

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 56
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/24/17
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
5/31/17
Senate Finance Committee Substitute Adopted 6/21/17
Sixth Edition Engrossed 6/27/17
Proposed Conference Committee Substitute H56-PCCS10416-RIf-10

Short Title: Amend Environmental Laws.

(Public)

Sponsors:

Referred to:

February 8, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS**

6 SECTION 1. G.S. 130A-310.72 reads as rewritten:

7 "**§ 130A-310.72. Financial assurance requirement.**

8 The person conducting remediation of a contaminated ~~industrial~~ site pursuant to the
9 provisions of this Part shall establish financial assurance that will ensure that sufficient funds
10 are available to implement and maintain the actions or controls specified in the remedial action
11 plan for the site. The person conducting remediation of a site may establish financial assurance
12 through one of the following mechanisms, or any combination of the following mechanisms, in
13 a form specified or approved by the Department: insurance products issued from entities having
14 no corporate or ownership association with the person conducting the remediation; funded
15 trusts; surety bonds; certificates of deposit; letters of credit; corporate financial tests; local
16 government financial tests; corporate guarantees; local government guarantees; capital reserve
17 funds; or any other financial mechanism authorized for the demonstration of financial
18 assurance under (i) 40 Code of Federal Regulations Part 264, Subpart H (July 1, 2010 Edition)
19 and (ii) Section .1600 of Subchapter B of Chapter 13 of Title 15A of the North Carolina
20 Administrative Code. Proof of financial assurance shall be provided in the remedial action plan
21 and annually thereafter on the anniversary date of the approval of the plan. The Department
22 may waive the requirement for a person conducting remediation of a contaminated site
23 pursuant to the provisions of this Part to establish or maintain financial assurance if the
24 Department finds that the only actions or controls to be implemented or maintained as part of
25 the remedial action plan for the site include either or both of the following:

26 (1) Annual reporting of land-use controls.

27 (2) The maintenance of durable or low-maintenance covers for contaminated
28 soil."

29
30 **REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS**



* H 5 6 - P C C S 1 0 4 1 6 - R I F - 1 0 *

1 **SECTION 2.(a)** G.S. 130A-294(k) is repealed.

2 **SECTION 2.(b)** G.S. 130A-309.17 is repealed.

3
4 **LAND-USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST**
5 **PETROLEUM DISCHARGE OR RELEASE**

6 **SECTION 3.(a)** G.S. 143B-279.9(b) reads as rewritten:

7 "(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A remedial
8 action plan for the cleanup of environmental damage resulting from a discharge or release of
9 petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143
10 of the General Statutes, ~~Statutes~~, other petroleum sources, or from an aboveground storage tank
11 pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes must include an
12 agreement by the owner, operator, or other party responsible for the discharge or release of
13 petroleum to record a notice of any applicable land-use restrictions that meet the requirements
14 of this subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall
15 apply except as specifically modified by this subsection and G.S. 143B-279.11. Any restriction
16 on the current or future use of real property pursuant to this subsection shall be enforceable
17 only with respect to: (i) real property on which the source of contamination is located and (ii)
18 any real property on which contamination is located at the time the remedial action plan is
19 approved and that was owned or controlled by any owner or operator of the underground
20 storage tank or other responsible party at the time the discharge or release of petroleum is
21 discovered or reported or at any time thereafter. No restriction on the current or future use of
22 real property shall apply to any portion of any parcel or tract of land on which contamination is
23 not located. This subsection shall not be construed to require any person to record any notice of
24 restriction on the current or future use of real property other than the real property described in
25 this subsection. For purposes of this subsection and G.S. 143B-279.11, the Secretary may
26 restrict current or future use of real property only as set out in any one or more of the following
27 subdivisions:

- 28 (1) Where soil contamination will remain in excess of unrestricted use
29 standards, the property may be used for a primary or secondary residence,
30 school, daycare center, nursing home, playground, park, recreation area, or
31 other similar use only with the approval of the Department.
- 32 (2) Where soil contamination will remain in excess of unrestricted use standards
33 and the property is used for a primary or secondary residence that was
34 constructed before the release of petroleum that resulted in the
35 contamination is discovered or reported, the Secretary may approve
36 alternative restrictions that are sufficient to reduce the risk of exposure to
37 contaminated soils to an acceptable level while allowing the real property to
38 continue to be used for a residence.
- 39 (3) Where groundwater contamination will remain in excess of unrestricted use
40 standards, installation or operation of any well usable as a source of water
41 shall be prohibited.
- 42 (4) Any restriction on the current or future use of the real property that is agreed
43 upon by both the owner of the real property and the Department.

44 Except with respect to land contaminated from a discharge or release of petroleum from an
45 underground storage tank, the imposition of restrictions on the current or future use of real
46 property on sites contaminated by the discharge or release of petroleum from an aboveground
47 storage tank, or another petroleum source, from which contamination has migrated to off-site
48 properties, as that term is defined under G.S. 130A-310.65(3a), shall only be allowed as
49 provided in G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable."

50 **SECTION 3.(b)** G.S. 143B-279.11 reads as rewritten:

1 "§ 143B-279.11. **Recordation of residual petroleum from ~~an~~ underground or**
2 **aboveground storage tank, tanks or other sources.**

3 (a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this
4 section. This section applies only to a cleanup pursuant to a remedial action plan that addresses
5 environmental damage resulting from a discharge or release of petroleum from an underground
6 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General ~~Statutes~~ Statutes
7 or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article
8 21A of Chapter 143 of the General Statutes.

9 (b) The owner, operator, or other person responsible for a discharge or release of
10 petroleum from an underground storage ~~tank~~ aboveground storage tank, or other
11 petroleum source shall prepare and submit to the Department a proposed Notice that meets the
12 requirements of this section. The proposed Notice shall be submitted to the Department (i)
13 before the property is conveyed, or (ii) when the owner, operator, or other person responsible
14 for the discharge or release requests that the Department issue a determination that no further
15 action is required under the remedial action plan, whichever first occurs. The Notice shall be
16 entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that
17 would be sufficient as a description in an instrument of conveyance of the (i) real property on
18 which the source of contamination is located and (ii) any real property on which contamination
19 is located at the time the remedial action plan is approved and that was owned or controlled by
20 any owner or operator of the underground storage ~~tank~~ aboveground storage tank, or other
21 petroleum source, or other responsible party at the time the discharge or release of petroleum is
22 discovered or reported or at any time thereafter. The Notice shall identify the location of any
23 residual petroleum known to exist on the real property at the time the Notice is prepared. The
24 Notice shall also identify the location of any residual petroleum known, at the time the Notice
25 is prepared, to exist on other real property that is a result of the discharge or release. The Notice
26 shall set out any restrictions on the current or future use of the real property that are imposed by
27 the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users
28 of the property.

29 (c) If the contamination is located on more than one parcel or tract of land, the
30 Department may require that the owner, operator, or other person responsible for the discharge
31 or release prepare a composite map or plat that shows all parcels or tracts. If the contamination
32 is located on one parcel or tract of land, the owner, operator, or other person responsible for the
33 discharge or release may prepare a map or plat that shows the parcel but is not required to do
34 so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the
35 requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the
36 Department has approved a map or plat, it shall be recorded in the office of the register of
37 deeds and shall be incorporated into the Notice by reference.

38 (d) The Department shall review the proposed Notice to determine whether the Notice
39 meets the requirements of this section and rules adopted to implement this section and shall
40 provide the owner, operator, or other person responsible for the discharge or release of
41 petroleum from an underground storage ~~tank~~ aboveground storage tank, or other
42 petroleum source with a notarized copy of the approved Notice. After the Department approves
43 the Notice, the owner, operator, or other person responsible for the discharge or release of
44 petroleum from an underground storage ~~tank~~ aboveground storage tank, or other
45 petroleum source shall file a notarized copy of the approved Notice in the register of deeds
46 office in the county or counties in which the real property is located (i) before the property is
47 conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the
48 discharge or release receives notice from the Department that no further action is required
49 under the remedial action plan, whichever first occurs. If the owner, operator, or other person
50 responsible for the discharge or release fails to file the Notice as required by this section, any
51 determination by the Department that no further action is required is void. The owner, operator,

1 or other person responsible for the discharge or release, may record the Notice required by this
2 section without the agreement of the owner of the real property. The owner, operator, or other
3 person responsible for the discharge or release shall submit a certified copy of the Notice as
4 filed in the register of deeds office to the Department.

5 (e) Repealed by Session Laws 2012-18, s. 1.23, effective July 1, 2012.

6 (f) In the event that the owner, operator, or other person responsible for the discharge
7 or release fails to submit and file the Notice required by this section within the time specified,
8 the Secretary may prepare and file the Notice. The costs thereof may be recovered by the
9 Secretary from any responsible party. In the event that an owner of the real property who is not
10 a responsible party submits and files the Notice required by this section, the owner may recover
11 the reasonable costs thereof from any responsible party.

12 (g) A Notice filed pursuant to this section shall, at the request of the owner of the real
13 property, be cancelled by the Secretary after the residual petroleum has been eliminated or
14 remediated to unrestricted use standards. If requested in writing by the owner of the land, the
15 Secretary shall send to the register of deeds of each county where the Notice is recorded a
16 statement that the residual petroleum has been eliminated, or that the residual petroleum has
17 been remediated to unrestricted use standards, and request that the Notice be cancelled of
18 record. The Secretary's statement shall contain the names of the owners of the land as shown in
19 the Notice and reference the plat book and page where the Notice is recorded.

20 (h) Except with respect to land contaminated from a discharge or release of petroleum
21 from an underground storage tank, the provisions of this section shall only apply to sites
22 contaminated by the discharge or release of petroleum from an aboveground storage tank, or
23 another petroleum source, from which contamination has migrated to off-site properties, as that
24 term is defined under G.S. 130A-310.65(3a), in compliance with the requirements of
25 G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable."

26 27 **CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY** 28 **REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

29 **SECTION 4.(a)** G.S. 143-355(m) is repealed.

30 **SECTION 4.(b)** G.S. 143-355(p) reads as rewritten:

31 "(p) Report. – The Department of Environmental Quality shall report to the
32 Environmental Review Commission on the implementation of this section, including ~~the~~
33 ~~development of the State water supply plan and~~ the development of basinwide hydrologic
34 models, no later than November 1 of each year. The Department shall submit the report
35 required by this subsection with the report on basinwide water ~~quality~~–management plans
36 required by G.S. 143-215.8B(d) as a single report."
37

38 **COASTAL AREA MANAGEMENT ACT MODIFICATIONS**

39 **SECTION 5.(a)** G.S. 113A-124(c) is amended by adding a new subdivision to
40 read:

41 "(c) The Commission shall have the following additional powers and duties under this
42 Article:

- 43 (1) To recommend to the Secretary the acceptance of donations, gifts, grants,
44 contributions and appropriations from any public or private source to use in
45 carrying out the provisions of this Article.
- 46 (2) To recommend to the Secretary of Administration the acquisition by
47 purchase, gift, condemnation, or otherwise, lands or any interest in any lands
48 within the coastal area.
- 49 (3) To hold such public hearings as the Commission deems appropriate.
- 50 (4) To delegate the power to conduct a hearing, on behalf of the Commission, to
51 any member of the Commission or to any qualified employee of the

1 Department. Any person to whom a delegation of power is made to conduct
2 a hearing shall report his recommendations with the evidence and the record
3 of the hearing to the Commission for decision or action.

4 (5) Repealed by Session Laws 1987, c. 827, s. 141.

5 (6) To delegate the power to determine whether a contested case hearing is
6 appropriate in accordance with G.S. 113A-121.1(b).

7 (7) To delegate the power to grant or deny requests for declaratory rulings under
8 G.S. 150B-4 in accordance with standards adopted by the Commission.

9 (8) To adopt rules to implement this Article.

10 (9) To delegate the power to approve land-use plans in accordance with
11 G.S. 113A-110(f) to any qualified employee of the Department."

12 **SECTION 5.(b)** G.S. 113A-119 reads as rewritten:

13 **"§ 113A-119. Permit applications generally.**

14 (a) Any person required to obtain a permit under this Part shall file with the Secretary
15 and (in the case of a permit sought from a city or county) with the designated local official an
16 application for a permit in accordance with the form and content designated by the Secretary
17 and approved by the Commission. The applicant must submit with the application a check or
18 money order payable to the Department or the city or county, as the case may be, constituting a
19 fee set by the Commission pursuant to G.S. 113A-119.1.

20 (b) Upon receipt of any application, a significant modification to an application for a
21 major permit, or an application to modify substantially a previously issued major permit, the
22 Secretary shall issue public notice of the proposed development (i) by mailing a copy of the
23 application or modification, or a brief description thereof together with a statement indicating
24 where a detailed copy of the proposed development may be inspected, to any citizen or group
25 which has filed a request to be notified of the proposed development, and to any interested
26 State agency; (ii) with the exception of minor permit applications, by posting or causing to be
27 posted a notice at the location of the proposed development stating that an application, a
28 modification of an application for a major permit, or an application to modify a previously
29 issued major permit for development has been made, where the application or modification
30 may be inspected, and the time period for comments; and (iii) with the exception of minor
31 permit applications, by publishing notice of the application or modification at least once in one
32 newspaper of general circulation in the county or counties wherein the development would be
33 located at least 20 days before final action on a major permit or before the beginning of the
34 hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the
35 development should be submitted to the Secretary by a specified date, not less than 15 days
36 from the date of the newspaper publication of the notice or 15 days after mailing of the mailed
37 notice, whichever is later.

38 (c) Within the meaning of this Part, the "designated local official" is the official who
39 has been designated by the local governing body to receive and consider permit applications
40 under this Part."

41
42 **ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND**

43 **SECTION 6.** Article 21 of Chapter 143 of the General Statutes is amended by
44 adding a new Part to read:

45 "Part 8D. Coastal Storm Damage Mitigation Fund.

46 **"§ 143-215.73M. Coastal Storm Damage Mitigation Fund.**

47 (a) Fund Established. – The Coastal Storm Damage Mitigation Fund is established as a
48 special revenue fund. The Fund consists of General Fund appropriations, gifts, grants, devises,
49 monies contributed by a non-State entity for a particular beach nourishment or damage
50 mitigation project or group of projects, and any other revenues specifically allocated to the
51 Fund by an act of the General Assembly.

1 **(b) Uses of the Fund.** – Revenue credited to the Fund may only be used for costs
2 associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate
3 coastal storm damage to the ocean beaches and dune systems of the State.

4 **(c) Conditions on Funding.** – Any project funded by revenue from the Fund must be
5 cost-shared with non-State dollars on a basis of at least one non-State dollar for every one
6 dollar from the Fund.

7 **(d) Return of Non-State Entity Funds.** – Non-State entities that contribute to the Fund
8 for a particular project or group of projects may make a written request to the Secretary that the
9 contribution be returned if the contribution has not been spent or encumbered within two years
10 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
11 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
12 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
13 subsection."

15 **CLARIFY SETBACK DETERMINATION FOR PERMITTED DISPOSAL SYSTEMS**

16 **SECTION 7.** G.S. 143-215.1(i) reads as rewritten:

17 "(i) Any person subject to the requirements of this section who is required to obtain an
18 individual permit from the Commission for a disposal system under the authority of
19 G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as
20 may be established by rule or permit for various categories of disposal systems and beyond
21 which groundwater quality standards may not be exceeded. Multiple contiguous properties
22 under common ownership and permitted for use as a disposal system shall be treated as a single
23 property with regard to determination of a compliance ~~boundary-boundary~~ and setbacks to
24 property lines."

26 **AMEND THE RULE FOR POOL LIGHTING**

27 **SECTION 8.(a)** Definitions. – "Pool Lighting and Ventilation Rule" means 15A
28 NCAC 18A .2524 (Lighting and Ventilation) for purposes of this section and its
29 implementation.

30 **SECTION 8.(b)** Pool Lighting and Ventilation Rule. – Until the effective date of
31 the revised permanent rule that the Commission for Public Health is required to adopt pursuant
32 to subsection (d) of this section, the Commission and local inspectors shall implement the Pool
33 Lighting and Ventilation Rule, as provided in subsection (c) of this section.

34 **SECTION 8.(c)** Implementation. – The Commission shall require pool
35 illumination sufficient to illuminate the main drains of a pool. The Commission shall require
36 pool illumination sufficient to illuminate the deck area of a pool so that it is visible at all times
37 the pool is in use but shall not require specific foot candles of illumination for the deck area.

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

46 **SECTION 8.(e)** Sunset. – This section expires when permanent rules adopted as
47 required by subsection (d) of this section become effective.

49 **AMEND THE PROTECTION OF EXISTING BUFFERS RULES TO EXEMPT** 50 **CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC SAFETY**

1 **SECTION 9.(a)** Definitions. – "Protection of Existing Buffers Rules" means all of
2 the following rules for purposes of this section and its implementation:

- 3 (1) Neuse River Basin: Nutrient Sensitive Waters Management Strategy:
4 Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B
5 .0233).
- 6 (2) Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy:
7 Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B
8 .0259).
- 9 (3) Randleman Lake Water Supply Watershed: Protection and Maintenance of
10 Existing Riparian Buffers (15A NCAC 02B .0250).
- 11 (4) Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian
12 Buffers (15A NCAC 02B .0267).
- 13 (5) Goose Creek Watershed Water Quality Management Plan (15A NCAC 02B
14 .0605, 15A NCAC 02B .0606, 15A NCAC 02B .0607, 15A NCAC 02B
15 .0608).
- 16 (6) Mitigation Program Requirements for Protection and Maintenance of
17 Riparian Buffers (15A NCAC 02B .0295).
- 18 (7) Catawba River Basin: Protection and Maintenance of Existing Riparian
19 Buffers (15A NCAC 02B .0243).

20 **SECTION 9.(b)** Protection of Existing Buffers Rules. – Until the effective date of
21 the revised permanent rules that the Environmental Management Commission is required to
22 adopt pursuant to subsection (d) of this section, the Commission and the Department of
23 Environmental Quality shall implement the Protection of Existing Buffers Rules, as provided in
24 subsection (c) of this section.

25 **SECTION 9.(c)** Implementation. – The Commission shall exempt from the
26 applicability requirements of the Protection of Existing Buffers Rules any publicly owned
27 spaces where it has been determined by the head of the local law enforcement agency with
28 jurisdiction over that area that the buffers pose a risk to public safety.

29 **SECTION 9.(d)** Additional Rule-Making Authority. – The Commission shall
30 adopt rules to amend the Protection of Existing Buffers Rules consistent with subsection (c) of
31 this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission, pursuant
32 to this section, shall be substantively identical to the provisions of subsection (c) of this section.
33 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
34 of the General Statutes. Rules adopted pursuant to this section shall become effective as
35 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
36 provided by G.S. 150B-21.3(b2).

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

39
40 **AMEND THE RULE FOR PROTECTION AND MAINTENANCE OF EXISTING**
41 **BUFFERS IN THE CATAWBA RIVER BASIN TO EXEMPT CERTAIN**
42 **APPLICABILITY REQUIREMENTS FOR PUBLIC WALKING TRAILS**

43 **SECTION 10.(a)** Definitions. – "Protection and Maintenance of Existing Riparian
44 Buffers Rule" means 15A NCAC 02B .0243 (Catawba River Basin: Protection and
45 Maintenance of Existing Riparian Buffers) for purposes of this section and its implementation.

46 **SECTION 10.(b)** Protection and Maintenance of Existing Riparian Buffers Rule. –
47 Until the effective date of the revised permanent rule that the Environmental Management
48 Commission is required to adopt pursuant to subsection (d) of this section, the Commission and
49 the Department of Environmental Quality shall implement the Protection and Maintenance of
50 Existing Riparian Buffers Rule, as provided in subsection (c) of this section.

1 **SECTION 10.(c)** Implementation. – The Commission shall exempt from the
2 applicability requirements of the Protection and Maintenance of Existing Riparian Buffers Rule
3 any publicly owned property that will be used for walking trails.

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

12 **SECTION 10.(e)** Sunset. – This section expires when permanent rules adopted as
13 required by subsection (d) of this section become effective.
14

15 **RIPARIAN BUFFER TAX EXCLUSION STUDY**

16 **SECTION 11.(a)** The Fiscal Research Division of the North Carolina General
17 Assembly is directed to estimate the value of property that is subject to the following riparian
18 buffer rules and the value of property that is being used as a riparian buffer under these rules
19 for each county within the affected river basins:

- 20 (1) Neuse River Basin: Nutrient Sensitive Waters Management Strategy:
21 Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B
22 .0233).
- 23 (2) Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy:
24 Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B
25 .0259).
- 26 (3) Randleman Lake Water Supply Watershed: Protection and Maintenance of
27 Existing Riparian Buffers (15A NCAC 02B .0250).
- 28 (4) Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian
29 Buffers (15A NCAC 02B .0267).
- 30 (5) Goose Creek Watershed Water Quality Management Plan (15A NCAC 02B
31 .0605, 15A NCAC 02B .0606, 15A NCAC 02B .0607, 15A NCAC 02B
32 .0608).
- 33 (6) Mitigation Program Requirements for Protection and Maintenance of
34 Riparian Buffers (15A NCAC 02B .0295).
- 35 (7) Catawba River Basin: Protection and Maintenance of Existing Riparian
36 Buffers (15A NCAC 02B .0243).

37 **SECTION 11.(b)** No later than May 1, 2018, the Fiscal Research Division shall
38 report its estimates and analysis to the Environmental Review Commission and the Revenue
39 Laws Study Committee.
40

41 **WATER QUALITY TESTING**

42 **SECTION 12.** The Division of Water Resources of the Department of
43 Environmental Quality shall conduct a water quality sampling program for nutrients along the
44 mainstem of the Catawba River, which includes sampling for nutrients above, in, and below
45 each major tributary of the Catawba River. No later than October 1, 2018, the Division shall
46 report the results of the study to the Environmental Review Commission.
47

48 **MINING PERMITTING REVISIONS**

49 **SECTION 13.(a)** G.S. 74-50(d) reads as rewritten:

50 "(d) ~~An operating permit shall be granted for a period not exceeding 10 years. If Except~~
51 as provided in subsection (d1) of this section, permits for mining operations shall be issued for

1 the life-of-site of the operation unless revoked as otherwise provided under this Article. For
 2 purposes of this section, "life-of-site" means the period from the initial receipt of a permit from
 3 the operation until the mining operation terminates and the reclamation required under the
 4 approved reclamation plan is completed prior to the end of the period, the permit shall
 5 terminate-completed. Termination of a permit shall not have the effect of relieving the operator
 6 of any obligations that the operator has incurred under an approved reclamation plan or
 7 otherwise. Where the mining operation itself has terminated, no permit shall be required in
 8 order to carry out reclamation measures under the reclamation plan.

9 (d1) Permits for mining operations conducted on real property that is leased from a
 10 public entity shall be issued for the life-of-lease. For purposes of this subsection, the following
 11 terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of
 12 the mining operation and a public entity and (ii) "public entity" means the State, any State
 13 agency, State college or university, county, municipal corporation, local board of education,
 14 community college, special district, or other political subdivision of the State. Termination of a
 15 permit shall not have the effect of relieving the operator of any obligations that the operator has
 16 incurred under an approved reclamation plan or otherwise. Where the mining operation itself
 17 has terminated, no permit shall be required in order to carry out reclamation measures under the
 18 reclamation plan."

19 SECTION 13.(b) G.S. 74-51 reads as rewritten:

20 "§ 74-51. **Permits – Application, granting, conditions.**

21 ...

22 (c) If the Department determines, based on public comment relevant to the provisions
 23 of this Article, that significant public interest exists, the Department shall conduct a public
 24 hearing on any application for a new mining permit or for a modification of a mining permit to
 25 add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the
 26 Department reaches a final decision on the application, and in making its determination, the
 27 Department shall give full consideration to all comments submitted at the public hearing. The
 28 public hearing shall be held within 60 days of the end of the 30-day period within which any
 29 requests for the public hearing shall be made. A public hearing shall not be required for a
 30 modification of a mining permit to extend the duration of the permit to a life-of-site, or
 31 life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

32 (d) The Department may deny the permit upon finding:

33 ...

34 (7) That the applicant or any parent, subsidiary, or other affiliate of the applicant
 35 or parent has not been in substantial compliance with this Article, rules
 36 adopted under this Article, or other laws or rules of this State for the
 37 protection of the environment or has not corrected all violations that the
 38 applicant or any parent, subsidiary, or other affiliate of the applicant or
 39 parent may have committed under this Article or rules adopted under this
 40 Article and that resulted in:

- 41 a. Revocation of a permit,
- 42 b. Forfeiture of part or all of a bond or other security,
- 43 c. Conviction of a misdemeanor under G.S. 74-64,
- 44 d. Any other court order issued under G.S. 74-64, or
- 45 e. Final assessment of a civil penalty under G.S. 74-64.
- 46 f. Failure to pay the application processing fee required under
 47 G.S. 74-54.1.

48"

49 SECTION 13.(c) G.S. 74-52 reads as rewritten:

50 "§ 74-52. **Permits—Modification, renewal-Permit modifications.**

1 (a) Any operator engaged in mining under an operating permit may apply at any time
2 for modification of the permit. ~~A permittee may apply for renewal of the permit at any time~~
3 ~~during the two years prior to the expiration of the permit.~~ The application shall be in writing
4 upon forms furnished by the Department and shall fully state the information called for. The
5 applicant must provide the Department with any additional information necessary to satisfy
6 application requirements. ~~The applicant is not required to resubmit information that remains~~
7 ~~unchanged since the time of the prior application.~~ In addition, the applicant may be required to
8 furnish any other information as may be deemed necessary by the Department in order
9 adequately to enforce the Article.

10 (b) ~~The procedure to be followed and standards to be applied in renewing a permit shall~~
11 ~~be the same as those for issuing a permit; provided, however, that in the absence of any~~
12 ~~changes in legal requirements for issuance of a permit since the date on which the prior permit~~
13 ~~was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the~~
14 ~~type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of~~
15 ~~conditions then existing.~~

16 (c) A modification under this section may affect the land area covered by the permit,
17 the approved reclamation plan coupled with the permit, or other terms and conditions of the
18 permit. A permit may be modified to include land neighboring the affected land, but not other
19 lands. The reclamation plan may be modified in any manner, so long as the Department
20 determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the
21 modifications would be generally consistent with the bases for issuance of the original permit.
22 Other terms and conditions may be modified only where the Department determines that the
23 permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. ~~No~~
24 ~~modification shall extend the expiration date of any permit issued under this Article.~~

25 (d) No modification ~~or renewal~~ of a permit shall become effective until any required
26 changes have been made in the performance bond or other security posted under the provisions
27 of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the
28 permit and reclamation plan."

29 **SECTION 13.(d)** G.S. 74-54 reads as rewritten:

30 "**§ 74-54. Bonds.**

31 (a) Each applicant for an operating permit, or for the ~~renewal of a~~ modification of an
32 existing permit shall, following the approval of the application, file and maintain in force a
33 bond in favor of the State of North Carolina, executed by a surety approved by the
34 Commissioner of Insurance, in the amount set forth below. The bond herein provided for must
35 be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by
36 the surety shall be effectuated only upon 60 days written notice thereof to the Department and
37 to the operator.

38 (b) The applicant shall have the option of filing a separate bond for each operating
39 permit or of filing a blanket bond covering all mining operations within the State for which the
40 applicant holds a permit. The amount of each bond shall be based upon the area of affected land
41 to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less
42 any area where reclamation has been completed and released from coverage by the Department,
43 pursuant to G.S. 74-56, or based on any other criteria established by the ~~Commission.~~
44 Commission, but shall not exceed one million dollars (\$1,000,000). The Department shall set
45 the amount of the required bond in all cases, based upon a schedule established by the
46 Commission.

47"

48 **SECTION 13.(e)** G.S. 74-54.1 reads as rewritten:

49 "**§ 74-54.1. Permit fees.**

50 (a) The fee schedule for the processing of permit ~~applications and permit renewals~~
51 applications, transfers, and modifications is as follows:

1		0-25 acres	26+ acres
2	New Permit Applications	\$3,750.00	\$5,000.00
3	Permit Modifications	\$750.00	\$1,000.00
4	Permit Renewals	\$750.00	\$1,000.00
5	Permit Transfers	\$100.00	\$100.00

6 (a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay
 7 an annual operating fee of four hundred dollars (\$400.00) per permit per year as set forth in
 8 G.S. 74-55. The Department may charge a late fee of fifty dollars (\$50.00) per month per
 9 permit for every month or partial month that payment of the annual operating fee is delinquent.

10"

11 **SECTION 13.(f)** G.S. 74-55 reads as rewritten:

12 **"§ 74-55. Reclamation report.**

13 ~~(a) Within 30 days after completion or termination of mining on an area under permit or~~
 14 ~~within 30 days after each anniversary of the issuance of the operating permit, whichever is~~
 15 ~~earlier, or at such later date as may be provided by rules of the Department, and each year~~
 16 ~~thereafter until reclamation is completed and approved, the~~By July 1 of each year, the operator
 17 shall file a report of activities completed during the preceding year on a form prescribed by the
 18 Department, which ~~shall~~ includes all of the following:

- 19 (1) Identify the mine, the operator and the permit ~~number;~~number.
- 20 (2) State acreage disturbed by mining in the last 12-month ~~period;~~period.
- 21 (3) State and describe amount and type of reclamation carried out in the last
22 12-month ~~period;~~period.
- 23 (4) Estimate acreage to be newly disturbed by mining in the next 12-month
24 ~~period;~~period.
- 25 (5) Provide such maps as may be specifically requested by the
26 ~~Department.~~Department.
- 27 (6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

28 (b) When filing the annual report, the permittee shall pay the annual operating fee for
 29 the permit to the Department until the permit has been terminated by the Department. The
 30 Department may assess and collect a monthly penalty for each annual report or annual
 31 operating fee not filed by July 31 of each year until the annual report and annual operating fee
 32 are filed with the Department. If the required annual report and operating fee, including any
 33 late payment penalties, are not filed by December 31 of each year, the Department shall give
 34 written notice to the operator and shall then initiate permit revocation proceedings in
 35 accordance with G.S. 74-58."

36 **SECTION 13.(g)** G.S. 74-58 reads as rewritten:

37 **"§ 74-58. Suspension or revocation of permit.**

38 (a) Whenever the Department shall have reason to believe that a violation of (i) this
 39 Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit,
 40 including the approved reclamation plan, has taken place, it shall serve written notice of the
 41 apparent violation upon the operator, specifying the facts constituting the apparent violation
 42 and informing the operator of the operator's right to an informal conference with the
 43 Department. The date for an informal conference shall be not less than 15 nor more than 30
 44 days after the date of the notice, unless the Department and the operator mutually agree on
 45 another date. If the operator or the operator's representative does not appear at the informal
 46 conference, or if the Department following the informal conference finds that there has been a
 47 violation, the Department may suspend the permit until the violation is corrected or may revoke
 48 the permit where the violation appears to be ~~willful.~~willful, or where the permittee has failed to
 49 pay the fee or late payment penalties required by G.S. 74-55(b).

50 (b) The effective date of any suspension or revocation shall be 30 days following the
 51 date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the

1 effective date until issuance of a final decision. If the Department finds at the time of its initial
2 decision that any delay in correcting a violation would result in imminent peril to life or danger
3 to property or to the environment, it shall promptly initiate a proceeding for injunctive relief
4 under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any
5 appeal from a suspension or revocation of a permit shall have no effect upon an action for
6 injunctive relief.

7 (c) Any operator whose permit has been suspended or revoked shall be denied a new
8 permit or ~~a renewal of an existing~~ reinstatement of the suspended permit to engage in mining
9 until the operator gives evidence satisfactory to the Department of the operator's ability and
10 intent to fully comply with the provisions of this Article and rules adopted under this Article,
11 and the terms and conditions of the permit, including the approved reclamation plan, and that
12 the operator has satisfactorily corrected all previous violations."

13 **SECTION 13.(h)** G.S. 74-60 reads as rewritten:

14 "**§ 74-60. Notice.**

15 Whenever in this Article written notice is required to be given by the Department, such
16 notice shall be mailed by registered or certified mail to the permanent address of the operator
17 set forth in his most recent application for an operating permit or for a modification ~~or renewal~~
18 of such permit. No other notice shall be required."

19 **SECTION 13.(i)** Notwithstanding G.S. 74-55(b), as enacted by subsection (f) of
20 this section, the initial annual operating fee imposed by G.S. 74-54.1(a1), as enacted by
21 subsection (e) of this section, shall be due December 31, 2017.

22 **SECTION 13.(j)** This section is effective when it becomes law and applies to (i)
23 valid permits for existing mining operations issued before the date this act becomes effective
24 and (ii) any permit application for a mining operation pending or submitted on or after that
25 date. No later than December 1, 2017, the Department shall issue life-of-site permits or
26 life-of-lease permits, as applicable, to replace valid permits for existing mining operations
27 issued before the date this act becomes effective in compliance with the provisions of this act.
28 Until such time as life-of-site permits or life-of-lease permits, as applicable, have been issued to
29 replace valid permits for existing mining operations issued before the date this act becomes
30 effective, any valid permit and its terms and conditions shall remain in effect and govern the
31 operations of the facility notwithstanding any termination date that may be included in such
32 permit.

33 **AMEND MITIGATION SERVICES LAW**

34 **SECTION 14.** G.S. 143-214.12 reads as rewritten:

35 "**§ 143-214.12. Division of Mitigation Services: Ecosystem Restoration Fund.**

36 (a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a
37 nonreverting fund within the Department. The Fund shall be treated as a special trust fund and
38 shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and
39 G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository for monetary
40 contributions and donations or dedications of interests in real property to promote projects for
41 the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for
42 payments made in lieu of compensatory mitigation as described in subsection (b) of this
43 section. No funds shall be expended from this Fund for any purpose other than those directly
44 contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of
45 ~~wetlands and~~ wetlands, streams, and riparian areas in accordance with the basinwide plan as
46 described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem
47 taxes required under G.S. 146-22.3 when the Department is the State agency making the
48 acquisition.

49 (a1) The Department may distribute funds from the Ecosystem Restoration Fund directly
50 to a federal or State agency, a local government, or a private, nonprofit conservation
51

1 organization to acquire, manage, and maintain real property or an interest in real property for
2 the purposes set out in subsection (a) of this section. ~~A recipient of funds under this subsection~~
3 ~~shall grant a conservation easement in the real property or interest in real property acquired~~
4 ~~with the funds to the Department in a form that is acceptable to the Department.~~ A recipient of
5 funds under this subsection that acquires a conservation easement or interest in real property
6 appurtenant to a restoration project delivered to the Division of Mitigation Services may
7 transfer the conservation easement or interest in real property to a federal or State agency, a
8 local government, or a private, nonprofit conservation organization approved by the Division of
9 Mitigation Services. The Department may convey real property or an interest in real property
10 that has been acquired under the Division of Mitigation Services to a federal or State agency, a
11 local government, or a private, nonprofit conservation organization approved by the Division of
12 Mitigation Services to acquire, manage, and maintain real property or an interest in real
13 property for the purposes set out in subsection (a) of this section. ~~A~~ When a grantee of real
14 property or an interest in real property under this subsection shall grant grants a conservation
15 easement in the real property or interest in real property to ~~the Department~~ a federal or State
16 agency, a local government, or a private, nonprofit conservation organization approved by the
17 Division of Mitigation Services, the grant shall be made in a form that is acceptable to the
18 Department.

19 (b) Authorized Methods of Payment. – A person subject to a permit or authorization
20 issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 may contribute
21 to the Division of Mitigation Services in order to comply with conditions to, or terms of, the
22 permit or authorization if participation in the Division of Mitigation Services will meet the
23 mitigation requirements of the United States Army Corps of Engineers. The Department shall,
24 at the discretion of the applicant, accept payment into the Ecosystem Restoration Fund in lieu
25 of other compensatory mitigation requirements of any authorizations issued by the United
26 States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the
27 mitigation requirements of the United States Army Corps of Engineers. Payment may be made
28 in the form of monetary contributions according to a fee schedule established by the
29 Environmental Management Commission or in the form of donations of real property provided
30 that the property is approved by the Department as a suitable site consistent with the basinwide
31 wetlands restoration plan.

32 (c) Accounting of Payments. – The Department shall provide an itemized statement that
33 accounts for each payment into the Fund. The statement shall include the expenses and
34 activities financed by the payment."
35

36 ENERGY POLICY COUNCIL CLARIFICATION

37 **SECTION 15.** G.S. 113B-4(a) reads as rewritten:

38 "(a) The Lieutenant Governor or the Lieutenant Governor's designee shall serve as chair
39 of the Council."
40

41 SOLID WASTE MODIFICATIONS

42 **SECTION 16.** If Senate Bill 16, 2017 Regular Session, becomes law, then Section
43 16 of that act is amended by adding the following new subsection:

44 "**SECTION 16.(d)** G.S. 130A-294(a3), as enacted by subsection (c) of this section, only
45 applies to valid and operative franchise agreements in effect on October 1, 2015."

46 **SECTION 17.(a)** G.S. 130A-291 reads as rewritten:

47 "**§ 130A-291. Division of Waste Management.**

48 (a) For the purpose of promoting and preserving an environment that is conducive to
49 public health and welfare, and preventing the creation of nuisances and the depletion of our
50 natural resources, the Department shall maintain a Division of Waste Management to promote
51 sanitary processing, treatment, disposal, and statewide management of solid waste and the

1 greatest possible recycling and recovery of resources, and the Department shall employ and
2 retain qualified personnel as may be necessary to effect such purposes. It is the purpose and
3 intent of the State to be and remain cognizant not only of its responsibility to authorize and
4 establish a statewide solid waste management program, but also of its responsibility to monitor
5 and supervise, through the Department, the activities and operations of units of local
6 government implementing a permitted solid waste management facility serving a specified
7 geographic area in accordance with a solid waste management plan.

8 (b) In furtherance of this purpose and intent, it is hereby determined and declared that it
9 is necessary for the health and welfare of the inhabitants of the State that solid waste
10 management facilities permitted hereunder and serving a specified geographic area shall be
11 used by public or private owners or occupants of all lands, buildings, and premises within the
12 geographic area, ~~and a unit of local government may, by ordinance, require that all solid waste~~
13 ~~generated within the geographic area and placed in the waste stream for disposal, shall be~~
14 ~~delivered to the permitted solid waste management facility or facilities serving the geographic~~
15 area. Actions taken pursuant to this Article shall be deemed to be acts of the sovereign power of
16 the State of North Carolina, and to the extent reasonably necessary to achieve the purposes of
17 this section, a unit of local government may displace competition with public service for solid
18 waste management and disposal. It is further determined and declared that no person, firm,
19 corporation, association or entity within the geographic area shall engage in any activities
20 which would be competitive with this purpose or with ordinances, rules adopted pursuant to the
21 authority granted herein.

22 (c) Except as provided in subsections (d) and (e) of this section, a unit of local
23 government may, by ordinance, franchise, business license, contract, or otherwise, require that
24 all solid waste generated within the geographic area and placed in the waste stream for disposal
25 be delivered to the permitted solid waste management facility or facilities serving the
26 geographic area only under one of the following conditions:

27 (1) If the unit of local government has debt associated with solid waste
28 management facilities and equipment outstanding on September 1, 2017, the
29 unit of local government may adopt and enforce such an ordinance until the
30 date that such debt has matured.

31 (2) If the unit of local government incurs debt after September 1, 2017, and the
32 issuance of the debt will be conditioned upon the unit of local government
33 requiring that all waste collected within the county be disposed of within the
34 landfill, for expansion of a landfill or construction of a new landfill after all
35 necessary approvals for issuance of the debt have been obtained from the
36 Local Government Commission in compliance with Chapter 159 of the
37 General Statutes, including the demonstration of need and cost required by
38 G.S. 159-211, the unit of local government may adopt and enforce such an
39 ordinance until the date the debt associated with expansion of the landfill, or
40 construction of the new landfill, has matured.

41 (3) If the unit of local government is a party to an exclusive franchise agreement
42 with a private entity governing the management or disposal of waste within
43 the jurisdiction in effect on September 1, 2017, the unit of local government
44 may adopt and enforce such an ordinance until the date that such franchise
45 has expired.

46 (d) Notwithstanding any limitations set forth in subsection (c) of this section, and
47 except as provided in subsection (e) of this section, a regional solid waste management
48 authority established under Article 22 of Chapter 153A of the General Statutes, and a unit of
49 local government that is a member of an authority, may, by ordinance, require that all solid
50 waste generated within its jurisdiction and placed in the waste stream for disposal be delivered

1 to the permitted solid waste management facility or facilities operated by the regional solid
2 waste management authority.

3 (e) Notwithstanding authority given to local governments to manage solid waste
4 generated or disposed of within their jurisdiction pursuant to subsection (c) or (d) of this
5 section, or otherwise, units of local government shall not, by ordinance or otherwise, prohibit
6 the disposal of construction and demolition debris in any sanitary landfill permitted for the
7 disposal of construction and demolition debris, which landfill has a valid and operative
8 franchise agreement and is otherwise properly permitted pursuant to G.S. 130A-294."

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

10 "**§ 130A-294. Solid waste management program.**

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

14 ...

15 (5b) ~~Authorize~~ Subject to the limitations of G.S. 130A-291, authorize units of
16 local government to require by ordinance, that all solid waste generated
17 within the designated geographic area that is placed in the waste stream for
18 disposal be collected, transported, stored and disposed of at a permitted solid
19 waste management facility or facilities serving such area. The provisions of
20 such ordinance shall not be construed to prohibit the source separation of
21 materials from solid waste prior to collection of such solid waste for
22 disposal, or prohibit collectors of solid waste from recycling materials or
23 limit access to such materials as an incident to collection of such solid waste;
24 provided such prohibitions do not authorize the construction and operation
25 of a resource recovery facility unless specifically permitted pursuant to an
26 approved solid waste management plan. If a private solid waste landfill shall
27 be substantially affected by such ordinance then the unit of local government
28 adopting the ordinance shall be required to give the operator of the affected
29 landfill at least two years written notice prior to the effective date of the
30 proposed ordinance.

31"

32 SECTION 17.(c) G.S. 153A-292(a) reads as rewritten:

33 "**§ 153A-292. County collection and disposal facilities.**

34 (a) The board of county commissioners of any county may establish and operate solid
35 waste collection and disposal facilities in areas outside the corporate limits of a city. The board
36 may by ordinance regulate the use of a disposal facility provided by the ~~county~~, county subject
37 to the limitations of G.S. 130A-291, the nature of the solid wastes disposed of in a facility, and
38 the method of disposal. The board may contract with any city, individual, or privately owned
39 corporation to collect and dispose of solid waste in the area. Counties and cities may establish
40 and operate joint collection and disposal facilities. A joint agreement shall be in writing and
41 executed by the governing bodies of the participating units of local government."

42 SECTION 17.(d) Chapter 159 of the General Statutes is amended by adding a new
43 Article to read:

44 "Article 15.

45 "Borrowing for expansion of existing landfills and construction of new landfills in certain
46 circumstances.

47 "**§ 159-211. Borrowing authority for landfills.**

48 (a) Whenever a unit of local government applies to the Commission for approval to
49 enter debt by any method authorized by this Chapter for the purpose of expansion of an existing
50 landfill within their jurisdiction, or construction of a new landfill within their jurisdiction, and
51 to support the repayment of the new debt by requiring by ordinance, franchise, or otherwise

1 that all waste collected within the county must be delivered to the county facility exclusively, in
2 addition to any other criteria the Commission is required to consider in approving such debt,
3 the unit of local government shall demonstrate all of the following to the satisfaction of the
4 Commission:

5 (1) The proposed expansion of the existing landfill, or construction of the new
6 landfill, for which debt is to be incurred is necessary to ensure reliable,
7 convenient, and affordable solid waste disposal service is provided
8 consistently to all citizens under its jurisdiction for the protection of public
9 health, safety, and welfare.

10 (2) The proposed expansion of the existing landfill, or construction of the new
11 landfill, will result in lower overall costs per ton of waste disposed for the
12 jurisdiction's citizens and businesses within the jurisdiction than would be
13 available through privately funded and operated disposal facilities. The
14 analysis shall take into account all direct, indirect, asset retirement, closure,
15 post-closure, and capital costs divided by tons disposed per year to establish
16 a "tip fee" required to support the operation and repayment of the debt. State
17 or federal subsidies shall be disregarded for purposes of this analysis.

18 (3) The requirements of subdivisions (1) and (2) of this subsection have been
19 confirmed by way of a bid or request for proposals process in which private
20 businesses have been invited to compete for the right to provide the services
21 subject only to compliance with State and federal law. Private company
22 proposals will be on a "tip fee" basis for comparison to the unit of local
23 government landfill tip fee calculated pursuant to subdivision (2) of this
24 subsection.

25 (b) In determining whether debt for expansion of an existing landfill, or construction of
26 a new landfill, shall be approved, the Commission shall consider the information submitted
27 pursuant to subsection (a) of this section and shall approve an application only if it finds the
28 information presented supports the need for, and cost-effectiveness of, the proposed project. If
29 the Commission tentatively decides to deny the application because it is of the opinion that
30 these criteria cannot be supported from the information presented to it, it shall so notify the unit
31 filing the application. Prior to final approval of the application, the Commission shall hold a
32 public hearing on the application at which time any interested persons shall be heard, including
33 any private business that has offered an alternative. The Commission may appoint a hearing
34 officer to conduct the hearing and to present a summary of the testimony and associated
35 recommendations for the Commission's consideration.

36 (c) The requirements of this section shall only apply to a unit of local government,
37 which, at the time it submits an application to the Commission for approval to enter debt for
38 expansion or construction of a landfill, has adopted an ordinance pursuant to G.S. 130A-291(c).
39 Provided, however, where such debt is approved and the requirements of this section have not
40 been satisfied, a unit of local government that later seeks to adopt an ordinance pursuant to
41 G.S. 130A-291(c), must meet the requirements of this section prior to adopting and enforcing
42 such an ordinance."

43 **SECTION 17.(e)** Nothing in this section shall be construed to impact the terms of a
44 contract, franchise agreement, or other agreement between a unit of local government and
45 another entity concerning the management of solid waste, or the financing of such services or
46 related facilities or equipment, in effect on the date this section becomes law.

47 **SECTION 17.(f)** This section is effective when this act becomes law.

48
49 **CLARIFY ROLES OF GEOLOGISTS AND SOIL SCIENTISTS IN WASTEWATER**
50 **SYSTEM SITE EVALUATIONS**

51 **SECTION 18.(a)** G.S. 130A-335(a1) reads as rewritten:

1 "(a1) Any proposed site for a residence, place of business, or a place of public assembly
2 located in an area that is not served by an approved wastewater system for which a new
3 wastewater system is proposed or repair is necessary for compliance may be evaluated for soil
4 conditions and site features by a ~~licensed soil scientist or licensed geologist.~~ person licensed
5 pursuant to Chapter 89F of the General Statutes as a licensed soil scientist. For purposes of this
6 subsection, "site features" include topography and landscape position; soil characteristics
7 (morphology); soil wetness; soil depth; restrictive horizons; available space; and other
8 applicable factors that involve accepted public health principles. A person licensed pursuant to
9 Chapter 89E of the General Statutes as a licensed geologist may evaluate the proposed site or
10 repair area, as applicable, for geologic and hydrogeologic conditions."

11 **SECTION 18.(b)** G.S. 130A-336.1(e) reads as rewritten:

12 "(e) Site Design, Construction, and Activities.

- 13 (1) The professional engineer designing the proposed wastewater system shall
14 use recognized principles and practices of engineering and applicable rules
15 of the Commission in the calculations and design of the wastewater system.
16 The investigations and findings of the professional engineer shall include, at
17 a minimum, the information required in rules adopted by the Commission
18 pursuant to G.S. 130A-335(e). The professional engineer may, at the
19 engineer's discretion, employ pretreatment technologies not yet approved in
20 this State.
- 21 (2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater
22 system shall employ ~~either a licensed soil scientist or a geologist, licensed~~
23 ~~pursuant to Chapter 89E of the General Statutes and who has applicable~~
24 ~~professional experience, to evaluate soil conditions and site features.~~ a person
25 licensed pursuant to Chapter 89F of the General Statutes as a licensed soil
26 scientist to conduct soil and site evaluations and, as applicable, a person
27 licensed pursuant to Chapter 89E of the General Statutes as a licensed
28 geologist to evaluate geologic and hydrogeologic conditions.

29 "...."

30 31 **REPEAL PLASTIC BAG BAN**

32 **SECTION 19.(a)** Part 2G of Article 9 of Chapter 130A of the General Statutes is
33 repealed.

34 **SECTION 19.(b)** G.S. 130A-22(a) reads as rewritten:

35 "(a) The Secretary of Environmental Quality may impose an administrative penalty on a
36 person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to
37 Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a
38 continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen
39 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste.
40 The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the
41 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving
42 the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that
43 results in medical waste entering waters or lands of the State; and shall not exceed fifty
44 thousand dollars (\$50,000) per day for a second or further violation involving the disposal of
45 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
46 waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand
47 five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action
48 implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to
49 G.S. 130A-310.12(b). ~~The penalty shall not exceed one hundred dollars (\$100.00) for a first~~
50 ~~violation; two hundred dollars (\$200.00) for a second violation within any 12 month period;~~
51 ~~and five hundred dollars (\$500.00) for each additional violation within any 12 month period for~~

1 ~~any violation of Part 2G of Article 9 of this Chapter.~~ For violations of Part 7 of Article 9 of this
2 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the
3 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the
4 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person
5 fails to pay a civil penalty within 60 days after the final agency decision or court order has been
6 served on the violator, the Secretary of Environmental Quality shall request the Attorney
7 General to institute a civil action in the superior court of any county in which the violator
8 resides or has his or its principal place of business to recover the amount of the assessment.
9 Such civil actions must be filed within three years of the date the final agency decision or court
10 order was served on the violator."

11 **SECTION 19.(c)** Section 13.10(c) of S.L. 2010-31 is repealed.

12 **SECTION 19.(d)** This section becomes effective September 1, 2017.

13 14 **GENX RESPONSE MEASURES**

15 **SECTION 20.(a)** The General Assembly finds that the discharge of the
16 poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6)
17 into the Cape Fear River demonstrates the need for supplemental funding for impacted local
18 public utilities for the monitoring and treatment of GenX and to support the identification and
19 characterization by scientists, engineers, and other professionals of GenX in the Cape Fear
20 River.

21 Therefore, notwithstanding Section 6.1 of S.L. 2017-57, G.S. 143C-4-4, and
22 G.S. 143C-6-4, of the funds appropriated to the Contingency and Emergency Fund, the sum of
23 four hundred thirty-five thousand dollars (\$435,000) shall be allocated and used as follows:

- 24 (1) One hundred thousand dollars (\$100,000) to the Cape Fear Public Utility
25 Authority, who shall, in coordination with Brunswick County Public
26 Utilities, Pender County Utilities, and other entities that withdraw, treat, and
27 subsequently distribute water originating from the Cape Fear River, study
28 the identification and deployment of water treatment technology to remove
29 GenX from the public water supply, and eighty-five thousand dollars
30 (\$85,000) to the Cape Fear Public Utility Authority for ongoing monitoring
31 of water supplies withdrawn from the Cape Fear River. The Cape Fear
32 Public Utility Authority shall provide an interim report to the Environmental
33 Review Commission no later than December 1, 2017, regarding the progress
34 in implementing this section, and a final report on or before April 1, 2018, to
35 include any findings and recommendations for legislative action.
- 36 (2) Two hundred fifty thousand dollars (\$250,000) to the University of North
37 Carolina at Wilmington to identify and quantify GenX and measure the
38 concentration of the chemicals in the sediments of the Cape Fear River, the
39 extent to which the chemical biodegrades over time or bioaccumulates
40 within local ecosystems, and what risk the contaminant poses to human
41 health. The University of North Carolina at Wilmington shall not charge
42 indirect facilities and administrative costs against the funding provided by
43 this subdivision. The University of North Carolina at Wilmington shall
44 provide an interim report to the Environmental Review Commission no later
45 than December 1, 2017, regarding the progress in implementing this section,
46 and a final report on or before April 1, 2018, to include any findings and
47 recommendations for legislative action.

48 **SECTION 20.(b)** Funds allocated by this section for the 2017-2018 fiscal year
49 shall not revert but shall remain available for nonrecurring expenses until the end of the
50 2018-2019 fiscal year. The entities funded by this section may establish time-limited positions
51 for the biennium with the funds allocated by this section.

1 **SECTION 20.1.** Section 13.7 of S.L. 2017-57, 2017 Regular Session, reads as
2 rewritten:

3 **"SECTION 13.7.** The North Carolina Policy Collaboratory at the University of North
4 Carolina at Chapel Hill shall develop a ~~proposal~~proposal (i) to identify and acquire digital data
5 relevant to environmental monitoring and natural resource management, including, but not
6 limited to, the digitization of analog ~~records~~records and (ii) for the creation of an online
7 database to provide National Pollutant Discharge Elimination System (NPDES) and other water
8 quality permits, permit applications, and relevant supporting documents to the public in a
9 searchable and user friendly format, as well as creation of a system for electronic filing of
10 applications for such permits and relevant supporting documents. In developing the proposal,
11 the Collaboratory shall consult with the Department of Environmental Quality and the
12 Department of Information Technology. The Collaboratory shall assess the feasibility of
13 transferring these data to a central, searchable, and publicly accessible digital database hosted
14 by The University of North Carolina System. The Collaboratory shall provide an interim report
15 to the Environmental Review Commission, the Joint Legislative Oversight Committee on
16 Agriculture and Natural and Economic Resources, the chairs of the House of Representatives
17 Appropriations Committee on Agriculture and Natural and Economic Resources, the chairs of
18 the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and
19 the Fiscal Research Division no later than December 1, 2017, regarding the progress in
20 implementing this section, and shall provide its proposal no later than ~~March 1, 2018,~~ to the
21 Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources,
22 the chairs of the House of Representatives Appropriations Committee on Agriculture and
23 Natural and Economic Resources, the chairs of the Senate Appropriations Committee on
24 Agriculture, Natural, and Economic Resources, and the Fiscal Research Division ~~April 1, 2018,~~
25 to these entities."

26 **SECTION 20.2.** If by September 8, 2017, the Department of Environmental
27 Quality has yet to issue a Notice of Violation to any company or person for the discharge of the
28 chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6) to the Cape Fear
29 River, and for the resulting contamination of the Cape Fear River, and public water supplies
30 withdrawing water therefrom, the Department of Environmental Quality shall provide a
31 detailed report, in writing, to the Environmental Review Commission on that date setting forth
32 the reasons why a Notice of Violation has not been issued to a company or person that has
33 discharged GenX to the Cape Fear River.

34 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

35 **SECTION 21.(a)** If any section or provision of this act is declared unconstitutional
36 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
37 than the part declared to be unconstitutional or invalid.

38 **SECTION 21.(b)** Except as otherwise provided, this act is effective when it
39 becomes law.
40