

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 229

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/3/11  
House Committee Substitute Favorable 6/11/12

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; (3) DIRECT THE DEPARTMENT OF ENVIRONMENT AND  
9 NATURAL RESOURCES TO STUDY AND EVALUATE DEGRADABLE PLASTIC  
10 PRODUCTS AND THEIR POTENTIAL TO CONTAMINATE RECYCLED PLASTIC  
11 FEEDSTOCKS; (4) DIRECT THE DIVISION OF PUBLIC HEALTH IN THE  
12 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REPORT ON THE  
13 ADMINISTRATION AND IMPLEMENTATION OF THE LEAD-BASED PAINT  
14 HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR, AND  
15 PAINTING; (5) CLARIFY THAT THE DIVISION OF WATER QUALITY OF THE  
16 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL NOT  
17 REQUIRE A WATER QUALITY PERMIT FOR A TYPE I SOLID WASTE COMPOST  
18 FACILITY; (6) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
19 RESOURCES TO ACCEPT ALTERNATIVE MEASURES FOR STORMWATER  
20 CONTROL OTHER THAN PONDS THAT MEET CERTAIN CRITERIA AT  
21 AIRPORTS; (7) PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS  
22 PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR  
23 PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED  
24 PROGRAMS; (8) AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER  
25 RULES TO PROVIDE THAT IT IS PERMISSIBLE TO DEVELOP AN EXISTING LOT  
26 LOCATED ADJACENT TO SURFACE WATERS UNDER CERTAIN CONDITIONS;  
27 (9) PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE WATER  
28 QUALITY MANAGEMENT PLANS FOR RIVER BASINS THAT HAVE WATERS  
29 DESIGNATED AS NUTRIENT SENSITIVE; (10) AMEND THE DEFINITION OF  
30 COMMUNITY WATER SYSTEM; (11) ESTABLISH A VARIANCE PROCESS FOR  
31 CERTAIN SETBACK REQUIREMENTS FOR EXISTING PRIVATE DRINKING  
32 WATER WELLS; (12) REPEAL THE AUTHORITY OF THE ENVIRONMENTAL  
33 MANAGEMENT COMMISSION TO ADD COUNTIES TO THE MOTOR VEHICLE  
34 EMISSIONS INSPECTION PROGRAM; (13) ALLOW THE COMMERCIAL LEAKING  
35



1 PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED  
2 FOR THE REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT  
3 HAVE NOT LEAKED BUT POSE AN IMMINENT HAZARD; (14) ESTABLISH A  
4 MINIMUM OCEAN HAZARD SETBACK OF SIXTY FEET OR THIRTY TIMES THE  
5 SHORELINE EROSION RATE, WHICHEVER IS GREATER, FOR DEVELOPMENT  
6 PERMITS TO REPLACE CERTAIN RESIDENTIAL DWELLINGS; (15) REQUIRE  
7 SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE  
8 DISPOSAL SITE BEFORE CONTRACTING WITH ANY SCRAP TIRE PROCESSOR;  
9 (16) REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION  
10 OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
11 RESOURCES BEFORE PLACING A PUMPER TRUCK NOT PREVIOUSLY  
12 INCLUDED IN A PERMIT INTO SERVICE; (17) AMEND OR REPEAL VARIOUS  
13 ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS;  
14 (18) EXTEND THE DURATION OF PERMITS FOR SANITARY LANDFILLS AND  
15 TRANSFER STATIONS; (19) AMEND THE MARINE FISHERIES COMMISSION  
16 ADVISORY COMMITTEES; (20) PROVIDE THAT A SUPERMAJORITY OF THE  
17 MARINE FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A  
18 RECOMMENDATION OF THE DIVISION OF MARINE FISHERIES REGARDING  
19 OVERFISHING OR REBUILDING OF FISH STOCKS; (21) PROVIDE CERTAIN  
20 PROTECTIONS TO GALAX AND VENUS FLYTRAP UNDER THE PLANT  
21 PROTECTION AND CONSERVATION ACT; (22) INCREASE THE CIVIL PENALTY  
22 FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES  
23 COMMISSION; AND (23) MAKE TECHNICAL AND CONFORMING CHANGES TO  
24 ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

25 The General Assembly of North Carolina enacts:

## 26 27 **PART I. REPORT ON STORMWATER CAPTURE AND REUSE**

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

29 "(e) ~~The Commission shall annually~~ On or before October 1 of each year, the  
30 Commission shall report to the Environmental Review Commission on the implementation of  
31 this section, including the status of any stormwater control programs administered by State  
32 agencies and units of local ~~government,~~ government. The status report on ~~shall include~~  
33 information on any integration of stormwater capture and reuse into stormwater control  
34 programs administered by State agencies and units of local government. ~~or before 1 October of~~  
35 ~~each year."~~

## 36 37 **PART II. STUDY REALLOCATION OF WATER SUPPLY IN KERR LAKE**

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

- 43 (1) In consultation with the Virginia Department of Environmental Quality,  
44 develop a Roanoke River Basin Water Supply plan that identifies future  
45 water supply needs in both the North Carolina and Virginia portions of the  
46 river basin. The water supply plan may provide the basis for determining  
47 water supply needs that could be met by reallocation of the water supply in  
48 John H. Kerr Reservoir.
- 49 (2) Include a recommendation for an agreement between the State of North  
50 Carolina, the Commonwealth of Virginia, and the United States Army Corps  
51 of Engineers that will provide guidance for allocations and reallocations of

1 water supply in John H. Kerr Reservoir to enhance the public health, safety,  
2 and welfare by fostering efficient and sustainable use of the water that meets  
3 economic, environmental, and other goals.

- 4 (3) Identify and review any other issues the Department considers relevant to  
5 the topic.

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

### 12 **PART III. STUDY DEGRADABLE PLASTIC PRODUCTS**

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

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

### 21 **PART IV. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO 22 REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE 23 LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, 24 REPAIR, AND PAINTING**

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

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

- 35 (1) Historical expenditures, collection, and revenues, each by category.  
36 (2) The amount of the running balance carried forward each year.  
37 (3) Staff classifications, job descriptions, and dates of hire.  
38 (4) Workload activities and performance standards.  
39 (5) Number of site visits and inspections conducted annually.  
40 (6) Number and description of projects authorized under the Program.  
41 (7) Number of complaints received, methods by which complaints are  
42 responded to, and the turnaround time required to respond to complaints.  
43 (8) Number and description of revocations, suspensions, or denials of  
44 certification.  
45 (9) Description of the educational materials and training activities provided.  
46 (10) Description of outreach activities and the amount of staff time spent on  
47 outreach activities.  
48 (11) Description of compliance assistance provided.  
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50  
51

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

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

4 **"§ 143-214.7A. Stormwater control best management practices.**

5 (a) The Department of Environment and Natural Resources shall establish standard  
6 stormwater control best management practices and standard process water treatment processes  
7 or equivalent performance standards for composting operations that are required to be  
8 permitted by the Division of Water Quality in the Department and the Division of Waste  
9 Management in the Department. These practices, processes, and standards shall be developed  
10 for the purpose of protecting water quality by controlling and containing stormwater that is  
11 associated with composting operations, by reducing the pollutant levels of process water from  
12 composting operations, and by reducing the opportunities for generation of such waters.

13 (b) ~~The Division of Water Quality shall clarify that For solid waste compost facilities,~~  
14 ~~except for Type 1 solid waste compost facilities, (i) stormwater is water that does not contact~~  
15 ~~anything considered a feedstock, feedstock or an intermediate product, or final product of~~  
16 ~~composting operations. The Division of Water Quality shall clarify that operations, (ii) and~~  
17 ~~wastewater is leachate and water that contacts feedstocks, feedstocks or intermediate products,~~  
18 ~~or final product, products of composting operations. The clarifications Division of Water~~  
19 ~~Quality shall incorporate available scientifically valid information obtained from sampling and~~  
20 ~~analyses of North Carolina composting facilities and from valid representative data from other~~  
21 ~~states. states in the development of rules and permits necessary to implement this section.~~ In  
22 addition, the Division of Water Quality shall establish threshold quantities of  
23 ~~feedstocks, feedstocks and intermediate products, and final products~~ above which water quality  
24 permitting will be required. For purposes of this section, "Type 1 solid waste compost  
25 facilities" are facilities that may receive yard and garden waste, silvicultural waste, untreated  
26 and unpainted wood waste, or any combination thereof. ~~The Division of Water Quality shall~~  
27 ~~not require water quality permitting for any Type I solid waste compost facility, unless required~~  
28 ~~to do so by federal law.~~

29 (b1) The Division of Water Quality shall require water quality permits for any Type 1  
30 solid waste compost facility only if the facility is required to be permitted pursuant to federal  
31 law. For Type 1 solid waste compost facilities, stormwater includes any water which, during  
32 manufacturing or processing, comes into direct contact with or results from the production or  
33 use of any raw material, intermediate product, finished product, by-product, or waste product.  
34 Type 1 solid waste compost facilities shall obtain a National Pollutant Discharge Elimination  
35 System (NPDES) permit for stormwater discharges if the Commission or the Regional  
36 Administrator of the United States Environmental Protection Agency determines (i) that  
37 controls are needed for the discharge of stormwater from a Type 1 solid waste compost facility  
38 based on waste load allocations developed to address pollutants of concern pursuant to section  
39 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), for waters that are subject to a  
40 total maximum daily load (TMDL); or (ii) that the discharge, or categories of discharges within  
41 a geographic area, contributes to a violation of a water quality standard or is a significant  
42 contributor of pollutants to surface waters. If controls for stormwater discharges from Type 1  
43 solid waste compost facilities are required, the control measures shall be limited to best  
44 management practices to reduce the discharge of pollutants to the maximum extent practicable  
45 pursuant to 33 U.S.C. § 1342(p)(3)(B)(iii). For purposes of the stormwater NPDES permitting  
46 program, a Type 1 solid waste compost facility is not an industrial or commercial activity.

47 (c) The Department shall establish revised water quality permitting procedures for the  
48 composting industry. Except as otherwise provided in this section, The the revised permitting  
49 procedures shall identify the various circumstances that determine which water quality permit  
50 is required for various composting activities. The Department shall determine whether selected  
51 low-risk subsets of the composting industry may be suitable for expedited or reduced water

1 quality permitting procedures. The determination shall include consideration of the economic  
2 impact of regulatory decisions.

3 (d) In developing the practices, processes, and standards and the revised water quality  
4 permitting procedures required by this section, the Department shall review practices,  
5 processes, and standards and permitting procedures adopted by other states and similar federal  
6 programs.

7 (e) The Department shall form a Compost Operation Stakeholder Advisory Group  
8 composed of representatives from the North Carolina Chapter of the United States Composting  
9 Council, the North Carolina Association of County Commissioners, the North Carolina League  
10 of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina  
11 Chapter of the American Water Works Association-Water Environment Federation, the North  
12 Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North  
13 America, the North Carolina Septic Tank Association, and any individual or group commenting  
14 to the Department on issues related to water quality at composting operations. The Compost  
15 Operation Stakeholder Advisory Group shall be convened periodically to provide input and  
16 assistance to the Department.

17 (f) The practices, processes, and standards and the revised permitting procedures shall  
18 address the site size of an operation, the nature of the feedstocks composted, the type of  
19 compost production method employed, the quantity and water quality of the stormwater or  
20 process water associated with composting facilities, the water quality of the receiving waters,  
21 as well as operation and maintenance requirements for the resulting standard stormwater  
22 control best management practices and standard process water treatment processes."  
23

## 24 **PART VI. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL** 25 **RESOURCES TO ACCEPT ALTERNATIVE MEASURES OF STORMWATER** 26 **CONTROL AT PUBLIC AIRPORTS**

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

28 "(c3) In accordance with the Federal Aviation Administration August 28, 2007 Advisory  
29 Circular No. 150/5200-33B (Hazardous Wildlife Attractants On or Near Airports), the  
30 Department shall not require the use of stormwater retention ponds, stormwater detention  
31 ponds, or any other stormwater control measure that promotes standing water in order to  
32 comply with this section at public airports that support commercial air carriers or general  
33 aviation services. Development projects located within five statute miles from the farthest edge  
34 of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011  
35 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds,  
36 or any other stormwater control measure that promotes standing water in order to comply with  
37 this section. Existing stormwater retention ponds, stormwater detention ponds, or any other  
38 stormwater control measure that promotes standing water in order to comply with this section  
39 located at public airports or that are within five statute miles from the farthest edge of an airport  
40 operations area may be replaced with alternative measures included in the Division of Water  
41 Quality's Best Management Practice Manual chapter on airports. In order to be approved by the  
42 Department, alternative measures or management designs that are not expressly included in the  
43 Division of Water Quality's Best Management Practice Manual shall provide for equal or better  
44 stormwater control based on the pre- and post-development hydrograph. Any replacement of  
45 existing stormwater retention ponds, stormwater detention ponds, or any other stormwater  
46 control measure that promotes standing water shall be considered a minor modification to the  
47 State general stormwater permit.

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

1  
2 **PART VII. PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS**  
3 **PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR**  
4 **PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED**  
5 **PROGRAMS**

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

7 "(d2) For determining compliance with a local water supply watershed protection  
8 program, the local government implementing the program shall treat up to two noncontiguous  
9 properties as a single, contiguous property if all of the following circumstances exist:

- 10 (1) The properties are under common ownership.  
11 (2) The properties are within the same watershed district.  
12 (3) The closest boundaries of the two properties are located no farther than 500  
13 feet apart."  
14

15 **PART VIII. AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER**  
16 **RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER CERTAIN**  
17 **CONDITIONS**

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

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

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

38 **PART IX. PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE**  
39 **WATER QUALITY MANAGEMENT PLANS THAT HAVE WATERS DESIGNATED**  
40 **AS NUTRIENT SENSITIVE**

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

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

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

2   "**§ 143-215.8B. Basinwide water quality management plans.**

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

7           (1) All activities across a river basin and all point sources and nonpoint sources  
8 of pollutants, including municipal wastewater facilities, industrial  
9 wastewater systems, septic tank systems, stormwater management systems,  
10 golf courses, farms that use fertilizers and pesticides for crops, public and  
11 commercial lawns and gardens, atmospheric deposition, and animal  
12 operations.

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

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

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

21           (2) If any of the waters located within the river basin are designated as nutrient  
22 sensitive waters, then the basinwide water quality management plan shall  
23 establish a goal to reduce the average annual mass load of nutrients that are  
24 delivered to surface waters within the river basin from point and nonpoint  
25 sources. The Commission shall establish a nutrient reduction goal for the  
26 nutrient or nutrients of concern that will result in improvements to water  
27 quality such that the designated uses of the water, as provided in the  
28 classification of the water under G.S. 143-214.1(d), are not impaired. The  
29 plan shall require ~~that incremental progress toward achieving the goal be~~  
30 ~~demonstrated each year. The Commission shall develop a five-year plan to~~  
31 ~~achieve the goal.~~ In developing the plan, the Commission shall determine  
32 and allow appropriate credit toward achieving the goal for reductions of  
33 water pollution by point and nonpoint sources through voluntary measures.

34       (c) The Commission shall review and revise its 17 basinwide water quality  
35 management plans at least every ~~five~~10 years to reflect changes in water quality,  
36 improvements in modeling methods, improvements in wastewater treatment technology, and  
37 advances in scientific knowledge and, as need to support designated uses of water,  
38 modifications to management strategies.

39       (d) The Commission and the Department shall each report on or before 1 October of  
40 each year on an annual basis to the Environmental Review Commission on the progress in  
41 developing and implementing basinwide water quality management plans and on increasing  
42 public involvement and public education in connection with basinwide water quality  
43 management planning. The report to the Environmental Review Commission by the  
44 Department shall include a written statement as to all concentrations of heavy metals and other  
45 pollutants in the surface waters of the State that are identified in the course of preparing or  
46 revising the basinwide water quality management plans.

47       (e) A basinwide water quality management plan is not a rule and Article 2A of Chapter  
48 150B of the General Statutes does not apply to the development of basinwide water quality  
49 management plans. Any water quality standard or classification and any requirement or  
50 limitation of general applicability that implements a basinwide water quality management plan

1 is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General  
2 Statutes."  
3

#### 4 **PART X. AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM**

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

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

- 10 a. Any collection, treatment, storage or distribution facility under  
11 control of the operator of the system and used primarily in  
12 connection with the system; and  
13 b. Any collection or pretreatment storage facility not under the control  
14 of the operator of the system that is used primarily in connection with  
15 the system.

16 A public water system is either a "community water system" or a  
17 "noncommunity water system" as follows:

- 18 a. "Community water system" means a public water system ~~that serves~~  
19 ~~15 or more service connections or that~~ that serves at least 15 service  
20 connections used by year-round residents or regularly serves at least  
21 25 year-round residents.  
22 b. "Noncommunity water system" means a public water system that is  
23 not a community water system.

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

- 27 a. The water is used exclusively for purposes other than residential  
28 uses. As used in this subdivision, "residential uses" mean drinking,  
29 bathing, cooking, or other similar uses.  
30 b. The Department determines that alternative water to achieve the  
31 equivalent level of public health protection pursuant to applicable  
32 drinking water rules is provided for residential uses.  
33 c. The Department determines that the water provided for residential  
34 uses is centrally treated or treated at the point of entry by the  
35 provider, a pass-through entity, or the user to achieve the equivalent  
36 level of protection provided by the applicable drinking water rules."  
37

#### 38 **PART XI. ESTABLISH A VARIANCE PROCESS FOR SETBACK DISTANCES FROM** 39 **EXISTING PRIVATE DRINKING WATER WELLS**

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

- 42 (1) The Department of Health and Human Services may grant a variance from  
43 the minimum horizontal separation distances from existing private drinking  
44 water wells set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C  
45 .0107(a)(3) upon finding that:  
46 a. The well was constructed and completed on or before July 1, 2008.  
47 b. The Department determines that continued use of the well will not  
48 endanger human health and welfare or groundwater.  
49 c. It is impracticable, taking into consideration feasibility and cost, for  
50 the well to comply with the minimum horizontal separation distance



1 set out in the applicable sub-subpart of 15 NCAC 02C .0107(a)(2)  
2 and 15A NCAC 02C .0107(a)(3).

- 3 d. There is no reasonable alternative source of drinking water available.  
4 (2) A variance from the minimum horizontal separation distances set out in 15A  
5 NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) shall require that the  
6 existing private drinking water well meet the following requirements:  
7 a. The well shall comply with the minimum horizontal separation  
8 distances set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C  
9 .0107(a)(3) to the maximum extent practicable.  
10 b. The well is inspected by the Department or the applicable local  
11 health department and is determined to be in good repair.  
12 c. The well shall comply with all other requirements for private  
13 drinking water wells set out in 15A NCAC 02C .0300.

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

21 **SECTION 11.(c) Effective Date.** – Subsection (a) of this section expires when  
22 permanent rules to replace subsection (a) of this section have become effective, as provided by  
23 subsection (b) of this section.  
24

25 **PART XII. REPEAL ENVIRONMENTAL MANAGEMENT COMMISSION**  
26 **AUTHORITY TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS**  
27 **INSPECTION PROGRAM**

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

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

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

- 31 (1) **Electronic inspection authorization.** – An inspection authorization that is  
32 generated electronically through the electronic accounting system that  
33 creates a unique nonduplicating authorization number assigned to the  
34 vehicle's inspection receipt upon successful passage of an inspection. The  
35 term "electronic inspection authorization" shall include the term "inspection  
36 sticker" during the transition period to use of electronic inspection  
37 authorizations.  
38 (2) **Emissions county.** – A county listed in G.S. 143-215.107A(c) ~~or designated~~  
39 ~~by the Environmental Management Commission pursuant to~~  
40 ~~G.S. 143-215.107A(d)~~ and certified to the Commissioner of Motor Vehicles  
41 as a county in which the implementation of a motor vehicle emissions  
42 inspection program will improve ambient air quality.  
43 (3) **Federal installation.** – An installation that is owned by, leased to, or  
44 otherwise regularly used as the place of business of a federal agency."  
45

46 **PART XIII. ALLOW THE COMMERCIAL LEAKING PETROLEUM**  
47 **UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE**  
48 **REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE**  
49 **NOT LEAKED BUT POSE AN IMMINENT HAZARD**

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

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

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

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

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

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

20       ...

21       (6) The amounts provided for in G.S. 143-215.94B(b5) and  
22 G.S. 143-215.94D(b2)."

23  
24 **PART XIV. ESTABLISH A MINIMUM OCEAN HAZARD SETBACK OF SIXTY**  
25 **FEET OR THIRTY TIMES THE SHORELINE EROSION RATE, WHICHEVER IS**  
26 **GREATER, FOR DEVELOPMENT PERMITS TO REPLACE CERTAIN**  
27 **RESIDENTIAL DWELLINGS**

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

- 34           (1) The structure was originally constructed prior to August 11, 2009.
- 35           (2) The structure as replaced does not exceed the original footprint.
- 36           (3) The structure as replaced meets the minimum setback required under 15A  
37 NCAC 07H .0306(a)(2)(A).
- 38           (4) It is impossible for the structure to be rebuilt in a location that meets the  
39 ocean hazard setback criteria required under 15A NCAC 07H .0306(a)(2).
- 40           (5) The structure is rebuilt as far landward on the lot as feasible.

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

47  
48 **PART XV. REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A**  
49 **PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY**  
50 **SCRAP TIRE PROCESSOR**

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

1 **"§ 130A-309.57. Scrap tire disposal program.**

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

6 (b) On or after July 1, 1990:

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

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

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

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

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

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

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

25 (d) A permit is not required for:

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

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

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

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

38 **SECTION 15.(b)** The Department of Environment and Natural Resources shall  
39 initiate rule making to comply with the provisions of this section by October 1, 2012.  
40

41 **PART XVI. REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE**  
42 **IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT**  
43 **AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT**  
44 **PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE**

45 **SECTION 16.** G.S. 130A-291.1 is amended by adding a new subsection to read:

46 **"§ 130A-291.1. Septage management program; permit fees.**

47 ...

48 (h1) The annual permit application shall identify the pumper trucks to be used by the  
49 septage management firm. A permitted septage management firm shall notify the Department  
50 within 10 days of placing a pumper truck in service that was not previously included in a  
51 permit issued to the firm and shall make the pumper truck available for inspection by the

1 Department. A septage management firm is not prohibited from use of a pumper truck that  
2 meets the requirements of the rules adopted by the Commission prior to inspection by the  
3 Department.

4 ...."

5  
6 **PART XVII. AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL**  
7 **RESOURCES REPORTING REQUIREMENTS**

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

9 **"§ 130A-294. Solid waste management program.**

10 ...

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

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

- 35 (1) A detailed description of the mercury recovery performance ratio achieved  
36 by the mercury switch removal program.  
37 (2) A detailed description of the mercury switch collection system developed  
38 and implemented by vehicle manufacturers in accordance with the  
39 NVMSRP.  
40 (3) In the event that a mercury recovery performance ratio of at least 0.90 of the  
41 national mercury recovery performance ratio as reported by the NVMSRP is  
42 not achieved, a description of additional or alternative actions that may be  
43 implemented to improve the mercury switch removal program.  
44 (4) The number of mercury switches collected and a description of how the  
45 mercury switches were managed.  
46 (5) A statement that details the costs required to implement the mercury switch  
47 removal program, including a summary of receipts and disbursements from  
48 the Mercury Switch Removal Account."

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

50 **"§ 130A-294. Solid waste management program.**

51 ...

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

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

- 24 ~~(1) A detailed description of the mercury recovery performance ratio achieved~~  
25 ~~by the mercury switch removal program.~~
- 26 ~~(2) A detailed description of the mercury switch collection system developed~~  
27 ~~and implemented by vehicle manufacturers in accordance with the~~  
28 ~~NVMSRP.~~
- 29 ~~(3) In the event that a mercury recovery performance ratio of at least 0.90 of the~~  
30 ~~national mercury recovery performance ratio as reported by the NVMSRP is~~  
31 ~~not achieved, a description of additional or alternative actions that may be~~  
32 ~~implemented to improve the mercury switch removal program.~~
- 33 ~~(4) The number of mercury switches collected and a description of how the~~  
34 ~~mercury switches were managed.~~
- 35 ~~(5) A statement that details the costs required to implement the mercury switch~~  
36 ~~removal program including a summary of receipts and disbursements from~~  
37 ~~the Mercury Switch Removal Account.~~
- 38 ~~(6) A detailed description and documentation of the capture rate achieved.~~
- 39 ~~(7) In the event that a capture rate of at least ninety percent (90%) is not~~  
40 ~~achieved, a description of additional or alternative actions that may be~~  
41 ~~implemented to improve the mercury minimization plan and its~~  
42 ~~implementation.~~
- 43 ~~(8) The number of mercury switches collected, the number of end-of-life~~  
44 ~~vehicles containing mercury switches, the number of end-of-life vehicles~~  
45 ~~processed for recycling, and a description of how the mercury switches were~~  
46 ~~managed.~~
- 47 ~~(9) A statement that details the costs required to implement the mercury~~  
48 ~~minimization plan.~~

49 ...."

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

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

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

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

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

4   "**§ 130A-310.10. Annual reports.**

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

9           (1) The Inactive Hazardous Waste Sites Priority List.

10          (2) A list of remedial action plans requiring State funding through the Inactive  
11 Hazardous Sites Cleanup Fund.

12          (3) A comprehensive budget to implement these remedial action plans and the  
13 adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of  
14 said plans.

15          (4) A prioritized list of sites that are eligible for remedial action under  
16 CERCLA/SARA together with recommended remedial action plans and a  
17 comprehensive budget to implement such plans. The budget for  
18 implementing a remedial action plan under CERCLA/SARA shall include a  
19 statement as to any appropriation that may be necessary to pay the State's  
20 share of such plan.

21          (5) A list of sites and remedial action plans undergoing voluntary cleanup with  
22 Departmental approval.

23          (6) A list of sites and remedial action plans that may require State funding, a  
24 comprehensive budget if implementation of these possible remedial action  
25 plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup  
26 Fund to fund the possible costs of said plans.

27          (7) A list of sites that pose an imminent hazard.

28          (8) A comprehensive budget to develop and implement remedial action plans for  
29 sites that pose imminent hazards and that may require State funding, and the  
30 adequacy of the Inactive Hazardous Sites Cleanup Fund.

31          (8a) The amounts and sources of funds collected by year received under  
32 G.S. 130A-310.76, the amounts and sources of those funds paid into the  
33 Inactive Hazardous Sites Cleanup Fund established pursuant to  
34 G.S. 130A-310.11, the number of acres of contamination for which funds  
35 have been received pursuant to G.S. 130A-310.76, and a detailed annual  
36 accounting of how the funds collected pursuant to G.S. 130A-310.76 have  
37 been utilized by the Department to advance the purposes of Part 8 of Article  
38 9 of Chapter 130A of the General Statutes.

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

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

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

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

49   "**§ 143-215.94M. Reports.**

50       (a) The Secretary shall present an annual report to the Environmental Review  
51 ~~Commission~~ Commission, the Fiscal Research Division, the Senate Appropriations

1 Subcommittee on Natural and Economic Resources, and the House Appropriations

2 Subcommittee on Natural and Economic Resources which shall include at least the following:

- 3 (1) A list of all discharges or releases of petroleum from underground storage  
4 tanks;
- 5 (2) A list of all cleanups requiring State funding through the Noncommercial  
6 Fund and a comprehensive budget to complete such cleanups;
- 7 (3) A list of all cleanups undertaken by tank owners or operators and the status  
8 of these cleanups;
- 9 (4) A statement of receipts and disbursements for both the Commercial Fund  
10 and the Noncommercial Fund;
- 11 (5) A statement of all claims against both the Commercial Fund and the  
12 Noncommercial Fund, including claims paid, claims denied, pending claims,  
13 anticipated claims, and any other obligations; and
- 14 (6) The adequacy of both the Commercial Fund and the Noncommercial Fund to  
15 carry out the purposes of this Part together with any recommendations as to  
16 measures that may be necessary to assure the continued solvency of the  
17 Commercial Fund and the Noncommercial Fund; ~~and Fund.~~
- 18 ~~(7) A statement of the condition of the Loan Fund and a summary of all activity  
19 under the Loan Fund.~~

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

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

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

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

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

33 "(a) ~~The~~ If the General Assembly appropriates funds for loans authorized by this Chapter  
34 in any fiscal year, the Office of State Budget and Management and the Division shall prepare  
35 and file on or before July 31 of ~~each~~ the following fiscal year with the Joint Legislative  
36 Commission on Governmental Operations a consolidated report for the preceding fiscal year  
37 concerning the allocation of loans authorized by this Chapter. No report shall be filed for fiscal  
38 years in which no funds are appropriated or otherwise available for loans authorized by this  
39 Chapter."

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

41 "**§ 143B-279.5. Biennial State of the Environment Report.**

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

- 46 (1) An identification and analysis of current environmental protection issues and  
47 problems within or affecting the State and its people;
- 48 (2) Trends in the quality and use of North Carolina's air and water resources;
- 49 (3) An inventory of areas of the State where air or water pollution is in evidence  
50 or may occur during the upcoming biennium;

- 1 (4) Current efforts and resources allocated by the Department to correct  
 2 identified pollution problems and an estimate, if necessary, of additional  
 3 resources needed to study, identify, and implement solutions to solve  
 4 potential problems;
- 5 (5) Departmental goals and strategies to protect the natural resources of the  
 6 State;
- 7 (6) Any information requested by the General Assembly or the Environmental  
 8 Review Commission;
- 9 (7) Suggested legislation, if necessary; and
- 10 (8) Any other information on the state of the environment the Secretary  
 11 considers appropriate.

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

15  
 16 **PART XVIII. AMEND DURATION OF PERMITS FOR SANITARY LANDFILLS AND**  
 17 **TRANSFER STATIONS**

18 **SECTION 24.** No later than July 1, 2013, the Commission for Public Health shall  
 19 adopt rules allowing applicants for sanitary landfills the option of applying for a permit to  
 20 construct and a permit to operate a phase of landfill development of up to 20 years, and to  
 21 apply to amend the permit to construct and the permit to operate subsequent phases of landfill  
 22 development of up to 20 years, with a limited review of the permits five years after the issuance  
 23 of the initial permits. The Commission shall also adopt rules to provide for the issuance of  
 24 permits with a duration of up to 20 years to construct and operate transfer stations. The  
 25 Department of Environment and Natural Resources shall examine the current fee schedule for  
 26 permits for sanitary landfills and transfer stations set forth under G.S. 130A-295.8, and  
 27 formulate recommendations for adjustments to the current fee schedule sufficient to address  
 28 any additional demands associated with review of permits issued for phases of landfill  
 29 development of up to 20 years and the issuance permits with a duration of up to 20 years for  
 30 transfer stations. The Department shall report its findings and recommendations, including any  
 31 legislative proposals, to the Environmental Review Commission on or before December 1,  
 32 2012. The rules required by this section shall not become effective until the fee schedule set  
 33 forth under G.S. 130A-295.8 is amended as necessary to address any additional demands  
 34 associated with review of permits issued for phases of landfill development of up to 20 years  
 35 and the issuance of permits with a duration of up to 20 years to construct and operate transfer  
 36 stations.

37  
 38 **PART XIX. AMEND THE MARINE FISHERIES COMMISSION ADVISORY**  
 39 **COMMITTEES**

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

41 "**§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**  
 42 **members; selection; duties.**

43 ...

44 (b) The Chair of the Commission shall appoint the following standing advisory  
 45 committees:

- 46 (1) The Finfish Committee, which shall consider matters concerning finfish.
- 47 ~~(2) The Crustacean Committee, which shall consider matters concerning shrimp~~  
 48 ~~and crabs.~~
- 49 ~~(3) The Shellfish Committee, which shall consider matters concerning oysters,~~  
 50 ~~clams, scallops, and other molluscan shellfish.~~



1           (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters  
 2           concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and  
 3           crabs.

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

7           ...  
 8           (e) The Chair of the Commission shall appoint a ~~regional advisory committee for each~~  
 9           ~~of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional~~  
 10           ~~advisory committee for that part of the State that is not included in the three coastal regions.~~  
 11           Northern Regional Advisory Committee, encompassing areas from the Virginia line south  
 12           through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional  
 13           Advisory Committee, encompassing areas from Carteret County south to the South Carolina  
 14           line and any counties to the west. In making appointments to regional advisory committees, the  
 15           Chair of the Commission shall ensure that both commercial and recreational fishing interests  
 16           are fairly represented."

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

18           "**§ 113-200. Fishery Resource Grant Program.**

19           ...  
 20           (e1) Grants Committee. – The Grants Committee shall consist of eleven members as  
 21           follows:

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

24           (2) Two employees of the Division of Marine Fisheries, appointed by the  
 25           Fisheries Director.

26           (3) Two members of the Marine Fisheries Commission, appointed by the Chair  
 27           of the Marine Fisheries Commission.

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

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

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

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

40           ...."

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

47  
 48           **PART XX. PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES**  
 49           **COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE**  
 50           **DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR**  
 51           **REBUILDING OF FISH STOCKS**

1           **SECTION 26.** G.S. 143B-289.52 is amended by adding a new subsection to read:  
2   "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

3           ...  
4           (e1) A supermajority of the Commission shall be six members. A supermajority shall be  
5 necessary to override recommendations from the Division of Marine Fisheries regarding  
6 measures needed to end overfishing or to rebuild overfished stocks."

7  
8   **PART XXI. PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS**  
9 **FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT**

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

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

- 13           (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the  
14 lands of another, any plant on a protected plant list without a written permit  
15 from the owner which is dated and valid for no more than 180 days and  
16 which indicates the species or higher taxon of plants for which permission is  
17 granted; except that the incidental disturbance of protected plants during  
18 agricultural, forestry or development operations is not illegal so long as the  
19 plants are not collected for sale or commercial ~~use~~:use.
- 20           (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange  
21 or export or give away for any purpose including advertising or other  
22 promotional purpose any plant on a protected plant list, except as authorized  
23 according to the rules and regulations of the ~~Board~~:Board.
- 24           (3) To violate any rule of the Board promulgated under this ~~Article~~:Article.
- 25           (4) ~~To dig ginseng on another person's land, except for the purpose of~~  
26 ~~replanting, between the first day of April and the first day of September;~~
- 27           (5) To buy ginseng outside of a buying season as provided by the Board without  
28 obtaining the required documents from the person selling the  
29 ~~ginseng~~:ginseng.
- 30           (6) To buy ginseng for the purpose of resale or trade without holding a currently  
31 valid permit as a ginseng ~~dealer~~:dealer.
- 32           (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from  
33 another person's land ginseng, galax, or Venus flytrap without a written  
34 permit from the owner that is dated and valid for no more than 180 days. A  
35 person in lawful possession of the land who has a recorded lease which  
36 allows for the disturbance or removal of any vegetation on the land is not  
37 subject to this subdivision.
- 38           (6b) To buy galax outside of a buying season as provided by the Board without  
39 obtaining the required documents from the person selling the galax.
- 40           (6c) To buy Venus flytrap outside of a buying season as provided by the Board  
41 without obtaining the required documents from the person selling the Venus  
42 flytrap.
- 43           (6d) To buy more than five pounds of galax for the purpose of resale or trade  
44 without a copy of the landowner's written permission and confirmation of  
45 the collection date.
- 46           (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade  
47 unless fully compliant with applicable regulations.
- 48           (7) To fail to keep records as required under this Article, to refuse to make  
49 records available for inspection by the Board or its agent, or to use forms  
50 other than those provided for the current year or harvest season by the  
51 Department of Agriculture and Consumer ~~Services~~:Services.

- 1 (8) To provide false information on any record or form required under this  
2 ~~Article;~~Article.  
3 (9) To make false statements or provide false information in connection with  
4 any investigation conducted under this ~~Article;~~Article.  
5 (10) To possess any protected plant, or part thereof, which was obtained in  
6 violation of this Article or any rule adopted ~~hereunder;~~ or under this Article.  
7 (11) To violate a stop sale order issued by the Board or its agent."  
8

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

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

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

- 16 (1) Offenses set out in subsection (b) of this section are punishable as set forth  
17 in G.S. 113-135 or other sections of the General Statutes.  
18 (2) A person who parks a vehicle in violation of a rule regulating the parking of  
19 vehicles at boating access or boating launch areas is responsible for an  
20 infraction and shall pay a fine of fifty dollars (\$50.00)."  
21

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

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

24 "(a) The Roanoke River Basin Bi-State Commission shall consist of 18 members with  
25 each state appointing nine members. The North Carolina delegation to the Commission shall  
26 consist of the six members of the General Assembly of North Carolina appointed to the North  
27 Carolina Roanoke River Basin Advisory Committee and three nonlegislative members ~~of the~~  
28 ~~North Carolina Roanoke River Basin Advisory Committee, established pursuant to~~  
29 ~~G.S. 77-103,~~ who represent different geographical areas of the North Carolina portion of the  
30 Basin and who reside within the Basin's watershed, to be appointed by the Governor of North  
31 Carolina. The Virginia delegation to the Commission shall be appointed as determined by the  
32 Commonwealth of Virginia."

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

34 "(2) To establish standing and ad hoc advisory committees pursuant to  
35 G.S. 77-94 ~~in addition to the North Carolina Roanoke River Basin Advisory~~  
36 ~~Committee established pursuant to Part 2 of this Article~~ and the Virginia  
37 Roanoke River Basin Advisory Committee established pursuant to Chapter  
38 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a  
39 manner to ensure a balance between recognized interests. The Commission  
40 shall determine the purpose of each advisory committee."  
41

42 **PART XXIV. EFFECTIVE DATE**

43 **SECTION 30.** Section 17(b) of this act becomes effective December 31, 2017.

44 Sections 25(a) and 25(b) of this act become effective July 1, 2012. Sections 27 and 28 of this  
45 act become effective October 1, 2012, and apply to violations and offenses committed on or  
46 after that date. Prosecutions for offenses committed before the effective date of this act are not  
47 abated or affected by this act, and the statutes that would be applicable but for this act remain  
48 applicable to those prosecutions. The remainder of this act is effective when it becomes law.