

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 593
Committee Substitute Favorable 4/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H593-PCS10555-SB-22

Short Title: Amend Environmental & Other Laws.

(Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND
OTHER LAWS.

The General Assembly of North Carolina enacts:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environmental Quality shall implement 15A NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 1.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; ~~or~~ a trail as defined in G.S. 113A-85 that is either unpaved or paved



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1 as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per
2 second (1.41 inches per ~~hour~~-hour); or landscaping material, including, but not limited to, gravel,
3 mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on
4 portions of driveways and parking areas that will not receive the full weight of vehicular traffic.
5 The owner or developer of a property may opt out of any of the exemptions from "built-upon area"
6 set out in this subsection. For State stormwater programs and local stormwater programs approved
7 pursuant to subsection (d) of this section, all of the following shall apply:

- 8 (1) The volume, velocity, and discharge rates of water associated with the one-year,
9 24-hour storm and the difference in stormwater runoff from the predevelopment
10 and postdevelopment conditions for the one-year, 24-hour storm shall be
11 calculated using any acceptable engineering hydrologic and hydraulic methods.
- 12 (2) Development may occur within the area that would otherwise be required to be
13 placed within a vegetative buffer required by the Commission pursuant to
14 G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters,
15 outstanding resource waters, and high-quality waters provided the stormwater
16 runoff from the development is collected and treated from the entire impervious
17 area and discharged so that it passes through the vegetative buffer and is
18 managed so that it otherwise complies with all applicable State and federal
19 stormwater management requirements.
- 20 (3) The requirements that apply to development activities within one-half mile of
21 and draining to Class SA waters or within one-half mile of Class SA waters and
22 draining to unnamed freshwater tributaries shall not apply to development
23 activities and associated stormwater discharges that do not occur within
24 one-half mile of and draining to Class SA waters or are not within one-half mile
25 of Class SA waters and draining to unnamed freshwater tributaries."
26

27 **STORMWATER CONTROL SYSTEM DESIGN REGULATION**

28 **SECTION 3.(a)** G.S. 143-214.7B reads as rewritten:

29 **"§ 143-214.7B. Fast-track permitting for stormwater management systems.**

30 The Commission shall adopt rules to establish a fast-track permitting process that allows for
31 the issuance of stormwater management system permits without a technical review when the
32 permit applicant (i) complies with the Minimum Design Criteria for stormwater management
33 developed by the Department and (ii) submits a permit application prepared by a qualified
34 professional. In developing the rules, the Commission shall consult with a technical working
35 group that consists of industry experts, engineers, environmental consultants, relevant faculty from
36 The University of North Carolina, and other interested stakeholders. The rules shall, at a
37 minimum, provide for all of the following:

- 38 (1) A process for permit application, review, and determination.
- 39 (2) The types of professionals that are qualified to prepare a permit application
40 submitted pursuant to this section and the types of qualifications such
41 professionals must have. The Commission shall include the following
42 professionals who meet the North Carolina licensing requirements applicable to
43 the type of stormwater management system proposed:
 - 44 a. Landscape architects licensed pursuant to Chapter 89A of the General
45 Statutes.
 - 46 b. Engineers licensed pursuant to Chapter 89C of the General Statutes.
 - 47 c. Geologists licensed pursuant to Chapter 89E of the General Statutes.
 - 48 d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.
 - 49 e. Any other licensed profession that the Commission deems appropriate.
- 50 (3) A process for ensuring compliance with the Minimum Design Criteria.

1 (4) That permits issued pursuant to the fast-track permitting process comply with
2 State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7,
3 and 143-215.3(a)(1).

4 (5) A process for establishing the liability of a qualified professional who prepares
5 a permit application for a stormwater management system that fails to comply
6 with the Minimum Design Criteria."

7 **SECTION 3.(b)** The Environmental Management Commission shall amend its rules
8 to implement subsection (a) of this section no later than July 1, 2017.

9 10 **AMEND STREAM MITIGATION REQUIREMENTS**

11 **SECTION 4.(a)** The Environmental Management Commission shall amend its rules
12 so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of
13 more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of
14 those losses; and a lower mitigation threshold may be applied in the case of a legally binding
15 federal policy. The Commission shall adopt temporary rules as soon as practicable to implement
16 this section.

17 **SECTION 4.(b)** During the time period for public comment specified by the
18 Wilmington District of the United States Army Corps of Engineers in its published notice of the
19 proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e)
20 of the Clean Water Act, the Department of Environmental Quality shall submit written comments
21 to the Washington, D.C., Headquarters and the Wilmington District Office of the United States
22 Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting
23 Regional Conditions that will increase the threshold for the requirement of mitigation for loss of
24 stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet.
25 The written comments shall include a history of why the current threshold of 150 linear feet exists
26 in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that
27 the State has established a 300 linear foot mitigation threshold.

28 29 **COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION** 30 **CONTROL STRUCTURES**

31 **SECTION 5.(a)** Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

32 **SECTION 5.(b)** The Coastal Resources Commission shall adopt temporary rules for
33 the use of temporary erosion control structures consistent with the amendments to the temporary
34 erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11,
35 2016, with any further modifications in the Commission's discretion. The Commission shall also
36 adopt permanent rules to implement this section.

37 38 **DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT** 39 **CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS**

40 **SECTION 6.(a)** Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H
41 .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its
42 implementation.

43 **SECTION 6.(b)** Sediment Criteria Rule. – Until the effective date of the revised
44 permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection
45 (d) of this section, the Commission and the Department of Environmental Quality shall implement
46 the Sediment Criteria Rule, as provided in subsection (c) of this section.

47 **SECTION 6.(c)** Implementation. – The Commission shall exempt from the permitting
48 requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a
49 borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal
50 systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape
51 Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

1 **SECTION 6.(d)** Additional Rule-Making Authority. – The Commission shall adopt a
2 rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section.
3 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section
4 shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted
5 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General
6 Statutes. Rules adopted pursuant to this section shall become effective as provided in
7 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
8 G.S. 150B-21.3(b2).

9 **SECTION 6.(e)** Sunset. – This section expires when permanent rules adopted as
10 required by subsection (d) of this section become effective.

11
12 **DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM**
13 **EROSION RATES ADJACENT TO TERMINAL GROINS**

14 **SECTION 7.** The Division of Coastal Management of the Department of
15 Environmental Quality, in consultation with the Coastal Resources Commission, shall study the
16 change in erosion rates directly adjacent to existing and newly constructed terminal groins to
17 determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H
18 .0304 (AECS Within Ocean Hazard Areas) should be adjusted to reflect any mitigation of
19 shoreline erosion resulting from the installation of the terminal groins. The Division shall report
20 on the results of the study to the Environmental Review Commission on or before December 31,
21 2016.

22
23 **SOLID WASTE AMENDMENTS**

24 **SECTION 8.(a)** Section 4.9(a) of S.L. 2015-286 reads as rewritten:

25 "**SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
26 "

27 **SECTION 8.(b)** Section 4.9(b) of S.L. 2015-286 reads as rewritten:

28 "**SECTION 4.9.(b)** Section ~~14.20(a)~~14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten
29 to read:
30 "

31 **SECTION 8.(c)** Section 4.9(c) of S.L. 2015-286 reads as rewritten:

32 "**SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
33 "

34 **SECTION 8.(d)** Section 4.9(d) of S.L. 2015-286 reads as rewritten:

35 "**SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:
36 "

37 **SECTION 8.(e)** Section 14.20(e) of S.L. 2015-241 reads as rewritten:

38 "**SECTION 14.20.(e)** After July 1, 2016, the annual fee due pursuant to
39 ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, for
40 existing sanitary landfills and transfer stations with a valid permit issued before the date this act
41 becomes effective is equal to the applicable annual fee for the facility as set forth in
42 ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, less a
43 permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater
44 than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated
45 by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due
46 for the same period of time and (ii) multiplying the difference by a fraction, the numerator of
47 which is the number of years remaining in the facility's time-limited permit and the denominator
48 of which is the total number of years covered by the facility's time-limited permit. The amount of
49 the permittee fee credit shall be allocated in equal annual installments over the number of years
50 that constitute the facility's remaining life-of-site, as determined by the Department, unless the

1 Department accelerates, in its sole discretion, the use of the credit over a shorter period of time.

2 For purposes of this subsection, the following definitions apply:

3 (1) Life-of-site permit fee amount. – The amount equal to the sum of all annual
4 fees that would be due under the fee structure set forth in
5 ~~G.S. 130A-295.8A(d1)~~, G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of
6 this act, during the cycle of the facility's permit in effect on July 1, 2016.

7 (2) Time-limited permit fee amount. – The amount equal to the sum of the
8 application fee or renewal fee, whichever is applicable, and all annual fees paid
9 or to be paid pursuant to subsections (c) and (d) of
10 ~~G.S. 130A-295.8A~~, G.S. 130A-295.8, as repealed by Section 14.20(c) of this
11 act, during the cycle of the facility's permit in effect on July 1, 2016.

12 The Department shall adopt rules to implement this subsection."

13 **SECTION 9.(a)** Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of
14 S.L. 2015-286, reads as rewritten:

15 "**SECTION 14.20.(f)** This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2),
16 as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i)
17 executed on or after October 1, 2015, ~~October 1, 2015~~, and (ii) executed on or before October 1,
18 2015, only if all parties to a valid and operative franchise agreement consent to modify the
19 agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill
20 for which the agreement was executed. The remainder of G.S. 130A-294, as amended by
21 subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section,
22 apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the
23 date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply
24 for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this
25 act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is
26 next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for
27 applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or
28 transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall
29 be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015,
30 and the Department shall not delay in processing such permit applications in consideration of
31 changes made by this act, but such landfills and transfer stations shall be eligible for issuance of
32 life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on
33 July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to
34 G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a
35 life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1,
36 2016."

37 **SECTION 9.(b)** G.S. 130A-294(b1)(2) reads as rewritten:

38 "(2) A person who intends to apply for a new permit for a sanitary landfill shall
39 obtain, prior to applying for a permit, a franchise for the operation of the
40 sanitary landfill from each local government having jurisdiction over any part
41 of the land on which the sanitary landfill and its appurtenances are located or to
42 be located. A local government may adopt a franchise ordinance under
43 G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill
44 ~~shall~~ shall (i) be granted for the life-of-site of the landfill and shall
45 for a period not to exceed 60 years, and (ii) include all of the following:

- 46 a. A statement of the population to be served, including a description of
47 the geographic area.
- 48 b. A description of the volume and characteristics of the waste stream.
- 49 c. A projection of the useful life of the sanitary landfill.
- 50 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

- 1 e. The procedures to be followed for governmental oversight and
 2 regulation of the fees and rates to be charged by facilities subject to the
 3 franchise for waste generated in the jurisdiction of the franchising
 4 entity.
- 5 f. A facility plan for the sanitary landfill that shall include the boundaries
 6 of the proposed facility, proposed development of the facility site, the
 7 boundaries of all waste disposal units, final elevations and capacity of
 8 all waste disposal units, the amount of waste to be received per day in
 9 tons, the total waste disposal capacity of the sanitary landfill in tons, a
 10 description of environmental controls, and a description of any other
 11 waste management activities to be conducted at the facility. In addition,
 12 the facility plan shall show the proposed location of soil borrow areas,
 13 leachate facilities, and all other facilities and infrastructure, including
 14 ingress and egress to the facility."

15 **SECTION 9.(c)** G.S. 160A-319(a) reads as rewritten:

16 **"§ 160A-319. Utility franchises.**

17 (a) A city shall have authority to grant upon reasonable terms franchises for a telephone
 18 system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A
 19 franchise granted by a city authorizes the operation of the franchised activity within the city. No
 20 franchise shall be granted for a period of more than 60 years, ~~except including a franchise granted~~
 21 to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided,
 22 however, that a franchise for solid waste collection or disposal systems and facilities-facilities,
 23 other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as
 24 otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city
 25 may by ordinance make it unlawful to operate an enterprise without a franchise."

26 **SECTION 9.(d)** G.S. 153A-136 reads as rewritten:

27 **"§ 153A-136. Regulation of solid wastes.**

28 (a) A county may by ordinance regulate the storage, collection, transportation, use,
 29 disposal, and other disposition of solid wastes. Such an ordinance may:

30 ...

- 31 (3) Grant a franchise to one or more persons for the exclusive right to
 32 commercially collect or dispose of solid wastes within all or a defined portion
 33 of the county and prohibit any other person from commercially collecting or
 34 disposing of solid wastes in that area. The board of commissioners may set the
 35 terms of any franchise, ~~except that no franchise may be granted for a period~~
 36 ~~exceeding 30 years, nor may any franchise; provided, however, no franchise~~
 37 shall be granted for a period of more than 30 years, except for a franchise
 38 granted to a sanitary landfill for the life-of-site of the landfill pursuant to
 39 G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms
 40 may impair the authority of the board of commissioners to regulate fees as
 41 authorized by this section.

42"

43 **SECTION 9.(e)** Section 9(a) of this act applies to franchise agreements (i) executed
 44 on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a
 45 valid and operative agreement consent to modify the agreement for the purpose of extending the
 46 agreement's duration of the life-of-site of the landfill for which the agreement was executed.

47 **SECTION 10.** The Division of Waste Management of the Department of
 48 Environmental Quality shall examine whether solid waste management activities in the State are
 49 being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and
 50 cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly,
 51 areas of the State that have insufficient disposal capacity, as well as areas of the State with

1 disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The
2 Department shall develop economic estimates of the short- and long-term costs of waste transport
3 in these situations versus full utilization of capacity, or expansion of capacity, in the originating
4 jurisdiction. The Department shall also provide information on landfill capacity that is permitted
5 but not yet constructed and expansion opportunities for future landfill capacity. The Department
6 shall submit a report, including any legislative recommendations, to the Environmental Review
7 Commission no later than December 31, 2016.

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

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

10 (a) The Department is authorized and directed to engage in research, conduct
11 investigations and surveys, make inspections and establish a statewide solid waste management
12 program. In establishing a program, the Department shall have authority to:

13 ...

- 14 (4) a. Develop a permit system governing the establishment and operation of
15 solid waste management facilities. A landfill with a disposal area of 1/2
16 acre or less for the on-site disposal of land clearing and inert debris is
17 exempt from the permit requirement of this section and shall be
18 governed by G.S. 130A-301.1. Demolition debris from the
19 decommissioning of manufacturing buildings, including electric
20 generating stations, that is disposed of on the same site as the
21 decommissioned buildings, is exempt from the permit requirement of
22 this section and rules adopted pursuant to this section and shall be
23 governed by G.S. 130A-301.3. The Department shall not approve an
24 application for a new permit, major permit modification, or a substantial
25 amendment to a permit for a sanitary landfill, excluding demolition
26 landfills as defined in the rules of the Commission, except as provided
27 in subdivisions (3) and (4) of subsection (b1) of this section. No permit
28 shall be granted for a solid waste management facility having discharges
29 that are point sources until the Department has referred the complete
30 plans and specifications to the Commission and has received advice in
31 writing that the plans and specifications are approved in accordance
32 with the provisions of G.S. 143-215.1. In any case where the
33 Department denies a permit for a solid waste management facility, it
34 shall state in writing the reason for denial and shall also state its
35 estimate of the changes in the applicant's proposed activities or plans
36 that will be required for the applicant to obtain a permit.
- 37 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.
- 38 c. The Department shall deny an application for a permit for a solid waste
39 management facility if the Department finds that:
- 40 1. Construction or operation of the proposed facility would be
41 inconsistent with or violate rules adopted by the Commission.
 - 42 2. Construction or operation of the proposed facility would result in
43 a violation of water quality standards adopted by the
44 Commission pursuant to G.S. 143-214.1 for waters, as defined in
45 G.S. 143-213.
 - 46 3. Construction or operation of the facility would result in
47 significant damage to ecological systems, natural resources,
48 cultural sites, recreation areas, or historic sites of more than local
49 significance. These areas include, but are not limited to, national
50 or State parks or forests; wilderness areas; historic sites;
51 recreation areas; segments of the natural and scenic rivers

1 system; wildlife refuges, preserves, and management areas; areas
 2 that provide habitat for threatened or endangered species;
 3 primary nursery areas and critical fisheries habitat designated by
 4 the Marine Fisheries Commission; and Outstanding Resource
 5 Waters designated by the Commission.

- 6 4. Construction or operation of the proposed facility would
 7 substantially limit or threaten access to or use of public trust
 8 waters or public lands.
- 9 5. The proposed facility would be located in a natural hazard area,
 10 including a floodplain, a landslide hazard area, or an area subject
 11 to storm surge or excessive seismic activity, such that the facility
 12 will present a risk to public health or safety.
- 13 6. There is a practical alternative that would accomplish the
 14 purposes of the proposed facility with less adverse impact on
 15 public resources, considering engineering requirements and
 16 economic costs.
- 17 7. The cumulative impacts of the proposed facility and other
 18 facilities in the area of the proposed facility would violate the
 19 criteria set forth in sub-sub-subdivisions 2. through 5. of this
 20 sub-subdivision.
- 21 8. Construction or operation of the proposed facility would be
 22 inconsistent with the State solid waste management policy and
 23 goals as set out in G.S. 130A-309.04 and with the State solid
 24 waste management plan developed as provided in
 25 G.S. 130A-309.07.
- 26 9. The cumulative impact of the proposed facility, when considered
 27 in relation to other similar impacts of facilities located or
 28 proposed in the community, would have a disproportionate
 29 adverse impact on a minority or low-income community
 30 protected by Title VI of the federal Civil Rights Act of 1964.
 31 This subdivision shall apply only to the extent required by
 32 federal law.

33 d. Management of land clearing debris burned in accordance with 15A
 34 NCAC 02D.1903 shall not require a permit pursuant to this section.

35 e. For the purpose of the disposal of leachate and wastewater collected
 36 from a sanitary landfill, the Department shall approve aerosolization of
 37 such leachate and wastewater as an acceptable method of disposal.
 38 Aerosolization of leachate or wastewater that results in effluent
 39 free-production or a zero liquid discharge does not constitute a
 40 discharge that requires a permit under either Article 21 or Article 21B of
 41 Chapter 143 of the General Statutes."

42 **SECTION 12.** Except as otherwise provided, Sections 8 and 9 of this act are effective
 43 retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.
 44

45 FARRIERS/HORSESHOEING

46 **SECTION 13.** G.S. 90-187.10 is amended by adding a new subdivision to read:

47 "**§ 90-187.10. Necessity for license; certain practices exempted.**

48 No person shall engage in the practice of veterinary medicine or own all or part interest in a
 49 veterinary medical practice in this State or attempt to do so without having first applied for and
 50 obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without
 51 having first obtained from the Board a certificate of renewal of license for the calendar year in

1 which the person proposes to practice and until the person shall have been first licensed and
2 registered for such practice in the manner provided in this Article and the rules and regulations of
3 the Board.

4 Nothing in this Article shall be construed to prohibit:

5 ...

6 (11) Any farrier or person actively engaged in the activity or profession of shoeing
7 hooved animals as long as his or her actions are limited to the art of shoeing
8 hooved animals or trimming, clipping, or maintaining hooves."

10 WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND 11 UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

12 SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

13 "**§ 143-254.5. Disclosure of personal identifying information.**

14 Social security numbers and identifying information obtained by the Commission shall be
15 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also
16 includes a person's mailing address, residence address, e-mail address, Commission-issued
17 customer identification number, date of birth, and telephone number."

18 SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

19 "**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

20 ...

21 (h) Social security numbers and identifying information obtained by the Commission or
22 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this
23 subsection, "identifying information" also includes a person's mailing address, residence address,
24 e-mail address, Commission-issued customer identification number, date of birth, and telephone
25 number."

26 SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new
27 section to read:

28 "**§ 132-1.14. Personally identifiable information of public utility customers.**

29 (a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1,
30 does not include personally identifiable information obtained by the Public Staff of the Utilities
31 Commission from customers requesting assistance from the Public Staff regarding rate or service
32 disputes with a public utility, as defined by G.S. 62-3(23).

33 (b) The Public Staff may disclose personally identifiable information of a customer to the
34 public utility involved in the matter for the purpose of investigating such disputes.

35 (c) Such personally identifiable information is a public record to the extent disclosed by
36 the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

37 (d) For purposes of this section, "personally identifiable information" means the customer's
38 name, physical address, e-mail address, telephone number, and public utility account number."

39 SECTION 14.(d) This section becomes effective October 1, 2016.

41 REGULATION AND DISPOSITION OF CERTAIN REPTILES

42 SECTION 15.(a) G.S. 14-419 reads as rewritten:

43 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;**
44 **disposition of reptiles.**

45 (a) In any case in which any law-enforcement officer or animal control officer has
46 probable cause to believe that any of the provisions of this Article have been or are about to be
47 violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed
48 to immediately investigate the violation or impending violation and to consult with representatives
49 of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a
50 designated representative of either the Museum or Zoological Park to identify appropriate and safe
51 methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the

1 officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North
2 Carolina State Museum of Natural Sciences or to its designated representative for examination for
3 the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile
4 believed to be a large constricting snake or crocodylian to the North Carolina Zoological Park or to
5 its designated representative for the purpose of ascertaining whether the reptile is regulated under
6 this Article. In any case in which a law enforcement officer or animal control officer determines
7 that there is an immediate risk to public safety, the officer shall not be required to consult with
8 representatives of the North Carolina Museum of Natural Sciences or the North Carolina
9 Zoological Park as provided by this ~~subsection~~ subsection and may kill the reptile.

10 (b) If the Museum or the Zoological Park or their designated representatives find that a
11 seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under this
12 Article, the Museum or the Zoological Park or their designated representative shall determine
13 ~~final~~ an interim disposition of the reptile in a manner consistent with the safety of the public, ~~which~~
14 ~~is~~ until a final disposition is determined by a court of competent jurisdiction. In the case of a
15 venomous reptile for which antivenin approved by the United States Food and Drug
16 Administration is not readily available, shall the reptile may be euthanized unless the species is
17 protected under the federal Endangered Species Act of 1973. Where the Museum or the
18 Zoological Park or their designated representative determines euthanasia to be the appropriate
19 interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended
20 causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to
21 the reptile's owner.

22 (b1) Upon conviction of any offense contained in this Article, the court shall order a final
23 disposition of the confiscated venomous reptiles, large constricting snakes, or crocodylians, which
24 may include the transfer of title to the State of North Carolina and reimbursement for the
25 necessary expenses incurred in the seizure, delivery, and storage thereof.

26 (c) If the Museum or the Zoological Park or their designated representatives find that the
27 reptile is not a venomous reptile, large constricting snake, or crocodylian regulated under this
28 Article, and either no criminal warrants or indictments are initiated in connection with the reptile
29 within 10 days of initial seizure, or a court of law determines that the reptile is not being owned,
30 possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of
31 the law enforcement officer to return the reptile or reptiles to the person from whom they were
32 seized within 15 days."

33 **SECTION 15.(b)** The North Carolina Department of Natural and Cultural Resources
34 and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of
35 potential designated representatives for the storage and safekeeping of venomous reptiles, large
36 constricting snakes, or crocodylians.

37 **SECTION 15.(c)** The North Carolina Department of Natural and Cultural Resources
38 and the North Carolina Wildlife Resources Commission shall jointly study and develop
39 recommendations for potential procedural and policy changes to improve the regulation of certain
40 reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the
41 Commission shall consider public health and safety risks, permitting requirements, exemptions,
42 notification of escape, investigation of suspected violations, seizure and examination of reptiles,
43 disposition of seized reptiles, and any other issues determined relevant to the regulation of certain
44 reptiles. The Department and the Commission shall submit a report, including any legislative
45 recommendations, to the Environmental Review Commission no later than December 31, 2016.

47 **PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER** 48 **SUPPLY SYSTEMS**

49 **SECTION 16.(a)** 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until
50 the effective date of the revised permanent rule that the Commission for Public Health is required
51 to adopt pursuant to subsection (c) of this section, the Commission, the Department of Health and

1 Human Services, and any other political subdivision of the State shall implement 15A NCAC 18C
2 .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

3 **SECTION 16.(b)** Implementation. – Notwithstanding the Daily Flow Requirements
4 rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public
5 water supply system shall be exempt from the Daily Flow Requirements, and any other design
6 flow standards established by the Department or the Commission, provided the flow rates and
7 yields that are less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow
8 Requirements) are (i) achieved through an engineering design that utilizes low-flow fixtures and
9 low-flow reduction technologies and the design is prepared, sealed, and signed by a professional
10 engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that
11 is sufficient to sustain the water usage required in the engineering design.

12 **SECTION 16.(c)** Additional Rule-Making Authority. – The Commission shall adopt a
13 rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection
14 (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission
15 pursuant to this section shall be substantively identical to the provisions of subsection (b) of this
16 section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through
17 G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in
18 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
19 G.S. 150B-21.3(b2).

20 **SECTION 16.(d)** Sunset. – Subsection (b) of this section expires on the date that rules
21 adopted pursuant to subsection (c) of this section become effective.

22 23 **CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS** 24 **DECLARED INVALID**

25 **SECTION 17.** G.S. 95-79 reads as rewritten:

26 "**§ 95-79. Certain agreements declared illegal.**

27 (a) Any agreement or combination between any employer and any labor union or labor
28 organization whereby persons not members of such union or organization shall be denied the right
29 to work for said employer, or whereby such membership is made a condition of employment or
30 continuation of employment by such employer, or whereby any such union or organization
31 acquires an employment monopoly in any enterprise, is hereby declared to be against the public
32 policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of
33 North Carolina.

34 (b) Any provision that directly or indirectly conditions the purchase of agricultural
35 ~~products or products~~, the terms of an agreement for the purchase of agricultural ~~products-products~~,
36 or the terms of an agreement not to sue or to settle pending litigation upon an agricultural
37 producer's status as a union or nonunion employer or entry into or refusal to enter into an
38 agreement with a labor union or labor organization is invalid and unenforceable as against public
39 policy in restraint of trade or commerce in the State of North Carolina. For purposes of this
40 subsection, the term "agricultural producer" means any producer engaged in any service or activity
41 included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. §
42 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

43 44 **COPIES OF CERTAIN PUBLIC RECORDS**

45 **SECTION 18.(a)** G.S. 132-6.2 reads as rewritten:

46 "**§ 132-6.2. Provisions for copies of public records; fees.**

47 (a) Persons requesting copies of public records may elect to obtain them in any and all
48 media in which the public agency is capable of providing them. No request for copies of public
49 records in a particular medium shall be denied on the grounds that the custodian has made or
50 prefers to make the public records available in another medium. The public agency may assess
51 different fees for different media as prescribed by law.

1 (a1) Notwithstanding subsection (a) of this section, a public agency may satisfy the
2 requirement to provide access to public records and computer databases under G.S. 132-9 by
3 making those public records or computer databases available online in a format that allows a
4 person to download the public record or computer database to obtain a copy. A public agency that
5 provides access to public records or computer databases under this subsection is not required to
6 provide copies through any other method or medium. If a public agency, as a service to the
7 requester, voluntarily elects to provide copies by another method or medium, the public agency
8 may negotiate a reasonable charge for the service with the requester. A public agency satisfying its
9 requirement to provide access to public records and computer databases under G.S. 132-9 by
10 making those public records or computer databases available online in a format that allows a
11 person to obtain a copy by download shall also allow for inspection of any public records also held
12 in a nondigital medium.

13 (b) Persons requesting copies of public records may request that the copies be certified or
14 uncertified. The fees for certifying copies of public records shall be as provided by law. Except as
15 otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public
16 record that exceeds the actual cost to the public agency of making the copy. For purposes of this
17 subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a
18 public record as determined by generally accepted accounting principles and does not include
19 costs that would have been incurred by the public agency if a request to reproduce a public record
20 had not been made. Notwithstanding the provisions of this subsection, if the request is such as to
21 require extensive use of information technology resources or extensive clerical or supervisory
22 assistance by personnel of the agency involved, or if producing the record in the medium
23 requested results in a greater use of information technology resources than that established by the
24 agency for reproduction of the volume of information requested, then the agency may charge, in
25 addition to the actual cost of duplication, a special service charge, which shall be reasonable and
26 shall be based on the actual cost incurred for such extensive use of information technology
27 resources or the labor costs of the personnel providing the services, or for a greater use of
28 information technology resources that is actually incurred by the agency or attributable to the
29 agency. If anyone requesting public information from any public agency is charged a fee that the
30 requester believes to be unfair or unreasonable, the requester may ask the State Chief Information
31 Officer or his designee to mediate the dispute.

32 (c) Persons requesting copies of computer databases may be required to make or submit
33 such requests in writing. Custodians of public records shall respond to all such requests as
34 promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably
35 possible. If the request is denied, the denial shall be accompanied by an explanation of the basis
36 for the denial. If asked to do so, the person denying the request shall, as promptly as possible,
37 reduce the explanation for the denial to writing.

38 (d) Nothing in this section shall be construed to require a public agency to respond to
39 requests for copies of public records outside of its usual business hours.

40 (e) Nothing in this section shall be construed to require a public agency to respond to a
41 request for a copy of a public record by creating or compiling a record that does not exist. If a
42 public agency, as a service to the requester, voluntarily elects to create or compile a record, it may
43 negotiate a reasonable charge for the service with the requester. Nothing in this section shall be
44 construed to require a public agency to put into electronic medium a record that is not kept in
45 electronic medium.

46 (f) For purposes of this section, the following definitions shall apply:

47 (1) Computer database. – As defined in G.S. 132-6.1(d)(1).

48 (2) Media or Medium. – A particular form or means of storing information."

49 **SECTION 18.(b)** The State Chief Information Officer, in consultation with the State
50 Controller, the Office of State Budget and Management, Local Government Commission, The
51 University of North Carolina, The North Carolina Community College System, The School of

1 Government at the University of North Carolina at Chapel Hill, the North Carolina League of
2 Municipalities, the North Carolina School Boards Association, and the North Carolina County
3 Commissioners Association, shall report, including any recommendations, to the 2017 Regular
4 Session of the General Assembly on or before February 1, 2017, regarding the development and
5 use of computer databases by State and local agencies and the need for public access to those
6 public records.

7 **SECTION 18.(c)** This section becomes effective July 1, 2016.

8
9 **PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY**

10 **SECTION 19.** G.S. 160A-296 reads as rewritten:

11 "**§ 160A-296. Establishment and control of streets; center and edge lines.**

12 (a) A city shall have general authority and control over all public streets, sidewalks, alleys,
13 bridges, and other ways of public passage within its corporate limits except to the extent that
14 authority and control over certain streets and bridges is vested in the Board of Transportation.
15 General authority and control includes but is not limited to all of the following:

16 ...

17 (6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or
18 alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or
19 appliances of any kind either on, above, or below the surface. To the extent a
20 municipality is authorized under applicable law to impose a fee or charge with
21 respect to activities conducted in its rights-of-way, the fee or charge must apply
22 uniformly and on a competitively neutral and nondiscriminatory basis to all
23 comparable activities by similarly situated users of the rights-of-way. No fee or
24 charge for activities conducted in the right-of-way shall be assessed on
25 businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way
26 management expenses related to the activities of those businesses exceed
27 distributions under Article 5 of Chapter 105 of the General Statutes.

28"

29
30 **ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER**
31 **FROM FEDERAL LANDS INTO THE OCEAN**

32 **SECTION 20.** G.S. 143-214.7 is amended by adding a new subsection to read:

33 "(d3) Notwithstanding any other provision of State law and except as required by federal
34 law, no State agency or unit of local government shall prohibit a unit of the federal government
35 from pumping standing stormwater from federal land that is located landward of a primary dune
36 over the dune and into the ocean. Pursuant to this section, all State agencies and units of local
37 government shall grant all necessary approvals to a unit of the federal government to pump
38 standing stormwater from federal land that is located landward of a primary dune over the dune
39 and into the ocean. Such approvals shall be granted within 24 hours of the request for the
40 approval, and failure to grant an approval within 24 hours shall be deemed as an approval of the
41 request."

42
43 **DELAY INSURANCE FOR MOPED OWNERS**

44 **SECTION 21.(a)** Section 10 of S.L. 2015-125 reads as rewritten:

45 "**SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2015. The remainder of
46 this act becomes effective July 1, ~~2016~~,2017, and applies to offenses committed on or after that
47 date."

48 **SECTION 21.(b)** The Department of Insurance shall review which insurance
49 companies provide moped liability insurance, including the typical costs and requirements that
50 must be met by a moped owner in order to obtain moped liability insurance. By December 15,
51 2016, the Department shall report its findings, including a list of the companies identified as

1 providing moped liability insurance and any legislative recommendations, to the Joint Legislative
2 Transportation Oversight Committee.

3

4 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

5 **SECTION 22.** If any section or provision of this act is declared unconstitutional or
6 invalid by the courts, it does not affect the validity of this act as a whole or any part other than the
7 part declared to be unconstitutional or invalid.

8 **SECTION 23.** Except as otherwise provided, this act is effective when it becomes
9 law.