

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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Proposed Conference Committee Substitute S229-PCCS15260-TA-1

Short Title: Amend Environmental Laws 2012.

(Public)

Sponsors:

Referred to:

March 8, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES  
3 LAWS TO (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
4 RESOURCES TO REPORT ON THE INTEGRATION OF STORMWATER CAPTURE  
5 AND REUSE INTO STORMWATER REGULATORY PROGRAMS; (2) DIRECT THE  
6 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE  
7 ADVISABILITY AND FEASIBILITY OF REALLOCATING WATER SUPPLY IN  
8 JOHN H. KERR RESERVOIR FROM HYDROPOWER STORAGE TO WATER  
9 SUPPLY STORAGE; (3) DIRECT THE DEPARTMENT OF ENVIRONMENT AND  
10 NATURAL RESOURCES TO STUDY AND EVALUATE DEGRADABLE PLASTIC  
11 PRODUCTS AND THEIR POTENTIAL TO CONTAMINATE RECYCLED PLASTIC  
12 FEEDSTOCKS; (4) DIRECT THE DIVISION OF PUBLIC HEALTH IN THE  
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REPORT ON THE  
14 ADMINISTRATION AND IMPLEMENTATION OF THE LEAD-BASED PAINT  
15 HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR, AND  
16 PAINTING; (5) PROVIDE THAT TYPE 1 SOLID WASTE COMPOST FACILITIES  
17 ARE NOT REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE  
18 ELIMINATION SYSTEM PERMIT FOR DISCHARGE OF PROCESS WASTEWATER  
19 BASED SOLELY ON THE DISCHARGE OF STORMWATER THAT HAS COME  
20 INTO CONTACT WITH FEEDSTOCK, INTERMEDIATE PRODUCT, OR FINAL  
21 PRODUCT AT THE FACILITY; (6) DIRECT THE DEPARTMENT OF  
22 ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT ALTERNATIVE  
23 MEASURES FOR STORMWATER CONTROL OTHER THAN PONDS THAT MEET  
24 CERTAIN CRITERIA AT AIRPORTS; (7) PROVIDE CONDITIONS TO ALLOW FOR  
25 TWO NONCONTIGUOUS PROPERTIES TO BE TREATED AS A SINGLE  
26 CONTIGUOUS PROPERTY FOR PURPOSES OF COMPLIANCE WITH LOCAL  
27 WATER SUPPLY WATERSHED PROGRAMS; (8) PROHIBIT TREATMENT OF  
28 LAND WITHIN RIPARIAN BUFFERS AS LAND OF THE STATE OR ITS  
29 SUBDIVISIONS; (8A) AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN  
30 BUFFER RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER  
31 CERTAIN CONDITIONS; (9) PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF



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1 BASINWIDE WATER QUALITY MANAGEMENT PLANS FOR RIVER BASINS  
2 THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE AND DELAY  
3 THE IMPLEMENTATION DEADLINE FOR LOCAL STORMWATER  
4 MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT  
5 RULE; (10) AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM; (11)  
6 ESTABLISH A VARIANCE PROCESS FOR CERTAIN SETBACK REQUIREMENTS  
7 FOR EXISTING PRIVATE DRINKING WATER WELLS; (12) REPEAL THE  
8 AUTHORITY OF THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADD  
9 COUNTIES TO THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM; (13)  
10 ALLOW THE COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE  
11 TANK CLEANUP FUND TO BE USED FOR THE REMOVAL OF ABANDONED  
12 UNDERGROUND STORAGE TANKS THAT HAVE NOT LEAKED BUT POSE AN  
13 IMMINENT HAZARD; (14) REQUIRE SCRAP TIRE COLLECTORS TO VERIFY  
14 ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE  
15 CONTRACTING WITH ANY SCRAP TIRE PROCESSOR; (15) REQUIRE SEPTAGE  
16 MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION OF AND NOTICE TO THE  
17 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES BEFORE  
18 PLACING A PUMPER TRUCK NOT PREVIOUSLY INCLUDED IN A PERMIT INTO  
19 SERVICE; (16) AMEND THE MARINE FISHERIES COMMISSION ADVISORY  
20 COMMITTEES; (17) PROVIDE THAT A SUPERMAJORITY OF THE MARINE  
21 FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION  
22 OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR  
23 REBUILDING OF FISH STOCKS; (18) PROVIDE CERTAIN PROTECTIONS TO  
24 GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND  
25 CONSERVATION ACT; (19) INCREASE THE CIVIL PENALTY FOR VIOLATIONS  
26 OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION; (20)  
27 PROVIDE THAT FUNDS RECEIVED IN SETTLEMENT OF THE LAWSUIT FILED  
28 BY THE STATE AGAINST THE TENNESSEE VALLEY AUTHORITY BE USED  
29 EXCLUSIVELY IN CERTAIN COUNTIES; (21) AMEND OR REPEAL VARIOUS  
30 ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS;  
31 AND (22) MAKE TECHNICAL AND CONFORMING CHANGES TO  
32 ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

33 The General Assembly of North Carolina enacts:

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

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

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

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

46 **SECTION 2.(a)** The Department of Environment and Natural Resources shall  
47 study the advisability and feasibility of reallocating water supply in John H. Kerr Reservoir  
48 from hydropower storage to water supply storage. The study shall identify the projected future  
49 water supply needs that could be met by reallocation of the water supply and identify any  
50 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 **PART III. STUDY DEGRADABLE PLASTIC PRODUCTS**

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

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

### 30 **PART IV. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO 31 REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE 32 LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, 33 REPAIR, AND PAINTING**

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

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

- 44 (1) Historical expenditures, collection, and revenues, each by category.
  - 45 (2) The amount of the running balance carried forward each year.
  - 46 (3) Staff classifications, job descriptions, and dates of hire.
  - 47 (4) Workload activities and performance standards.
  - 48 (5) Number of site visits and inspections conducted annually.
  - 49 (6) Number and description of projects authorized under the Program.
- 50  
51

- 1 (7) Number of complaints received, methods by which complaints are
- 2 responded to, and the turnaround time required to respond to complaints.
- 3 (8) Number and description of revocations, suspensions, or denials of
- 4 certification.
- 5 (9) Description of the educational materials and training activities provided.
- 6 (10) Description of outreach activities and the amount of staff time spent on
- 7 outreach activities.
- 8 (11) Description of compliance assistance provided.
- 9

10 **PART V. PROVIDE THAT TYPE 1 SOLID WASTE COMPOST FACILITIES ARE**  
11 **NOT REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE**  
12 **ELIMINATION SYSTEM PERMIT FOR DISCHARGE OF PROCESS**  
13 **WASTEWATER BASED SOLELY ON THE DISCHARGE OF STORMWATER THAT**  
14 **HAS COME INTO CONTACT WITH FEEDSTOCK, INTERMEDIATE PRODUCT,**  
15 **OR FINAL PRODUCT AT THE FACILITY**

16 **SECTION 5.** G.S. 143-214.7A(b) reads as rewritten:

17 "(b) Unless otherwise provided in this subsection, The the Division of Water Quality  
18 shall clarify that stormwater is water that does not contact anything considered a feedstock,  
19 intermediate product, or final product of composting operations. Unless otherwise provided in  
20 this subsection, The the Division of Water Quality shall clarify that wastewater is leachate and  
21 water that contacts feedstocks, intermediate products, or final product, of composting  
22 operations. The clarifications shall incorporate available scientifically valid information  
23 obtained from sampling and analyses of North Carolina composting facilities and from valid  
24 representative data from other states. In addition, the Division of Water Quality shall establish  
25 threshold quantities of feedstocks, intermediate products, and final products above which water  
26 quality permitting will be required. A Type 1 solid waste compost facility shall be subject only  
27 to applicable State stormwater requirements and federal stormwater requirements established  
28 pursuant to 33 U.S.C. § 1342(p)(3)(B). A Type 1 solid waste compost facility shall not be  
29 required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for  
30 discharge of process wastewater based solely on the discharge of stormwater that has come into  
31 contact with feedstock, intermediate product, or final product at the facility. For purposes of  
32 this section, "Type 1 solid waste compost facilities" are facilities that may receive yard and  
33 garden waste, silvicultural waste, untreated and unpainted wood waste, or any combination  
34 thereof. The Division of Water Quality shall not require water quality permitting for any Type I  
35 solid waste compost facility, unless required to do so by federal law."

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37 **PART VI. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL**  
38 **RESOURCES TO ACCEPT ALTERNATIVE MEASURES OF STORMWATER**  
39 **CONTROL AT PUBLIC AIRPORTS**

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

41 "(c3) In accordance with the Federal Aviation Administration August 28, 2007, Advisory  
42 Circular No. 150/5200-33B (Hazardous Wildlife Attractants on or Near Airports), the  
43 Department shall not require the use of stormwater retention ponds, stormwater detention  
44 ponds, or any other stormwater control measure that promotes standing water in order to  
45 comply with this section at public airports that support commercial air carriers or general  
46 aviation services. Development projects located within five statute miles from the farthest edge  
47 of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011  
48 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds,  
49 or any other stormwater control measure that promotes standing water in order to comply with  
50 this section. Existing stormwater retention ponds, stormwater detention ponds, or any other  
51 stormwater control measure that promotes standing water in order to comply with this section

1 located at public airports or that are within five statute miles from the farthest edge of an airport  
2 operations area may be replaced with alternative measures included in the Division of Water  
3 Quality's Best Management Practice Manual chapter on airports. In order to be approved by the  
4 Department, alternative measures or management designs that are not expressly included in the  
5 Division of Water Quality's Best Management Practice Manual shall provide for equal or better  
6 stormwater control based on the pre- and post-development hydrograph. Any replacement of  
7 existing stormwater retention ponds, stormwater detention ponds, or any other stormwater  
8 control measure that promotes standing water shall be considered a minor modification to the  
9 State general stormwater permit.

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

14  
15 **PART VII. PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS**  
16 **PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR**  
17 **PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED**  
18 **PROGRAMS**

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

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

- 24 (1) The properties are within the same water supply watershed. If one of the  
25 properties is located in the critical area of the watershed, the critical area  
26 property shall not be developed beyond the applicable density requirements  
27 for its classification.
- 28 (2) Overall project density meets applicable density or stormwater control  
29 requirements under 15A NCAC 2B .0200.
- 30 (3) Vegetated buffers on both properties meet the minimum statewide water  
31 supply watershed protection requirements.
- 32 (4) Built upon areas are designed and located to minimize stormwater runoff  
33 impact to the receiving waters, minimize concentrated stormwater flow,  
34 maximize the use of sheet flow through vegetated areas, and maximize the  
35 flow length through vegetated areas.
- 36 (5) Areas of concentrated density development are located in upland areas and,  
37 to the maximum extent practicable, away from surface waters and  
38 drainageways.
- 39 (6) The property or portions of the properties that are not being developed will  
40 remain in a vegetated or natural state and will be managed by a homeowners'  
41 association as common area, conveyed to a local government as a park or  
42 greenway, or placed under a permanent conservation or farmland  
43 preservation easement unless it can be demonstrated that the local  
44 government can ensure long-term compliance through deed restrictions and  
45 an electronic permitting mechanism. A metes and bounds description of the  
46 areas to remain vegetated and limits on use shall be recorded on the  
47 subdivision plat, in homeowners' covenants, and on individual deed and shall  
48 be irrevocable.
- 49 (7) Development permitted under density averaging and meeting applicable low  
50 density requirements shall transport stormwater runoff by vegetated  
51 conveyances to the maximum extent practicable.

(8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties."

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

SECTION 8.(a) G.S. 143-214.23 is amended by adding a new subsection to read:

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

...

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

...."

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

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

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

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

The method for measuring the setbacks required under subdivisions (1) and (2) of this section shall be consistent with the method for measuring the applicable buffer as provided in 15A NCAC 02B .0233(4) and 15A NCAC 02B .0259(4)."

**PART IX. PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE WATER QUALITY MANAGEMENT PLANS THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE AND DELAY THE IMPLEMENTATION DEADLINE FOR LOCAL STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT RULE**

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

"(c6) For surface waters that the Commission classifies as nutrient sensitive waters (NSW) on or after 1 July 1997, the Commission shall establish a date by which facilities that

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

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

10 **"§ 143-215.8B. Basinwide water quality management plans.**

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

- 15 (1) All activities across a river basin and all point sources and nonpoint sources  
16 of pollutants, including municipal wastewater facilities, industrial  
17 wastewater systems, septic tank systems, stormwater management systems,  
18 golf courses, farms that use fertilizers and pesticides for crops, public and  
19 commercial lawns and gardens, atmospheric deposition, and animal  
20 operations.
- 21 (2) All transfers into and from a river basin that are required to be registered  
22 under G.S. 143-215.22H.

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

- 24 (1) Provide that all point sources and nonpoint sources of pollutants jointly  
25 share the responsibility of reducing the pollutants in the State's waters in a  
26 fair, reasonable, and proportionate manner, using computer modeling and the  
27 best science and technology reasonably available and considering future  
28 anticipated population growth and economic development.
- 29 (2) If any of the waters located within the river basin are designated as nutrient  
30 sensitive waters, then the basinwide water quality management plan shall  
31 establish a goal to reduce the average annual mass load of nutrients that are  
32 delivered to surface waters within the river basin from point and nonpoint  
33 sources. The Commission shall establish a nutrient reduction goal for the  
34 nutrient or nutrients of concern that will result in improvements to water  
35 quality such that the designated uses of the water, as provided in the  
36 classification of the water under G.S. 143-214.1(d), are not impaired. The  
37 plan shall require ~~that~~ incremental progress toward achieving the ~~goal~~ ~~be~~  
38 ~~demonstrated each year. The Commission shall develop a five-year plan to~~  
39 ~~achieve the goal.~~ In developing the plan, the Commission shall determine  
40 and allow appropriate credit toward achieving the goal for reductions of  
41 water pollution by point and nonpoint sources through voluntary measures.

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

47 (d) The Commission and the Department shall each report on or before 1 October of  
48 each year on an annual basis to the Environmental Review Commission on the progress in  
49 developing and implementing basinwide water quality management plans and on increasing  
50 public involvement and public education in connection with basinwide water quality  
51 management planning. The report to the Environmental Review Commission by the

1 Department shall include a written statement as to all concentrations of heavy metals and other  
2 pollutants in the surface waters of the State that are identified in the course of preparing or  
3 revising the basinwide water quality management plans.

4 (e) A basinwide water quality management plan is not a rule and Article 2A of Chapter  
5 150B of the General Statutes does not apply to the development of basinwide water quality  
6 management plans. Any water quality standard or classification and any requirement or  
7 limitation of general applicability that implements a basinwide water quality management plan  
8 is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General  
9 Statutes."

10 **SECTION 9.(c)** Definition. – As used in this act, "New Development Rule 15A  
11 NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy:  
12 Stormwater Management for New Development) adopted by the Commission on May 8, 2008,  
13 and approved by the Rules Review Commission on November 20, 2008.

14 **SECTION 9.(d)** New Development Rule 15A NCAC 02B .0265. – Until the  
15 effective date of the revised permanent rule that the Commission is required to adopt pursuant  
16 to subsection (f) of this section, the Commission and the Department shall implement New  
17 Development Rule 15A NCAC 02B .0265, as provided in subsection (e) of this section.

18 **SECTION 9.(e)** Implementation. – Notwithstanding sub-subdivision (d) of  
19 subdivision (4) of New Development Rule 15A NCAC 02B .0265, by August 10, 2014, within  
20 three months after the Commission's approval of a local program, or upon the Division's first  
21 renewal of a local government's NPDES stormwater permit, whichever occurs later, the  
22 affected local government shall complete adoption of and implement its local stormwater  
23 management program.

24 **SECTION 9.(f)** Additional Rule-Making Authority. – The Commission shall adopt  
25 a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding  
26 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be  
27 substantively identical to the provisions of subsection (e) of this section. Rules adopted  
28 pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules  
29 adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as  
30 though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

31 **SECTION 9.(g)** Sunset. – Subsection (e) of this section expires on the date that  
32 rules adopted pursuant to subsection (f) of this section become effective.  
33

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

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

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

- 40 a. Any collection, treatment, storage or distribution facility under  
41 control of the operator of the system and used primarily in  
42 connection with the system; and
- 43 b. Any collection or pretreatment storage facility not under the control  
44 of the operator of the system that is used primarily in connection with  
45 the system.

46 A public water system is either a "community water system" or a  
47 "noncommunity water system" as follows:

- 48 a. "Community water system" means a public water system ~~that serves~~  
49 ~~15 or more service connections or that~~ that serves at least 15 service  
50 connections used by year-round residents or regularly serves at least  
51 25 year-round residents.



- 1 b. "Noncommunity water system" means a public water system that is  
2 not a community water system.  
3 A connection to a system that delivers water by a constructed conveyance  
4 other than a pipe is not a connection within the meaning of this subdivision  
5 under any one of the following circumstances:  
6 a. The water is used exclusively for purposes other than residential  
7 uses. As used in this subdivision, "residential uses" mean drinking,  
8 bathing, cooking, or other similar uses.  
9 b. The Department determines that alternative water to achieve the  
10 equivalent level of public health protection pursuant to applicable  
11 drinking water rules is provided for residential uses.  
12 c. The Department determines that the water provided for residential  
13 uses is centrally treated or treated at the point of entry by the  
14 provider, a pass-through entity, or the user to achieve the equivalent  
15 level of protection provided by the applicable drinking water rules."  
16

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

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

- 21 (1) The Department of Health and Human Services may grant a variance from  
22 the minimum horizontal separation distances from existing private drinking  
23 water wells set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C  
24 .0107(a)(3) upon finding that:  
25 a. The well was constructed and completed on or before July 1, 2008.  
26 b. The Department determines that continued use of the well will not  
27 endanger human health and welfare or groundwater.  
28 c. It is impracticable, taking into consideration feasibility and cost, for  
29 the well to comply with the minimum horizontal separation distance  
30 set out in the applicable sub-subpart of 15 NCAC 02C .0107(a)(2)  
31 and 15A NCAC 02C .0107(a)(3).  
32 d. There is no reasonable alternative source of drinking water available.  
33 (2) A variance from the minimum horizontal separation distances set out in 15A  
34 NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) shall require that the  
35 existing private drinking water well meet the following requirements:  
36 a. The well shall comply with the minimum horizontal separation  
37 distances set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C  
38 .0107(a)(3) to the maximum extent practicable.  
39 b. The well is inspected by the Department or the applicable local  
40 health department and is determined to be in good repair.  
41 c. The well shall comply with all other requirements for private  
42 drinking water wells set out in 15A NCAC 02C .0300.

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

1           **SECTION 11.(c)** Effective Date. – Subsection (a) of this section expires when  
2 permanent rules to replace subsection (a) of this section have become effective, as provided by  
3 subsection (b) of this section.  
4

5 **PART XII. REPEAL ENVIRONMENTAL MANAGEMENT COMMISSION**  
6 **AUTHORITY TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS**  
7 **INSPECTION PROGRAM**

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

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

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

11        (1) Electronic inspection authorization. – An inspection authorization that is  
12 generated electronically through the electronic accounting system that  
13 creates a unique nonduplicating authorization number assigned to the  
14 vehicle's inspection receipt upon successful passage of an inspection. The  
15 term "electronic inspection authorization" shall include the term "inspection  
16 sticker" during the transition period to use of electronic inspection  
17 authorizations.

18        (2) Emissions county. – A county listed in G.S. 143-215.107A(c) ~~or designated~~  
19 ~~by the Environmental Management Commission pursuant to~~  
20 ~~G.S. 143-215.107A(d)~~ and certified to the Commissioner of Motor Vehicles  
21 as a county in which the implementation of a motor vehicle emissions  
22 inspection program will improve ambient air quality.

23        (3) Federal installation. – An installation that is owned by, leased to, or  
24 otherwise regularly used as the place of business of a federal agency."  
25

26 **PART XIII. ALLOW THE COMMERCIAL LEAKING PETROLEUM**  
27 **UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE**  
28 **REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE**  
29 **NOT LEAKED BUT POSE AN IMMINENT HAZARD**

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

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

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

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

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

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

51        ...

1           (6) The amounts provided for in G.S. 143-215.94B(b5) and  
2           G.S. 143-215.94D(b2)."  
3

4 **PART XIV. REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A**  
5 **PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY**  
6 **SCRAP TIRE PROCESSOR**

7           **SECTION 14.(a)** G.S. 130A-309.57 reads as rewritten:

8 **"§ 130A-309.57. Scrap tire disposal program.**

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

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

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

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

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

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

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

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

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

32           (d) A permit is not required for:

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

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

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

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

45           **SECTION 14.(b)** The Department of Environment and Natural Resources shall  
46 initiate rule making to comply with the provisions of this section by October 1, 2012.  
47

48 **PART XV. REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE**  
49 **IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT**  
50 **AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT**  
51 **PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE**

1           **SECTION 15.** G.S. 130A-291.1 is amended by adding a new subsection to read:  
2   "**§ 130A-291.1. Septage management program; permit fees.**

3       ...  
4       (h1) The annual permit application shall identify the pumper trucks to be used by the  
5 septage management firm. A permitted septage management firm shall notify the Department  
6 within 10 days of placing a pumper truck in service that was not previously included in a  
7 permit issued to the firm and shall make the pumper truck available for inspection by the  
8 Department. A septage management firm is not prohibited from use of a pumper truck that  
9 meets the requirements of the rules adopted by the Commission prior to inspection by the  
10 Department.

11       ...."

12  
13 **PART XVI. AMEND THE MARINE FISHERIES COMMISSION ADVISORY**  
14 **COMMITTEES**

15           **SECTION 16.(a)** G.S. 143B-289.57 reads as rewritten:  
16 "**§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**  
17 **members; selection; duties.**

18       ...  
19       (b) The Chair of the Commission shall appoint the following standing advisory  
20 committees:

- 21       (1) The Finfish Committee, which shall consider matters concerning finfish.  
22       (2) ~~The Crustacean Committee, which shall consider matters concerning shrimp~~  
23 ~~and crabs.~~  
24       (3) ~~The Shellfish Committee, which shall consider matters concerning oysters,~~  
25 ~~clams, scallops, and other molluscan shellfish.~~  
26       (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters  
27 concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and  
28 crabs.  
29       (4) The Habitat and Water Quality Committee, which shall consider matters  
30 concerning habitat and water quality that may affect coastal fisheries  
31 resources.

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

42           **SECTION 16.(b)** G.S. 113-200(e1) reads as rewritten:  
43 "**§ 113-200. Fishery Resource Grant Program.**

44       ...  
45       (e1) Grants Committee. – The Grants Committee shall consist of eleven members as  
46 follows:

- 47       (1) Three employees of the Sea Grant College Program, appointed by the  
48 Director of the Sea Grant College Program.  
49       (2) Two employees of the Division of Marine Fisheries, appointed by the  
50 Fisheries Director.

- 1 (3) Two members of the Marine Fisheries Commission, appointed by the Chair  
2 of the Marine Fisheries Commission.
- 3 (4) ~~One member~~ Two members of the ~~Northeast-Northern~~ Regional Advisory  
4 Committee established pursuant to G.S. 143B-289.57(e), appointed by the  
5 ~~Northeast-Northern~~ Regional Advisory Committee.
- 6 (5) ~~One member of the Central Regional Advisory Committee established~~  
7 ~~pursuant to G.S. 143B-289.57(e), appointed by the Central Regional~~  
8 ~~Advisory Committee.~~
- 9 (6) ~~One member~~ Two members of the ~~Southeast-Southern~~ Regional Advisory  
10 Committee established pursuant to G.S. 143B-289.57(e), appointed by the  
11 ~~Southeast-Southern~~ Regional Advisory Committee.
- 12 (7) ~~One member of the Inland Regional Advisory Committee established~~  
13 ~~pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional~~  
14 ~~Advisory Committee.~~

15 ...."

16 **SECTION 16.(c)** The terms of the members currently serving on the Crustacean,  
17 Shellfish, and the four regional advisory committees (Northeast, Southeast, Central, and Inland)  
18 shall expire on June 30, 2012. Effective July 1, 2012, the Chair of the Marine Fisheries  
19 Advisory Commission shall appoint no more than 11 members to the Northern Regional  
20 Advisory Committee and the Southern Regional Advisory Committee, established pursuant to  
21 subsection (e) of G.S. 143B-289.57, as amended by this section.

22

23 **PART XVII. PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES**  
24 **COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE**  
25 **DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR**  
26 **REBUILDING OF FISH STOCKS**

27 **SECTION 17.** G.S. 143B-289.52 is amended by adding a new subsection to read:

28 "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

29 ...

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

33

34 **PART XVIII. PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS**  
35 **FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT**

36 **SECTION 18.** G.S. 106-202.19(a) reads as rewritten:

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

- 39 (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the  
40 lands of another, any plant on a protected plant list without a written permit  
41 from the owner which is dated and valid for no more than 180 days and  
42 which indicates the species or higher taxon of plants for which permission is  
43 granted; except that the incidental disturbance of protected plants during  
44 agricultural, forestry or development operations is not illegal so long as the  
45 plants are not collected for sale or commercial ~~use~~:use.
- 46 (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange  
47 or export or give away for any purpose including advertising or other  
48 promotional purpose any plant on a protected plant list, except as authorized  
49 according to the rules and regulations of the ~~Board~~:Board.
- 50 (3) To violate any rule of the Board promulgated under this ~~Article~~:Article.

- 1           (4) ~~To dig ginseng on another person's land, except for the purpose of~~  
2 ~~replanting, between the first day of April and the first day of September;~~
- 3           (5) To buy ginseng outside of a buying season as provided by the Board without  
4 obtaining the required documents from the person selling the  
5 ~~ginseng;ginseng.~~
- 6           (6) To buy ginseng for the purpose of resale or trade without holding a currently  
7 valid permit as a ginseng ~~dealer;dealer.~~
- 8           (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from  
9 another person's land ginseng, galax, or Venus flytrap without a written  
10 permit from the owner that is dated and valid for no more than 180 days. A  
11 person in lawful possession of the land who has a recorded lease which  
12 allows for the disturbance or removal of any vegetation on the land is not  
13 subject to this subdivision.
- 14           (6b) To buy galax outside of a buying season as provided by the Board without  
15 obtaining the required documents from the person selling the galax.
- 16           (6c) To buy Venus flytrap outside of a buying season as provided by the Board  
17 without obtaining the required documents from the person selling the Venus  
18 flytrap.
- 19           (6d) To buy more than five pounds of galax for the purpose of resale or trade  
20 without a copy of the landowner's written permission and confirmation of  
21 the collection date.
- 22           (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade  
23 unless fully compliant with applicable regulations.
- 24           (7) To fail to keep records as required under this Article, to refuse to make  
25 records available for inspection by the Board or its agent, or to use forms  
26 other than those provided for the current year or harvest season by the  
27 Department of Agriculture and Consumer ~~Services;Services.~~
- 28           (8) To provide false information on any record or form required under this  
29 ~~Article;Article.~~
- 30           (9) To make false statements or provide false information in connection with  
31 any investigation conducted under this ~~Article;Article.~~
- 32           (10) To possess any protected plant, or part thereof, which was obtained in  
33 violation of this Article or any rule adopted ~~hereunder; or under this Article.~~
- 34           (11) To violate a stop sale order issued by the Board or its agent."  
35

## 36 **PART XIX. INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN** 37 **RULES OF THE WILDLIFE RESOURCES COMMISSION**

### 38 **SECTION 19.** G.S. 113-135.1(a) reads as rewritten:

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

- 43           (1) Offenses set out in subsection (b) of this section are punishable as set forth  
44 in G.S. 113-135 or other sections of the General Statutes.
- 45           (2) A person who parks a vehicle in violation of a rule regulating the parking of  
46 vehicles at boating access or boating launch areas is responsible for an  
47 infraction and shall pay a fine of fifty dollars (\$50.00)."  
48

## 49 **PART XX. USE OF TVA SETTLEMENT FUNDS**

50           **SECTION 20.** Funds received by the State pursuant to the provisions of the  
51 Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley*

1 *Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern  
2 District of Tennessee and allocated to the Department of Agriculture and Consumer Services  
3 by the Committee Report to House Bill 950 shall be used exclusively to award grants for  
4 "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent  
5 Decree in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham,  
6 Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania,  
7 Watauga, Yancey.

8  
9 **PART XXI. AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL**  
10 **RESOURCES REPORTING REQUIREMENTS**

11 **SECTION 21.(a)** G.S. 130A-294 reads as rewritten:

12 **"§ 130A-294. Solid waste management program.**

13 ...

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

(5) A statement that details the costs required to implement the mercury switch removal program, including a summary of receipts and disbursements from the Mercury Switch Removal Account."

**SECTION 21.(b)** G.S. 130A-294 reads as rewritten:

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

...

(i) The Department shall report to the Fiscal Research Division of the General Assembly, the Senate Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Environmental Review Commission on or before January 1 of each year on the implementation and cost of the hazardous waste management program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

- (1) A detailed description and documentation of the capture rate achieved. ~~of the mercury recovery performance ratio achieved by the mercury switch removal program.~~
- (2) ~~A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.~~
- (3) In the event that a ~~mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP~~ capture rate of at least ninety percent (90%) is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury minimization plan and its implementation. ~~switch removal program.~~
- (4) The number of mercury switches ~~collected~~ collected, the number of end-of-life vehicles containing mercury switches, the number of end-of-life vehicles processed for recycling, and a description of how the mercury switches were managed.
- (5) A statement that details the costs required to implement the mercury minimization plan. ~~switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account.~~

...."

**SECTION 21.(c)** G.S. 130A-294.1(p) is repealed.

**SECTION 21.(d)** G.S. 130A-295.02(m) is repealed.

**SECTION 21.(e)** G.S. 130A-310.2(b) is repealed.



1           **SECTION 21.(f)** G.S. 130A-310.57 is repealed.

2           **SECTION 22.** G.S. 130A-310.10 reads as rewritten:

3   "**§ 130A-310.10. Annual reports.**

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

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

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

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

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

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

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

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

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

30          (8a)   The amounts and sources of funds collected by year received under  
31 G.S. 130A-310.76, the amounts and sources of those funds paid into the  
32 Inactive Hazardous Sites Cleanup Fund established pursuant to  
33 G.S. 130A-310.11, the number of acres of contamination for which funds  
34 have been received pursuant to G.S. 130A-310.76, and a detailed annual  
35 accounting of how the funds collected pursuant to G.S. 130A-310.76 have  
36 been utilized by the Department to advance the purposes of Part 8 of Article  
37 9 of Chapter 130A of the General Statutes.

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

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

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

47       **SECTION 23.** G.S. 143-215.94M reads as rewritten:

48   "**§ 143-215.94M. Reports.**

49       (a)   The Secretary shall present an annual report to the Environmental Review  
50 ~~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;tanks.~~
- 5 (2) A list of all cleanups requiring State funding through the Noncommercial  
6 Fund and a comprehensive budget to complete such ~~cleanups;cleanups.~~
- 7 (3) A list of all cleanups undertaken by tank owners or operators and the status  
8 of these ~~cleanups;cleanups.~~
- 9 (4) A statement of receipts and disbursements for both the Commercial Fund  
10 and the Noncommercial ~~Fund;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;obligations.~~
- 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;andFund.~~
- 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 24.** G.S. 113A-35.1(b) is repealed.

23 **SECTION 25.** 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 26.** 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 27.** 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 XXII. TECHNICAL AND CONFORMING CHANGES

17 **SECTION 28.(a)** G.S. 77-92(a) reads as rewritten:

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

27 **SECTION 28.(b)** G.S. 77-93(b)(2) reads as rewritten:

28 "(2) To establish standing and ad hoc advisory committees pursuant to  
29 G.S. 77-94 ~~in addition to the North Carolina Roanoke River Basin Advisory~~  
30 ~~Committee established pursuant to Part 2 of this Article~~ and the Virginia  
31 Roanoke River Basin Advisory Committee established pursuant to Chapter  
32 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a  
33 manner to ensure a balance between recognized interests. The Commission  
34 shall determine the purpose of each advisory committee."  
35

## 36 PART XXIII. EFFECTIVE DATE

37 **SECTION 29.** Section 21(b) of this act becomes effective December 31, 2017.

38 Sections 16(a) and 16(b) of this act become effective July 1, 2012. Sections 18 and 19 of this  
39 act become effective October 1, 2012, and apply to violations and offenses committed on or  
40 after that date. Prosecutions for offenses committed before the effective date of this act are not  
41 abated or affected by this act, and the statutes that would be applicable but for this act remain  
42 applicable to those prosecutions. The remainder of this act is effective when it becomes law.