotes standing water in order to comply with
11 this section. Existing stormwater retention ponds, stormwater detention ponds, or any other
12 stormwater control measure that promotes standing water in order to comply with this section
13 located at public airports or that are within five statute miles from the farthest edge of an airport
14 operations area may be replaced with alternative measures included in the Division of Water
15 Quality's Best Management Practice Manual chapter on airports. In order to be approved by the
16 Department, alternative measures or management designs that are not expressly included in the
17 Division of Water Quality's Best Management Practice Manual shall provide for equal or better
18 stormwater control based on the pre- and post-development hydrograph. Any replacement of
19 existing stormwater retention ponds, stormwater detention ponds, or any other stormwater
20 control measure that promotes standing water shall be considered a minor modification to the
21 State general stormwater permit.

22 "(c4) The Department shall deem runways, taxiways, and any other areas that provide for
23 overland stormwater flow that promote infiltration and treatment of stormwater into grassed
24 buffers, shoulders, and grass swales permitted pursuant to the State post-construction
25 stormwater requirements."

26
27 **PART VII. PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS**
28 **PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR**
29 **PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED**
30 **PROGRAMS**

31 **SECTION 7.** G.S. 143-214.5 is amended by adding a new subsection to read:

32 "(d2) A local government implementing a water supply watershed program shall allow an
33 applicant to average development density on up to two noncontiguous properties for purposes
34 of achieving compliance with the water supply watershed development standards if all of the
35 following circumstances exist:

- 36 (1) The properties are within the same water supply watershed. If one of the
37 properties is located in the critical area of the watershed, the critical area
38 property shall not be developed beyond the applicable density requirements
39 for its classification.
40 (2) Overall project density meets applicable density or stormwater control
41 requirements under 15A NCAC 2B .0200.
42 (3) Vegetated buffers on both properties meet the minimum statewide water
43 supply watershed protection requirements.
44 (4) Built upon areas are designed and located to minimize stormwater runoff
45 impact to the receiving waters, minimize concentrated stormwater flow,
46 maximize the use of sheet flow through vegetated areas, and maximize the
47 flow length through vegetated areas.
48 (5) Areas of concentrated density development are located in upland areas and,
49 to the maximum extent practicable, away from surface waters and
50 drainageways.

- 1 (6) The property or portions of the properties that are not being developed will
 2 remain in a vegetated or natural state and will be managed by a homeowners'
 3 association as common area, conveyed to a local government as a park or
 4 greenway, or placed under a permanent conservation or farmland
 5 preservation easement unless it can be demonstrated that the local
 6 government can ensure long-term compliance through deed restrictions and
 7 an electronic permitting mechanism. A metes and bounds description of the
 8 areas to remain vegetated and limits on use shall be recorded on the
 9 subdivision plat, in homeowners' covenants, and on individual deed and shall
 10 be irrevocable.
- 11 (7) Development permitted under density averaging and meeting applicable low
 12 density requirements shall transport stormwater runoff by vegetated
 13 conveyances to the maximum extent practicable.
- 14 (8) A special use permit or other such permit or certificate shall be obtained
 15 from the local Watershed Review Board or Board of Adjustment to ensure
 16 that both properties considered together meet the standards of the watershed
 17 ordinance and that potential owners have record of how the watershed
 18 regulations were applied to the properties."

19
 20 **PART VIII. AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER**
 21 **RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER CERTAIN**
 22 **CONDITIONS**

23 **SECTION 8.** Section 17(c) of S.L. 2011-394 reads as rewritten:

24 "**SECTION 17.(c) Implementation.** – The riparian buffer requirements of the Neuse River
 25 Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule shall apply
 26 to development of an existing lot located adjacent to surface waters in the ~~coastal area~~Neuse
 27 and Tar-Pamlico River basins as provided in this section. Where application of the riparian
 28 buffer requirements would preclude construction of a single-family residence and necessary
 29 infrastructure, such as an on-site wastewater system, the single-family residence may encroach
 30 on the buffer if all of the following conditions are met:

- 31 (1) The residence is set back the maximum feasible distance from the normal
 32 high-water level or normal water level, whichever is applicable, on the
 33 existing lot and designed to minimize encroachment into the riparian buffer.
- 34 (2) The residence is set back a minimum of 30 feet landward of the normal
 35 high-water level or normal water level, whichever is applicable.
- 36 (3) Stormwater generated by new impervious surface within the riparian buffer
 37 is treated and diffuse flow of stormwater is maintained through the buffer.
- 38 (4) If the residence will be served by an on-site wastewater system, no part of
 39 the septic tank or drainfield may encroach into the riparian buffer."
 40

41 **PART VIIIA. PROHIBIT TREATMENT OF LAND WITHIN RIPARIAN BUFFERS**
 42 **AS LAND OF THE STATE OR ITS SUBDIVISIONS**

43 **SECTION 8.1** G.S. 143-214.23 is amended by adding a new subsection to read:

44 "**§ 143-214.23. Riparian Buffer Protection Program: Delegation of riparian buffer**
 45 **protection requirements to local governments.**

46 ...

47 (e1) Units of local government shall not treat the land within a riparian buffer as if the
 48 land is the property of the State or any of its subdivisions unless the land or an interest therein
 49 has been acquired by the State or its subdivisions by a conveyance or by eminent domain.

50 "
 51

1 **PART IX. PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE**
2 **WATER QUALITY MANAGEMENT PLANS THAT HAVE WATERS DESIGNATED**
3 **AS NUTRIENT SENSITIVE**

4 **SECTION 9.(a)** G.S. 143-215.1(c6) reads as rewritten:

5 "(c6) For surface waters that the Commission classifies as nutrient sensitive waters
6 (NSW) on or after 1 July 1997, the Commission shall establish a date by which facilities that
7 were placed into operation prior to the date on which the surface waters are classified NSW or
8 for which an authorization to construct was issued prior to the date on which the surface waters
9 are classified NSW must comply with subsections (c1) and (c2) of this section. The
10 Commission shall establish the compliance ~~date~~ schedule at the time of the classification. ~~The~~
11 ~~Commission shall not establish a compliance date that is more than five years after the date of~~
12 ~~the classification. The Commission may extend the compliance date as provided in~~
13 ~~G.S. 143-215.1B. A request to extend a compliance date shall be submitted within 120 days of~~
14 ~~the date on which the Commission reclassifies a surface water body as NSW."~~

15 **SECTION 9.(b)** G.S. 143-215.8B reads as rewritten:

16 **"§ 143-215.8B. Basinwide water quality management plans.**

17 (a) The Commission shall develop and implement a basinwide water quality
18 management plan for each of the 17 major river basins in the State. In developing and
19 implementing each plan, the Commission shall consider the cumulative impacts of all of the
20 following:

21 (1) All activities across a river basin and all point sources and nonpoint sources
22 of pollutants, including municipal wastewater facilities, industrial
23 wastewater systems, septic tank systems, stormwater management systems,
24 golf courses, farms that use fertilizers and pesticides for crops, public and
25 commercial lawns and gardens, atmospheric deposition, and animal
26 operations.

27 (2) All transfers into and from a river basin that are required to be registered
28 under G.S. 143-215.22H.

29 (b) Each basinwide water quality management plan shall:

30 (1) Provide that all point sources and nonpoint sources of pollutants jointly
31 share the responsibility of reducing the pollutants in the State's waters in a
32 fair, reasonable, and proportionate manner, using computer modeling and the
33 best science and technology reasonably available and considering future
34 anticipated population growth and economic development.

35 (2) If any of the waters located within the river basin are designated as nutrient
36 sensitive waters, then the basinwide water quality management plan shall
37 establish a goal to reduce the average annual mass load of nutrients that are
38 delivered to surface waters within the river basin from point and nonpoint
39 sources. The Commission shall establish a nutrient reduction goal for the
40 nutrient or nutrients of concern that will result in improvements to water
41 quality such that the designated uses of the water, as provided in the
42 classification of the water under G.S. 143-214.1(d), are not impaired. The
43 plan shall require ~~that~~ incremental progress toward achieving the ~~goal~~ ~~be~~
44 ~~demonstrated each year. The Commission shall develop a five-year plan to~~
45 ~~achieve the goal.~~ In developing the plan, the Commission shall determine
46 and allow appropriate credit toward achieving the goal for reductions of
47 water pollution by point and nonpoint sources through voluntary measures.

48 (c) The Commission shall review and revise its 17 basinwide water quality
49 management plans at least every ~~five~~ 10 years to reflect changes in water quality,
50 improvements in modeling methods, improvements in wastewater treatment technology, and

1 advances in scientific knowledge and, as need to support designated uses of water,
2 modifications to management strategies.

3 (d) The Commission and the Department shall each report on or before 1 October of
4 each year on an annual basis to the Environmental Review Commission on the progress in
5 developing and implementing basinwide water quality management plans and on increasing
6 public involvement and public education in connection with basinwide water quality
7 management planning. The report to the Environmental Review Commission by the
8 Department shall include a written statement as to all concentrations of heavy metals and other
9 pollutants in the surface waters of the State that are identified in the course of preparing or
10 revising the basinwide water quality management plans.

11 (e) A basinwide water quality management plan is not a rule and Article 2A of Chapter
12 150B of the General Statutes does not apply to the development of basinwide water quality
13 management plans. Any water quality standard or classification and any requirement or
14 limitation of general applicability that implements a basinwide water quality management plan
15 is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General
16 Statutes."

17 18 **PART X. AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM**

19 **SECTION 10.** G.S. 130A-313(10) reads as rewritten:

20 "(10) "Public water system" means a system for the provision to the public of
21 water for human consumption through pipes or other constructed
22 conveyances if the system serves 15 or more service connections or which
23 regularly serves 25 or more individuals. The term includes:

- 24 a. Any collection, treatment, storage or distribution facility under
25 control of the operator of the system and used primarily in
26 connection with the system; and
27 b. Any collection or pretreatment storage facility not under the control
28 of the operator of the system that is used primarily in connection with
29 the system.

30 A public water system is either a "community water system" or a
31 "noncommunity water system" as follows:

- 32 a. "Community water system" means a public water system ~~that serves~~
33 ~~15 or more service connections or that that serves at least 15 service~~
34 connections used by year-round residents or regularly serves at least
35 25 year-round residents.
36 b. "Noncommunity water system" means a public water system that is
37 not a community water system.

38 A connection to a system that delivers water by a constructed conveyance
39 other than a pipe is not a connection within the meaning of this subdivision
40 under any one of the following circumstances:

- 41 a. The water is used exclusively for purposes other than residential
42 uses. As used in this subdivision, "residential uses" mean drinking,
43 bathing, cooking, or other similar uses.
44 b. The Department determines that alternative water to achieve the
45 equivalent level of public health protection pursuant to applicable
46 drinking water rules is provided for residential uses.
47 c. The Department determines that the water provided for residential
48 uses is centrally treated or treated at the point of entry by the
49 provider, a pass-through entity, or the user to achieve the equivalent
50 level of protection provided by the applicable drinking water rules."
51

1 **PART XI. ESTABLISH A VARIANCE PROCESS FOR SETBACK DISTANCES FROM**
2 **EXISTING PRIVATE DRINKING WATER WELLS**

3 **SECTION 11.(a)** Variance from Setbacks for Existing Private Drinking Water
4 Wells. –

- 5 (1) The Department of Health and Human Services may grant a variance from
6 the minimum horizontal separation distances from existing private drinking
7 water wells set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C
8 .0107(a)(3) upon finding that:
9 a. The well was constructed and completed on or before July 1, 2008.
10 b. The Department determines that continued use of the well will not
11 endanger human health and welfare or groundwater.
12 c. It is impracticable, taking into consideration feasibility and cost, for
13 the well to comply with the minimum horizontal separation distance
14 set out in the applicable sub-subpart of 15 NCAC 02C .0107(a)(2)
15 and 15A NCAC 02C .0107(a)(3).
16 d. There is no reasonable alternative source of drinking water available.
17 (2) A variance from the minimum horizontal separation distances set out in 15A
18 NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) shall require that the
19 existing private drinking water well meet the following requirements:
20 a. The well shall comply with the minimum horizontal separation
21 distances set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C
22 .0107(a)(3) to the maximum extent practicable.
23 b. The well is inspected by the Department or the applicable local
24 health department and is determined to be in good repair.
25 c. The well shall comply with all other requirements for private
26 drinking water wells set out in 15A NCAC 02C .0300.

27 **SECTION 11.(b)** Rule Making. – The Commission for Public Health shall adopt
28 rules that are substantively identical to the provisions of subsection (a) of this section. The
29 Commission may reorganize or renumber any of the rules to which this section applies at its
30 discretion. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through
31 G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in
32 G.S. 150B-21.3(b1) as though 10 or more written objections had been received, as provided by
33 G.S. 150B-21.3(b2).

34 **SECTION 11.(c)** Effective Date. – Subsection (a) of this section expires when
35 permanent rules to replace subsection (a) of this section have become effective, as provided by
36 subsection (b) of this section.
37

38 **PART XII. REPEAL ENVIRONMENTAL MANAGEMENT COMMISSION**
39 **AUTHORITY TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS**
40 **INSPECTION PROGRAM**

41 **SECTION 12.(a)** G.S. 143-215.107A(d) is repealed.

42 **SECTION 12.(b)** G.S. 20-183.2(c) reads as rewritten:

43 "(c) Definitions. – The following definitions apply in this Part:

- 44 (1) Electronic inspection authorization. – An inspection authorization that is
45 generated electronically through the electronic accounting system that
46 creates a unique nonduplicating authorization number assigned to the
47 vehicle's inspection receipt upon successful passage of an inspection. The
48 term "electronic inspection authorization" shall include the term "inspection
49 sticker" during the transition period to use of electronic inspection
50 authorizations.

- 1 (2) Emissions county. – A county listed in G.S. 143-215.107A(c) ~~or designated~~
 2 ~~by the Environmental Management Commission pursuant to~~
 3 ~~G.S. 143-215.107A(d)~~ and certified to the Commissioner of Motor Vehicles
 4 as a county in which the implementation of a motor vehicle emissions
 5 inspection program will improve ambient air quality.
- 6 (3) Federal installation. – An installation that is owned by, leased to, or
 7 otherwise regularly used as the place of business of a federal agency."
 8

9 **PART XIII. ALLOW THE COMMERCIAL LEAKING PETROLEUM**
 10 **UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE**
 11 **REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE**
 12 **NOT LEAKED BUT POSE AN IMMINENT HAZARD**

13 **SECTION 13.(a)** G.S. 143-215.94B is amended by adding a new subsection to
 14 read:

15 "(b5) The Commercial Fund may be used by the Department for the payment of costs
 16 necessary to render harmless any commercial underground storage tank from which a discharge
 17 or release has not occurred but which poses an imminent hazard to the environment if the
 18 owner or operator cannot be identified or located, or if the owner or operator fails to take action
 19 to render harmless the underground storage tank within 90 days of having been notified of the
 20 imminent hazard posed by the underground storage tank. The Secretary shall seek to recover
 21 the costs of the action from any owner or operator as provided in G.S. 143-215.94G."

22 **SECTION 13.(b)** G.S. 143-215.94D(b2) reads as rewritten:

23 "(b2) The Noncommercial Fund may be used by the Department for the payment of costs
 24 necessary to render harmless any ~~commercial or noncommercial~~ underground storage tank
 25 from which a discharge or release has not occurred but which poses an imminent hazard to the
 26 environment if the owner or operator cannot be identified or located, or if the owner or operator
 27 fails to take action to render harmless the underground storage tank within 90 days after having
 28 been notified of the imminent hazard posed by the underground storage tank. The Secretary
 29 ~~may shall~~ seek to recover the costs of the action from the owner or operator as provided in
 30 G.S. 143-215.94G."

31 **SECTION 13.(c)** G.S. 143-215.94G(d) is amended by adding a new subdivision to
 32 read:

33 "(d) The Secretary shall seek reimbursement through any legal means available, for:

- 34 ...
 35 (6) The amounts provided for in G.S. 143-215.94B(b5) and
 36 G.S. 143-215.94D(b2)."
 37

38 **PART XIV. ESTABLISH A MINIMUM OCEAN HAZARD SETBACK OF SIXTY**
 39 **FEET OR THIRTY TIMES THE SHORELINE EROSION RATE, WHICHEVER IS**
 40 **GREATER, FOR DEVELOPMENT PERMITS TO REPLACE CERTAIN**
 41 **RESIDENTIAL DWELLINGS**

42 **SECTION 14.(a)** Notwithstanding Article 7 of Chapter 113A of the General
 43 Statutes and rules adopted pursuant to that Article, the Coastal Resources Commission shall not
 44 deny a development permit for the replacement of a single-family or duplex residential
 45 dwelling with a total floor area greater than 5,000 square feet based on failure to meet the ocean
 46 hazard setback required under 15A NCAC 07H .0306(a)(2) if the structure meets all of the
 47 following criteria:

- 48 (1) The structure was originally constructed prior to August 11, 2009.
 49 (2) The structure as replaced does not exceed the original footprint.
 50 (3) The structure as replaced meets the minimum setback required under 15A
 51 NCAC 07H .0306(a)(2)(A).

(4) It is impossible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under 15A NCAC 07H .0306(a)(2).

(5) The structure is rebuilt as far landward on the lot as feasible.

SECTION 14.(b) No later than October 1, 2012, the Coastal Resources Commission shall adopt temporary rules consistent with the provisions of subsection (a) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (a) of this section. The temporary rule shall remain in effect until a permanent rule that replaces the temporary rule becomes effective.

PART XV. REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY SCRAP TIRE PROCESSOR

SECTION 15.(a) G.S. 130A-309.57 reads as rewritten:

"§ 130A-309.57. Scrap tire disposal program.

(a) The owner or operator of any scrap tire collection site shall, within six months after October 1, 1989, provide the Department with information concerning the site's location, size, and the approximate number of scrap tires that are accumulated at the site and shall initiate steps to comply with subsection (b) of this section.

(b) On or after July 1, 1990:

(1) A person may not maintain a scrap tire collection site or a scrap tire disposal site unless the site is permitted.

(2) It is unlawful for any person to dispose of scrap tires in the State unless the scrap tires are disposed of at a scrap tire collection site or at a tire disposal site, or disposed of for processing at a scrap tire processing facility.

(c) ~~By January 1, 1990, the~~The Commission shall adopt rules to carry out the provisions of this section. Such rules shall:

(1) Provide for the administration of scrap tire collector and collection center permits and scrap tire disposal site permits, which may not exceed two hundred fifty dollars (\$250.00) annually;

(2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire collectors; and

(3) Authorize the final disposal of scrap tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal.

(4) Provide that permitted scrap tire collectors may not contract with a scrap tire processing facility unless the processing facility documents that it has access to a facility permitted to receive scrap tires.

(d) A permit is not required for:

(1) A tire retreading business where fewer than 1,000 scrap tires are kept on the business premises;

(2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(3) A retail tire-selling business which is serving as a scrap tire collection center if fewer than 1,000 scrap tires are kept on the business premises.

(e) The Department shall encourage the voluntary establishment of scrap tire collection centers at retail tire-selling businesses, scrap tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of used and scrap tires. The Department may establish an incentives program for individuals to encourage them to return their used or scrap tires to a scrap tire collection center."

1 SECTION 15.(b) The Department of Environment and Natural Resources shall
2 initiate rule making to comply with the provisions of this section by October 1, 2012.

3
4 **PART XVI. REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE**
5 **IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT**
6 **AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT**
7 **PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE**

8 SECTION 16. G.S. 130A-291.1 is amended by adding a new subsection to read:
9 "§ 130A-291.1. Septage management program; permit fees.

10 ...

11 (h1) The annual permit application shall identify the pumper trucks to be used by the
12 septage management firm. A permitted septage management firm shall notify the Department
13 within 10 days of placing a pumper truck in service that was not previously included in a
14 permit issued to the firm and shall make the pumper truck available for inspection by the
15 Department. A septage management firm is not prohibited from use of a pumper truck that
16 meets the requirements of the rules adopted by the Commission prior to inspection by the
17 Department.

18"

19
20 **PART XVII. AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL**
21 **RESOURCES REPORTING REQUIREMENTS**

22 SECTION 17.(a) G.S. 130A-294 reads as rewritten:
23 "§ 130A-294. Solid waste management program.

24 ...

25 (i) ~~The Department shall develop a comprehensive hazardous waste management plan~~
26 ~~for the State and shall revise the plan on or before 1 July of even-numbered years.~~ The
27 Department shall report to the General Assembly, the Fiscal Research Division, the Senate
28 Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations
29 Subcommittee on Natural and Economic Resources, and the Environmental Review
30 Commission on or before 1 October/January 1 of each year on the implementation and cost of
31 the comprehensive hazardous waste management plan-program. The report shall include an
32 evaluation of how well the State and private parties are managing and cleaning up hazardous
33 waste. The report shall also include recommendations to the Governor, State agencies, and the
34 General Assembly on ways to: improve waste management; reduce the amount of waste
35 generated; maximize resource recovery, reuse, and conservation; and minimize the amount of
36 hazardous waste which must be disposed of. The report shall include beginning fund balance,
37 fees collected under G.S. 130A-294.1, anticipated revenue from all sources, total expenditures
38 by activities and categories for the hazardous waste management program, ending fund
39 balance, any recommended adjustments in annual and tonnage fees which may be necessary to
40 assure the continued availability of funds sufficient to pay the State's share of the cost of the
41 hazardous waste management program, and any other information requested by the General
42 Assembly. In recommending adjustments in annual and tonnage fees, the Department may
43 propose fees for hazardous waste generators, and for hazardous waste treatment facilities that
44 treat waste generated on site, which are designed to encourage reductions in the volume or
45 quantity and toxicity of hazardous waste. The report shall include a description of activities
46 undertaken to implement the resident inspectors program established under G.S. 130A-295.02.
47 In addition, the report shall include an annual update on the mercury switch removal program.

48 The report required by this subsection shall include, at a minimum, all of the following:

- 49 (1) A detailed description of the mercury recovery performance ratio achieved
50 by the mercury switch removal program.

- 1 (2) A detailed description of the mercury switch collection system developed
2 and implemented by vehicle manufacturers in accordance with the
3 NVMSRP.
- 4 (3) In the event that a mercury recovery performance ratio of at least 0.90 of the
5 national mercury recovery performance ratio as reported by the NVMSRP is
6 not achieved, a description of additional or alternative actions that may be
7 implemented to improve the mercury switch removal program.
- 8 (4) The number of mercury switches collected and a description of how the
9 mercury switches were managed.
- 10 (5) A statement that details the costs required to implement the mercury switch
11 removal program, including a summary of receipts and disbursements from
12 the Mercury Switch Removal Account."

13 **SECTION 17.(b)** G.S. 130A-294 reads as rewritten:

14 "**§ 130A-294. Solid waste management program.**

15 ...

16 (i) The Department shall report to the General Assembly, the Fiscal Research Division,
17 the Senate Appropriations Subcommittee on Natural and Economic Resources, the House
18 Appropriations Subcommittee on Natural and Economic Resources, and the Environmental
19 Review Commission on or before January 1 of each year on the implementation and cost of the
20 hazardous waste management program. The report shall include an evaluation of how well the
21 State and private parties are managing and cleaning up hazardous waste. The report shall also
22 include recommendations to the Governor, State agencies, and the General Assembly on ways
23 to: improve waste management; reduce the amount of waste generated; maximize resource
24 recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be
25 disposed of. The report shall include beginning fund balance, fees collected under
26 G.S. 130A-294-1, anticipated revenue from all sources, total expenditures by activities and
27 categories for the hazardous waste management program, ending fund balance, any
28 recommended adjustments in annual and tonnage fees which may be necessary to assure the
29 continued availability of funds sufficient to pay the State's share of the cost of the hazardous
30 waste management program, and any other information requested by the General Assembly. In
31 recommending adjustments in annual and tonnage fees, the Department may propose fees for
32 hazardous waste generators, and for hazardous waste treatment facilities that treat waste
33 generated on-site, which are designed to encourage reductions in the volume or quantity and
34 toxicity of hazardous waste. The report shall include a description of activities undertaken to
35 implement the resident inspectors program established under G.S. 130A-295.02. In addition,
36 the report shall include an annual update on the mercury switch removal program.

37 The report required by subsection (i) of this section shall include, at a minimum, all of the
38 following:

- 39 (1) ~~A detailed description of the mercury recovery performance ratio achieved~~
40 ~~by the mercury switch removal program.~~
- 41 (2) ~~A detailed description of the mercury switch collection system developed~~
42 ~~and implemented by vehicle manufacturers in accordance with the~~
43 ~~NVMSRP.~~
- 44 (3) ~~In the event that a mercury recovery performance ratio of at least 0.90 of the~~
45 ~~national mercury recovery performance ratio as reported by the NVMSRP is~~
46 ~~not achieved, a description of additional or alternative actions that may be~~
47 ~~implemented to improve the mercury switch removal program.~~
- 48 (4) ~~The number of mercury switches collected and a description of how the~~
49 ~~mercury switches were managed.~~

- 1 (5) ~~A statement that details the costs required to implement the mercury switch~~
 2 ~~removal program including a summary of receipts and disbursements from~~
 3 ~~the Mercury Switch Removal Account.~~
 4 (6) A detailed description and documentation of the capture rate achieved.
 5 (7) In the event that a capture rate of at least ninety percent (90%) is not
 6 achieved, a description of additional or alternative actions that may be
 7 implemented to improve the mercury minimization plan and its
 8 implementation.
 9 (8) The number of mercury switches collected, the number of end-of-life
 10 vehicles containing mercury switches, the number of end-of-life vehicles
 11 processed for recycling, and a description of how the mercury switches were
 12 managed.
 13 (9) A statement that details the costs required to implement the mercury
 14 minimization plan.

15 "

16 **SECTION 17.(c)** G.S. 130A-294.1(p) is repealed.

17 **SECTION 17.(d)** G.S. 130A-295.02(m) is repealed.

18 **SECTION 17.(e)** G.S. 130A-310.2(b) is repealed.

19 **SECTION 17.(f)** G.S. 130A-310.57 is repealed.

20 **SECTION 18.** G.S. 130A-310.10 reads as rewritten:

21 "**§ 130A-310.10. Annual reports.**

22 (a) The Secretary shall report on inactive hazardous sites to the Joint Legislative
 23 Commission on Governmental Operations, the Environmental Review Commission, and the
 24 Fiscal Research Division on or before ~~1 October~~ October 1 of each year. The report shall
 25 include at least the following:

- 26 (1) The Inactive Hazardous Waste Sites Priority List.
 27 (2) A list of remedial action plans requiring State funding through the Inactive
 28 Hazardous Sites Cleanup Fund.
 29 (3) A comprehensive budget to implement these remedial action plans and the
 30 adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of
 31 said plans.
 32 (4) A prioritized list of sites that are eligible for remedial action under
 33 CERCLA/SARA together with recommended remedial action plans and a
 34 comprehensive budget to implement such plans. The budget for
 35 implementing a remedial action plan under CERCLA/SARA shall include a
 36 statement as to any appropriation that may be necessary to pay the State's
 37 share of such plan.
 38 (5) A list of sites and remedial action plans undergoing voluntary cleanup with
 39 Departmental approval.
 40 (6) A list of sites and remedial action plans that may require State funding, a
 41 comprehensive budget if implementation of these possible remedial action
 42 plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup
 43 Fund to fund the possible costs of said plans.
 44 (7) A list of sites that pose an imminent hazard.
 45 (8) A comprehensive budget to develop and implement remedial action plans for
 46 sites that pose imminent hazards and that may require State funding, and the
 47 adequacy of the Inactive Hazardous Sites Cleanup Fund.
 48 (8a) The amounts and sources of funds collected by year received under
 49 G.S. 130A-310.76, the amounts and sources of those funds paid into the
 50 Inactive Hazardous Sites Cleanup Fund established pursuant to
 51 G.S. 130A-310.11, the number of acres of contamination for which funds

1 have been received pursuant to G.S. 130A-310.76, and a detailed annual
2 accounting of how the funds collected pursuant to G.S. 130A-310.76 have
3 been utilized by the Department to advance the purposes of Part 8 of Article
4 9 of Chapter 130A of the General Statutes.

5 (9) Any other information requested by the General Assembly or the
6 Environmental Review Commission.

7 (a1) On or before October 1 of each year, the Department shall report to each member of
8 the General Assembly who has an inactive hazardous substance or waste disposal site in the
9 member's district. This report shall include the location of each inactive hazardous substance or
10 waste disposal site in the member's district, the type and amount of hazardous substances or
11 waste known or believed to be located on each of these sites, the last action taken at each of
12 these sites, and the date of that last action.

13 (b) Repealed by Session Laws 2001-452, s. 2.3, effective October 28, 2001."

14 **SECTION 19.** G.S. 143-215.94M reads as rewritten:

15 "**§ 143-215.94M. Reports.**

16 (a) The Secretary shall present an annual report to the Environmental Review
17 ~~Commission~~ Commission, the Fiscal Research Division, the Senate Appropriations
18 Subcommittee on Natural and Economic Resources, and the House Appropriations
19 Subcommittee on Natural and Economic Resources which shall include at least the following:

- 20 (1) A list of all discharges or releases of petroleum from underground storage
21 tanks;
- 22 (2) A list of all cleanups requiring State funding through the Noncommercial
23 Fund and a comprehensive budget to complete such cleanups;
- 24 (3) A list of all cleanups undertaken by tank owners or operators and the status
25 of these cleanups;
- 26 (4) A statement of receipts and disbursements for both the Commercial Fund
27 and the Noncommercial Fund;
- 28 (5) A statement of all claims against both the Commercial Fund and the
29 Noncommercial Fund, including claims paid, claims denied, pending claims,
30 anticipated claims, and any other obligations; and
- 31 (6) The adequacy of both the Commercial Fund and the Noncommercial Fund to
32 carry out the purposes of this Part together with any recommendations as to
33 measures that may be necessary to assure the continued solvency of the
34 Commercial Fund and the Noncommercial ~~Fund~~; and Fund.
- 35 (7) ~~A statement of the condition of the Loan Fund and a summary of all activity~~
36 ~~under the Loan Fund.~~

37 (b) The report required by this section shall be made by the Secretary on or before ~~4~~
38 ~~September~~ November 1 of each year."

39 **SECTION 20.** G.S. 113A-35.1(b) is repealed.

40 **SECTION 21.** G.S. 136-28.8(g) reads as rewritten:

41 "(g) On or before October 1 of each year, the Department shall report to the Division of
42 Environmental Assistance and Outreach of the Department of Environment and Natural
43 Resources as to the amounts and types of recycled materials that were specified or used in
44 contracts that were entered into during the previous fiscal year. On or before ~~December 1~~
45 January 15 of each year, the Division of Environmental Assistance and Outreach shall prepare
46 a summary of this report and submit the summary to the Joint Legislative Commission on
47 Governmental Operations and the Joint Legislative Transportation Oversight Committee. The
48 summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

49 **SECTION 22.** G.S. 159I-29(a) reads as rewritten:

50 "(a) ~~The~~ If the General Assembly appropriates funds for loans authorized by this Chapter
51 in any fiscal year, the Office of State Budget and Management and the Division shall prepare

1 and file on or before July 31 of ~~each~~ the following fiscal year with the Joint Legislative
2 Commission on Governmental Operations a consolidated report for the preceding fiscal year
3 concerning the allocation of loans authorized by this Chapter. No report shall be filed for fiscal
4 years in which no funds are appropriated or otherwise available for loans authorized by this
5 Chapter."

6 **SECTION 23.** G.S. 143B-279.5 reads as rewritten:

7 "**§ 143B-279.5. Biennial State of the Environment Report.**

8 (a) The Secretary of Environment and Natural Resources shall report on the state of the
9 environment to the ~~General Assembly~~ Assembly, the Fiscal Research Division of the General
10 Assembly, and the Environmental Review Commission no later than 15 February of each
11 odd-numbered year. The report shall include:

- 12 (1) An identification and analysis of current environmental protection issues and
13 problems within or affecting the State and its people;
- 14 (2) Trends in the quality and use of North Carolina's air and water resources;
- 15 (3) An inventory of areas of the State where air or water pollution is in evidence
16 or may occur during the upcoming biennium;
- 17 (4) Current efforts and resources allocated by the Department to correct
18 identified pollution problems and an estimate, if necessary, of additional
19 resources needed to study, identify, and implement solutions to solve
20 potential problems;
- 21 (5) Departmental goals and strategies to protect the natural resources of the
22 State;
- 23 (6) Any information requested by the General Assembly or the Environmental
24 Review Commission;
- 25 (7) Suggested legislation, if necessary; and
- 26 (8) Any other information on the state of the environment the Secretary
27 considers appropriate.

28 (b) Other State agencies involved in protecting the State's natural resources and
29 environment shall cooperate with the Department of Environment and Natural Resources in
30 preparing this report."
31

32 **PART XVIII. AMEND DURATION OF PERMITS FOR SANITARY LANDFILLS AND** 33 **TRANSFER STATIONS**

34 **SECTION 24.** No later than July 1, 2013, the Commission for Public Health shall
35 adopt rules allowing applicants for sanitary landfills the option of applying for a permit to
36 construct and a permit to operate a phase of landfill development of up to 20 years, and to
37 apply to amend the permit to construct and the permit to operate subsequent phases of landfill
38 development of up to 20 years, with a limited review of the permits at five-year intervals after
39 issuance of the initial permits. The Commission shall also adopt rules to provide for the
40 issuance of permits with a duration of up to 20 years to construct and operate transfer stations.
41 The Department of Environment and Natural Resources shall examine the current fee schedule
42 for permits for sanitary landfills and transfer stations set forth under G.S. 130A-295.8, and
43 formulate recommendations for adjustments to the current fee schedule sufficient to address
44 any additional demands associated with review of permits issued for phases of landfill
45 development of up to 20 years and the issuance permits with a duration of up to 20 years for
46 transfer stations. The Department shall report its findings and recommendations, including any
47 legislative proposals, to the Environmental Review Commission on or before December 1,
48 2012. The rules required by this section shall not become effective until the fee schedule set
49 forth under G.S. 130A-295.8 is amended as necessary to address any additional demands
50 associated with review of permits issued for phases of landfill development of up to 20 years

1 and the issuance of permits with a duration of up to 20 years to construct and operate transfer
2 stations.

3
4 **PART XIX. AMEND THE MARINE FISHERIES COMMISSION ADVISORY**
5 **COMMITTEES**

6 **SECTION 25.(a)** G.S. 143B-289.57 reads as rewritten:

7 "**§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**
8 **members; selection; duties.**

9 ...
10 (b) The Chair of the Commission shall appoint the following standing advisory
11 committees:

12 (1) The Finfish Committee, which shall consider matters concerning finfish.

13 ~~(2) The Crustacean Committee, which shall consider matters concerning shrimp~~
14 ~~and crabs.~~

15 ~~(3) The Shellfish Committee, which shall consider matters concerning oysters,~~
16 ~~clams, scallops, and other molluscan shellfish.~~

17 (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters
18 concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and
19 crabs.

20 (4) The Habitat and Water Quality Committee, which shall consider matters
21 concerning habitat and water quality that may affect coastal fisheries
22 resources.

23 ...
24 (e) The Chair of the Commission shall appoint a ~~regional advisory committee for each~~
25 ~~of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional~~
26 ~~advisory committee for that part of the State that is not included in the three coastal regions.~~
27 Northern Regional Advisory Committee, encompassing areas from the Virginia line south
28 through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional
29 Advisory Committee, encompassing areas from Carteret County south to the South Carolina
30 line and any counties to the west. In making appointments to regional advisory committees, the
31 Chair of the Commission shall ensure that both commercial and recreational fishing interests
32 are fairly represented."

33 **SECTION 25.(b)** G.S. 113-200(e1) reads as rewritten:

34 "**§ 113-200. Fishery Resource Grant Program.**

35 ...
36 (e1) Grants Committee. – The Grants Committee shall consist of eleven members as
37 follows:

38 (1) Three employees of the Sea Grant College Program, appointed by the
39 Director of the Sea Grant College Program.

40 (2) Two employees of the Division of Marine Fisheries, appointed by the
41 Fisheries Director.

42 (3) Two members of the Marine Fisheries Commission, appointed by the Chair
43 of the Marine Fisheries Commission.

44 ~~(4) One member~~Two members of the ~~Northeast-Northern~~ Regional Advisory
45 Committee established pursuant to G.S. 143B-289.57(e), appointed by the
46 ~~Northeast-Northern~~ Regional Advisory Committee.

47 ~~(5) One member of the Central Regional Advisory Committee established~~
48 ~~pursuant to G.S. 143B-289.57(e), appointed by the Central Regional~~
49 ~~Advisory Committee.~~

1 (6) ~~One member~~Two members of the ~~Southeast-Southern~~ Regional Advisory
2 Committee established pursuant to G.S. 143B-289.57(e), appointed by the
3 ~~Southeast-Southern~~ Regional Advisory Committee.

4 (7) ~~One member of the Inland Regional Advisory Committee established~~
5 ~~pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional~~
6 ~~Advisory Committee.~~

7"

8 **SECTION 25.(c)** The terms of the members currently serving on the Crustacean,
9 Shellfish, and the four regional advisory committees (Northeast, Southeast, Central, and Inland)
10 shall expire on June 30, 2012. Effective July 1, 2012, the Chair of the Marine Fisheries
11 Advisory Commission shall appoint no more than 11 members to the Northern Regional
12 Advisory Committee and the Southern Regional Advisory Committee, established pursuant to
13 subsection (e) of G.S. 143B-289.57, as amended by this section.

14
15 **PART XX. PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES**
16 **COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE**
17 **DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR**
18 **REBUILDING OF FISH STOCKS**

19 **SECTION 26.** G.S. 143B-289.52 is amended by adding a new subsection to read:
20 "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

21 ...

22 (e1) A supermajority of the Commission shall be six members. A supermajority shall be
23 necessary to override recommendations from the Division of Marine Fisheries regarding
24 measures needed to end overfishing or to rebuild overfished stocks."

25
26 **PART XXI. PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS**
27 **FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT**

28 **SECTION 27.** G.S. 106-202.19(a) reads as rewritten:

29 "(a) Unless the conduct is covered under some other provision of law providing greater
30 punishment, it is ~~unlawful~~unlawful to engage in any of the following conduct:

31 (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the
32 lands of another, any plant on a protected plant list without a written permit
33 from the owner which is dated and valid for no more than 180 days and
34 which indicates the species or higher taxon of plants for which permission is
35 granted; except that the incidental disturbance of protected plants during
36 agricultural, forestry or development operations is not illegal so long as the
37 plants are not collected for sale or commercial ~~use~~use.

38 (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange
39 or export or give away for any purpose including advertising or other
40 promotional purpose any plant on a protected plant list, except as authorized
41 according to the rules and regulations of the ~~Board~~Board.

42 (3) To violate any rule of the Board promulgated under this ~~Article~~Article.

43 (4) ~~To dig ginseng on another person's land, except for the purpose of~~
44 ~~replanting, between the first day of April and the first day of September;~~

45 (5) To buy ginseng outside of a buying season as provided by the Board without
46 obtaining the required documents from the person selling the
47 ~~ginseng~~ginseng.

48 (6) To buy ginseng for the purpose of resale or trade without holding a currently
49 valid permit as a ginseng ~~dealer~~dealer.

50 (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from
51 another person's land ginseng, galax, or Venus flytrap without a written

1 permit from the owner that is dated and valid for no more than 180 days. A
 2 person in lawful possession of the land who has a recorded lease which
 3 allows for the disturbance or removal of any vegetation on the land is not
 4 subject to this subdivision.

5 (6b) To buy galax outside of a buying season as provided by the Board without
 6 obtaining the required documents from the person selling the galax.

7 (6c) To buy Venus flytrap outside of a buying season as provided by the Board
 8 without obtaining the required documents from the person selling the Venus
 9 flytrap.

10 (6d) To buy more than five pounds of galax for the purpose of resale or trade
 11 without a copy of the landowner's written permission and confirmation of
 12 the collection date.

13 (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade
 14 unless fully compliant with applicable regulations.

15 (7) To fail to keep records as required under this Article, to refuse to make
 16 records available for inspection by the Board or its agent, or to use forms
 17 other than those provided for the current year or harvest season by the
 18 Department of Agriculture and Consumer ~~Services;~~Services.

19 (8) To provide false information on any record or form required under this
 20 ~~Article;~~Article.

21 (9) To make false statements or provide false information in connection with
 22 any investigation conducted under this ~~Article;~~Article.

23 (10) To possess any protected plant, or part thereof, which was obtained in
 24 violation of this Article or any rule adopted ~~hereunder;~~ under this Article.

25 (11) To violate a stop sale order issued by the Board or its agent."
 26

27 **PART XXII. INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN** 28 **RULES OF THE WILDLIFE RESOURCES COMMISSION**

29 **SECTION 28.** G.S. 113-135.1(a) reads as rewritten:

30 "(a) To prevent unsuspecting members of the public from being subject to harsh criminal
 31 penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for
 32 an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to
 33 a fine of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) except as follows:

34 (1) Offenses set out in subsection (b) of this section are punishable as set forth
 35 in G.S. 113-135 or other sections of the General Statutes.

36 (2) A person who parks a vehicle in violation of a rule regulating the parking of
 37 vehicles at boating access or boating launch areas is responsible for an
 38 infraction and shall pay a fine of fifty dollars (\$50.00)."
 39

40 **PART XXIII. TECHNICAL AND CONFORMING CHANGES**

41 **SECTION 29.(a)** G.S. 77-92(a) reads as rewritten:

42 "(a) The Roanoke River Basin Bi-State Commission shall consist of 18 members with
 43 each state appointing nine members. The North Carolina delegation to the Commission shall
 44 consist of the six members of the General Assembly of North Carolina appointed to the North
 45 Carolina Roanoke River Basin Advisory Committee and three nonlegislative members ~~of the~~
 46 ~~North Carolina Roanoke River Basin Advisory Committee, established pursuant to~~
 47 ~~G.S. 77-103,~~ who represent different geographical areas of the North Carolina portion of the
 48 Basin and who reside within the Basin's watershed, to be appointed by the Governor of North
 49 Carolina. The Virginia delegation to the Commission shall be appointed as determined by the
 50 Commonwealth of Virginia."
 51

SECTION 29.(b) G.S. 77-93(b)(2) reads as rewritten:

1 "(2) To establish standing and ad hoc advisory committees pursuant to
2 G.S. 77-94 ~~in addition to the North Carolina Roanoke River Basin Advisory~~
3 ~~Committee established pursuant to Part 2 of this Article~~ and the Virginia
4 Roanoke River Basin Advisory Committee established pursuant to Chapter
5 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a
6 manner to ensure a balance between recognized interests. The Commission
7 shall determine the purpose of each advisory committee."
8

9 **PART XXIV. USE OF TVA SETTLEMENT FUNDS**

10 **SECTION 30.** Funds received by the State pursuant to the provisions of the
11 Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley*
12 *Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern
13 District of Tennessee shall be used exclusively to award grants for "Environmental Mitigation
14 Projects" of the types specified in paragraph 128 of the Consent Decree in the following
15 counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson,
16 Macon, Madison, McDowell, Mitchell, Transylvania, Watauga, Yancey.
17

18 **PART XXV. EFFECTIVE DATE**

19 **SECTION 31.** Section 17(b) of this act becomes effective December 31, 2017.
20 Sections 25(a) and 25(b) of this act become effective July 1, 2012. Sections 27 and 28 of this
21 act become effective October 1, 2012, and apply to violations and offenses committed on or
22 after that date. Prosecutions for offenses committed before the effective date of this act are not
23 abated or affected by this act, and the statutes that would be applicable but for this act remain
24 applicable to those prosecutions. The remainder of this act is effective when it becomes law.