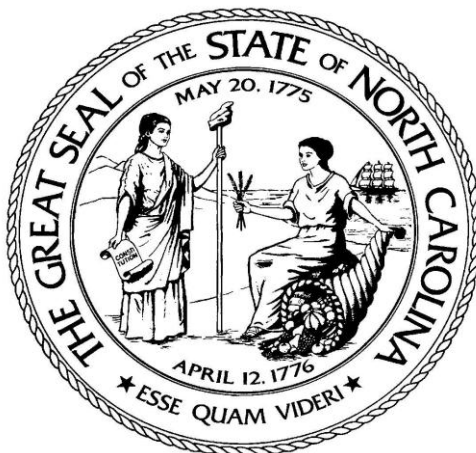


NORTH CAROLINA GENERAL ASSEMBLY



ENVIRONMENTAL REVIEW COMMISSION

REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY

APRIL 9, 2014

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TRANSMITTAL LETTER

April 9, 2014

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TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

Pursuant to Article 12D of Chapter 120 of the General Statutes, the Environmental Review Commission submits its report and recommendations to the 2014 Regular Session of the 2014 General Assembly.

Respectfully submitted,



Senator Brent Jackson



Representative Mike Hager



Representative Ruth Samuelson

Co-Chairs
Environmental Review Commission

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STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES ARTICLE 12D.

Environmental Review Commission.

§ 120-70.41. Commission established.

The Environmental Review Commission is hereby established.

§ 120-70.42. Membership; cochairs; vacancies; quorum.

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair or a Cochair of the Senate Committee on Agriculture, Environment, and Natural Resources or the equivalent committee, the Chair or a Cochair of the House of Representatives Committee on Environment and Natural Resources or the equivalent committee, the Chair or a Cochair of the Senate Committee on Appropriations – Natural and Economic Resources or the equivalent committee, and the Chair or a Cochair of the House of Representatives Committee on Appropriations – Natural and Economic Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of nine members.

§ 120-70.43. Powers and duties.

(a) The Environmental Review Commission shall have the following powers and duties:

- (1) To evaluate actions of all boards, commissions, departments, and other agencies of the State and local governments as such actions relate to the environment or protection of the environment, including but not limited to an evaluation of:

- a. Benefits of each program relative to costs;
 - b. Achievement of program goals;
 - c. Use of measures by which the success or failure of a program can be measured; and
 - d. Conformity with legislative intent;
- (2) To study on a continuing basis the organization of State government as it relates to the environment or to the protection of public health and the environment, including but not limited to:
- a. Improvements in administrative structure, practices, and procedures;
 - b. Increased integration and coordination of programs and functions;
 - c. Increased efficiency in budgeting and use of resources;
 - d. Efficient administration of licensing, permitting, and grant programs;
 - e. Prompt, effective response to environmental emergencies;
 - f. Opportunities for effective citizen participation; and
 - g. Broadening of career opportunities for professional staff;
- (3) To make any recommendations it deems appropriate regarding the reorganization and consolidation of environmental regulatory agencies and the recodification of statutes relating to the environment, including but not limited to:
- a. Ways in which agencies may operate more efficiently and economically;
 - b. Ways in which agencies can provide better services to the State and to the people; and
 - c. Instances in which functions of agencies are duplicative, overlapping, incomplete in scope or coverage, fail to accomplish legislative objectives, or for any other reason should be redefined or redistributed;
- (4) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the environment or protection of the environment;
- (5) To review existing and proposed State law and rules affecting the environment or protection of the environment and to determine whether any modification of law or rules is in the public interest;
- (6) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and
- (7) To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Utility Review Committee, or the Joint Select Committee on Low-Level Radioactive Waste and to make such reports and

recommendations to the General Assembly regarding such studies as it deems appropriate; provided that the Environmental Review Commission shall not undertake any study which the General Assembly has assigned to another legislative commission or committee.

(b) The Environmental Review Commission may continue the study of environmental agency consolidation and reorganization. The study of environmental agency consolidation shall include, but is not limited to:

- (1) Monitoring the implementation of Session Laws 1989, c. 727;
- (2) Evaluation of the organization, programs, and operation of the Department of Environment and Natural Resources;
- (3) Evaluation of the organization, functions, powers, and duties of the components of the Department of Environment and Natural Resources, including boards, commissions, councils, and regional offices; and
- (4) Recodification of the General Statutes relating to the environment and environmental agencies.

(c) In addition to its general powers and duties, the Environmental Review Commission shall have the following powers and duties with respect to hazardous waste management:

- (1) To study the current and projected need for hazardous waste treatment, storage, and disposal capacity in the State in light of anticipated generation of hazardous waste and alternatives for hazardous waste treatment and disposal;
- (2) To evaluate the potential for the development of additional hazardous waste treatment, storage, and disposal capacity by the private sector;
- (3) To study the necessity for and scope of hazardous waste treatment, storage, and disposal facilities which are sited, owned, or operated by the State;
- (4) To review progress in securing a volunteer county to host a hazardous waste treatment facility;
- (5) To study incentives and compensation for the community which hosts, either voluntarily or involuntarily, a hazardous waste treatment facility, including any additional incentives and compensation which may be needed, whether there should be differential compensation for a volunteer county, options for use of funds by local governments, distribution of compensation among local governments, and methods of providing flexibility in the development of an incentives and compensation package for a particular local community;
- (6) To review progress in developing interstate agreements for the treatment, storage, and disposal of hazardous waste;
- (7) To assist in the development of cooperative, comprehensive regional approach to hazardous waste treatment and disposal;
- (8),(9) Repealed by Session Laws 2001-474, s. 12.
- (10) To study the capacity assurance requirement under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended,

and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended as it relates to the continued eligibility of North Carolina for remedial actions under Superfund;

- (11) To study alternatives available to the State for dealing with hazardous waste and the ramifications of those alternatives; and
- (12) To receive and evaluate reports of every State agency, board, and commission which has any power or duty with respect to hazardous waste management.

§ 120-70.44. Additional powers.

The Environmental Review Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Environmental Review Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Environmental Review Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation of the Environmental Review Commission regarding any study the Environmental Review Commission is authorized to undertake or any report authorized or required to be made by or to the Environmental Review Commission may be introduced and considered during any session of the General Assembly.

§ 120-70.45. Compensation and expenses of members.

Members of the Environmental Review Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

§ 120-70.46. Staffing.

The Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission.

§ 120-70.47. Funding.

From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the work of the Environmental Review Commission.

COMMISSION MEMBERSHIP

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ENVIRONMENTAL REVIEW COMMISSION

2013-2014 Membership

Pursuant to G.S. 120-70.42, the Environmental Review Commission consists of six members appointed by the President Pro Tempore of the Senate, six members appointed by the Speaker of the House of Representatives, the Chair or a Cochair of the Senate Committee on Agriculture, Environment, and Natural Resources, the Chair or a Cochair of the House of Representatives Committee on Environment and Natural Resources, the Chair or a Cochair of the Senate Committee on Appropriations – Natural and Economic Resources, and the Chair or a Cochair of the House of Representatives Committee on Appropriations – Natural and Economic Resources.

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Rep. Pat McElraft

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Rep. Roger West

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[Jennifer McGinnis](#), Commission Counsel

[Jeff Cherry](#), Commission Counsel

[Jennifer Mundt](#), Commission Analyst

[Mariah Matheson](#), Commission Assistant

Commission Clerks: [Tori Bragg](#), [Lindsey Dowling](#), and [Towers Mingledorff](#)

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COMMISSION PROCEEDINGS

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The Environmental Review Commission met seven times during the interim between the 2013 and the 2014 Regular Sessions of the General Assembly. The Commission's Charge can be found [here](#). The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library and [online](#).

October 9, 2013

AGENDA

9:30 a.m. Thursday

Room 643 Legislative Office Building
Raleigh, North Carolina

1. Call to order
Representative Mike Hager, Presiding
2. Introductory remarks by Cochairs
Senator Brent Jackson
Representative Mike Hager
Representative Ruth Samuelson
3. Introduction of Members and Staff
4. Report from Commission Staff
Jennifer Mundt, Commission Analyst
5. Discussion of studies to be conducted by the Commission
Representative Mike Hager
6. Report from the Secretary of Environment and Natural Resources
John Skvarla, Secretary
Department of Environment and Natural Resources (DENR)
7. Report on the environmental protection programs within DENR
Mitch Gillespie, Assistant Secretary for Environment
DENR
8. Report on the natural resources programs within DENR
Brad Ives, Assistant Secretary for Natural Resources
DENR

9. Report on the proposed construction of a wastewater treatment plant by the City of Creedmoor
Thomas A. Reeder, Director
Division of Water Resources, DENR
10. Commission discussion and announcements
11. Adjourn

The first meeting of the Environmental Review Commission (ERC or Commission) was held on Wednesday October 9, 2013 at 9:30 a.m. in Room 643 of the Legislative Office Building. Representative Mike Hager presided.

Ms. Jennifer Mundt, Commission Analyst, gave an overview of the meeting agenda and the reports received by the Commission.

Mr. John Skvarla, Secretary of Environment and Natural Resources, gave an overview of the Department of Environment and Resources (DENR), its budget, its reorganization, employees, and its role. Secretary Skvarla explained the difference between temporary employees and annual employees. The Secretary also discussed DENR's new mission statement, U.S. Environmental Protection Agency (U.S.EPA) grants, the Division of Environmental Assistance, and DENR's collaboration with the Department of Commerce and the Department of Transportation.

There was Commission discussion on the federal government shutdown, DENR's federally-funded employees, DENR's customer service, DENR's cooperation with the Department of Commerce, and the new planned expansion of the 64 Bypass near the Asheboro Zoo.

Mr. Mitch Gillespie, Assistant Secretary for Environment, DENR, provided a nine month overview of the environmental divisions of DENR, including success stories and challenges.

There was Commission discussion on how the elimination of receipt-based funds and the [Regulatory Reform Act of 2013](#) would affect DENR and if DENR had adequate staffing and resources. The Commission also discussed the merger between the Division of Water Quality and the Division of Water Resources, specifically related to efficiencies.

The Commission discussed coal ash ponds and potential groundwater contamination, the U.S. EPA rules on emissions for power plants, and how the new rules will impact existing North Carolina power plants. There was additional Commission discussion on non-attainment areas in the State, flood insurance, and modeling.

Mr. Brad Ives, Assistant Secretary of Natural Resources, DENR, provided the Commission with a report on all of the natural resources programs within DENR. The Commission discussed possible solutions to hydrilla (an aggressive water weed) in North Carolina lakes, commercial versus recreational fishing economic impacts, the effect of

the federal government shutdown on North Carolina beaches and parks, the increase in aquarium admission prices, and the Natural Heritage Trust Fund Program.

Mr. Thomas Reeder, Director of the Division of Water Resources, DENR, provided an update on the proposed Creedmoor wastewater treatment plant. Mr. Darryl Moss, Mayor of the City of Creedmoor, was also recognized to answer any questions.

There was Commission discussion on the river basin that the City of Creedmoor draws water from. Mr. Reeder was asked to give an update on the Martin Marietta Materials Inc. project in Blount's Creek, with regard to pH balance and solidity of water due to discharge.

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November 13, 2013

AGENDA

9:30 a.m. Thursday

Room 643 Legislative Office Building
Raleigh, North Carolina

1. Call to order Senator Brent Jackson, Presiding
2. Introductory remarks by Cochairs
 Senator Brent Jackson
 Representative Mike Hager
 Representative Ruth Samuelson
3. Background presentation on the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State (Sec. 24, S.L. 2013-413)
 Richard Whisnant, Gladys Coates Professor of Public Law and Government
 School of Government, University of North Carolina at Chapel Hill (UNC-CH)
 Shadi Eskaf, Senior Project Director
 Environmental Finance Center, School of Government, UNC-CH
4. Background presentation on the State stormwater programs, including the annual report on implementation of stormwater runoff rules and programs (Sec. 51(e), S.L. 2013-413) (G.S. 143-214.7(e), October 1, 2013)
 Tracy Davis, Director
 Division of Energy, Minerals, and Land Resources, Department of Environment and Natural Resources (DENR)
5. Report on activity of DENR related to development of a modern regulatory program for the management of oil and gas exploration and development activities in the State, and use of horizontal drilling and hydraulic fracturing (fracking) for that purpose (Sec. 2(l) of S.L. 2012-143, as amended by Sec. 12(c) of S.L. 2012-201, October 1, 2013)
 Mitch Gillespie, Assistant Secretary for the Environment
 DENR
6. Report on activity of the Mining and Energy Commission (MEC) concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose (Sec. 1(b), S.L. 2012-143)
 James Womack, Chairman
 MEC
7. Report on the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter (Sec. 2(l) of S.L. 2012-143, as amended by Sec. 12(c) of S.L. 2012-201, October 1, 2013)

Dr. Ray Covington, Vice Chairman
MEC

8. Report on levels of appropriate funding and potential sources for that funding deemed necessary in connection with management of oil and gas exploration and development activities in the State (Sec. 2(j) of S.L. 2012-143, as amended by Sec. 12(a) of S.L. 2012-201, October 1, 2013)

Dr. Ray Covington, Vice Chairman
MEC

9. Report on local government regulation of oil and gas exploration and development activities, and the use of fracking for that purpose (Sec. 2(k) of S.L. 2012-143, as amended by Sec. 12(b) of S.L. 2012-201, October 1, 2013)

Charles Taylor, Member
MEC

10. Report on ongoing study of development of a coordinated permitting program for oil and gas exploration and development activities, and the use of fracking for that purpose (Sec. 2(a) of S.L. 2013-365, March 1, 2014)

Dr. Kenneth Taylor, State Geologist,
Ex Officio Member, MEC

11. Commission discussion and announcements

12. Adjourn

The second meeting of the Environmental Review Commission (ERC or Commission) was held on Thursday November 13, 2013 at 9:30 a.m. in Room 643 of the Legislative Office Building. Senator Brent Jackson presided.

Mr. Richard Whisnant, Gladys Coates Professor of Public Law and Government, School of Government (SOG), University of North Carolina at Chapel Hill (UNC-CH), and Mr. Shadi Eskaf, Senior Project Director, Environmental Finance Center, SOG, UNC-CH gave a presentation on the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State.

Mr. Whisnant gave an overview of North Carolina water service providers and explained the differences between the federal and State view of classifying "public water systems."

There was Commission discussion on the differences between public versus privately operated water systems, including their regulatory framework, capital funding, and water system behavior.

Mr. Eskaf spoke about different types of community water systems and their responsibilities. Mr. Eskaf provided the percentages of population served by these active

community water systems, named the community water systems owned by multi-system water companies, gave examples of new regional utilities in recent years, spoke about the numbers regarding water system interconnections, and discussed what water and wastewater rates cover.

There was Commission discussion on the Cliffside Sanitary Sewer District, changes in commercial user water supply demand, trailer park water systems, whether or not water systems were responsibly meeting their expenditures, regional utilities, and utilities sharing resources.

Mr. Tracy Davis, Director, Division of Energy, Minerals, and Land Resources (DEMLR), Department of Environment and Natural Resources (DENR), gave a presentation on the State's stormwater programs, including the annual report on implementation of stormwater runoff rules and programs. Mr. Davis gave a quick summary on transferring the Stormwater Permitting Program from the former Division of Water Quality (DWR) to DEMLR, an overview of the different stormwater programs, an update on legislative change to Built-Up Area and associated definition of gravel as pervious, and highlights from the October 1, 2013 Annual Stormwater Program Report.

The Commission discussed the reasons for the transfer of the Stormwater Permitting Program, the current structure of the Best Management Practices (BMP) manual, Built-Up Area and gravel definitions, and stormwater rules for oil and gas development.

Mr. Mitch Gillespie, Assistant Secretary, DENR, gave his presentation on DENR's activities related to the development of a modern regulatory program for the management of oil and gas exploration and development activities in the State, and the use of horizontal drilling and hydraulic fracturing (fracking) for that purpose. Mr. Gillespie gave an update on the merger of the State Energy Office with DENR, new hires for the Energy Program in DEMLR, consideration of expenditures of 2013 appropriations, and findings and recommendations of DENR regarding compulsory pooling. Mr. Gillespie explained the makeup of the State Energy Office as of July 2013 and the State Energy Office within DENR currently.

There was Commission discussion on potential shale resources in the Camden/Pasquotank Counties. Secretary Gillespie indicated that the Albemarle area has been identified as a shallow shale basin. There was additional Commission discussion on possible water contamination from hydraulic fracturing, amount budgeted for research, and future rules.

Mr. James Womack, Chairman, Mining and Energy Commission (MEC), gave a presentation on the activity of the MEC concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose.

Mr. Womack discussed [Senate Bill 820](#) (S.L. 2012-143, Clean Energy & Economic Security Act) and [Senate Bill 76](#) (S.L. 2013-365, Domestic Energy Jobs Act). Mr.

Womack discussed the MEC's accomplishments, proposed future milestones, and the anticipated development milestones. Mr. Womack gave updates on the Administration of Oil and Gas Operations Committee, the Water and Waste Management Committee, the Environmental Standards Committee, and the Rules Committee.

Dr. Ray Covington, Vice Chairman, MEC, gave a presentations on the issue of integration of compulsory pooling and other states' laws on the matter and the appropriate funding and potential sources for that funding deemed necessary in connection with management of oil and gas exploration and development activities in the State.

Dr. Covington discussed the Compulsory Pooling Study Group, the Funding Levels and Potential Funding Sources Study Group, the Coordinated Permitting Study Group, and the Local Government Study Group. Dr. Covington spoke on behalf of Dr. Kenneth Taylor, State Geologist, Ex Officio Member, MEC. He was unable to attend the meeting. Dr. Covington spoke about Dr. Taylor's contributions to the new and revised MEC.

The Commission discussed the balance of public interest versus private, core samples, procedures for landmen, how municipalities are treated during the hydraulic fracturing process, how water will be treated before it goes to a water treatment facility, baseline water testing, compulsory pooling, impact fees, landowner protections, local authority over hydraulic fracturing, setbacks, and mineral rights.

January 15, 2014

AGENDA

9:30 a.m. Thursday

Room 643 Legislative Office Building
Raleigh, North Carolina

1. Call to order
Representative Ruth Samuelson, Presiding
2. Introductory remarks by Cochairs
Senator Brent Jackson
Representative Mike Hager
Representative Ruth Samuelson
3. Approval of the minutes for the October 9, 2013 meeting of the Commission
4. Background presentation on the review of engineering work (Sec. 58, S.L. 2013-413)
Representative Chris Millis and Senator Stan Bingham
Working Group Leaders

Tracy Davis, Director
Division of Energy, Mineral, and Land Resources, Department of
Environment and Natural Resources (DENR)

William G. "Gus" Simmons, PE
Cavanaugh & Associates PA
5. Discussion of the University of North Carolina at Chapel Hill's Bingham Facility
Robert Lowman, Ph.D.
Associate Vice Chancellor for Research
Research Professor of Psychology
University of North Carolina at Chapel Hill

Cliff Leath, Owner of property adjoining the Bingham Facility
6. Background presentation on the circumstances under which cities and counties should be authorized to enact certain environmental ordinances (Sec. 10.2(c), S.L. 2013-413)
Representative Chuck McGrady and Senator Andrew Brock
Working Group Leaders

Erin Wynia, Legislative & Regulatory Issues Manager
North Carolina League of Municipalities

Johanna Reese, Director of Government Relations
North Carolina Association of County Commissioners

Elizabeth Robinson, Director of Government Relations
North Carolina Retail Merchants Association

Chris Thomas, Partner
Childress Klein Properties

Lisa Martin, Director of Government Affairs
North Carolina Home Builders Association

7. Quarterly reports by the Environmental Management Commission as to its operations, activities, programs, and progress for the period July 2013 through December 2013 (G.S. 143B-282(b))
Benne Hutson, Chair
Environmental Management Commission
8. Report on the State Water Supply Plan and the reorganization of the Division of Water Resources of DENR
Tom Reeder, Director
Division of Water Resources, DENR
9. Overview of the history of Yadkin Hydroelectric Project
Jennifer McGinnis, Commission Counsel
10. Commission discussion and announcements
11. Adjourn

The third meeting of the Environmental Review Commission (ERC or Commission) was held on Wednesday, January 15, 2014 at 9:30 a.m. in Room 643 of the Legislative Office Building. Representative Ruth Samuelson presided.

Mr. Jeff Hudson, Commission Counsel, gave an overview of the meeting agenda.

Representative Chris Millis and Senator Stan Bingham gave an overview of the Review of Engineering Work Working Group and its goals.

Mr. Tracy Davis, Director of the Division of Energy, Mineral, and Land Resources (DEMLR) of the Department of Environment and Natural Resources (DENR), gave a presentation on the provision in [House Bill 74](#) (Session Law 2013-413, Sec. 58), which required the review of engineering work. Mr. Davis explained what the study group examined, the stakeholders, and recommendations.

There was Commission discussion on additional expenses associated with being an engineer, such as professional license fees, unnecessary rules and regulations, and engaging with the engineering community.

Mr. William G. "Gus" Simmons, PE, Cavanaugh & Associates PA, gave a presentation on the evaluation of regulatory review of engineering work, on behalf of the Professional Engineers of North Carolina (PENC). Mr. Simmons stated that the PENC supports the review of applications that require regulatory approval, including those requiring the work of a Professional Engineer, as prescribed by State law. PENC encourages all members of the public, including regulatory reviewers, refer any work completed by a professional engineer that is purported to be negligent or incompetent, to the North Carolina Board of Examiners for Engineers and Surveyors (NCBELS).

Mr. Simmons discussed inconsistencies in review processes and practices among and between groups within a given regulatory agency and further inconsistencies among staff within the same grouping. PENC encourages regulatory agencies to develop and implement programs and practices that establish an improved standardization process and increased consistency among regulatory reviewers. Lastly, Mr. Simmons discussed PENC's findings and recommendations.

Mr. Robert Lowman, PhD, Associate Vice Chancellor for Research, Research Professor of Psychology, University of North Carolina at Chapel Hill, discussed the Bingham Research Facility wastewater treatment problems and gave an overview of the research that the Bingham Research Facility conducts.

There was Commission discussion on what types of animals the facility conducts its research on, the replacement costs of noisy chillers, the wetland violations and spray irrigation issues, the total costs of errors and overruns, and potential grant opportunities lost and other negative consequences.

Mr. Cliff Leath, Owner of property adjoining the Bingham Facility, gave a timeline of the Bingham Research Facility and showed photos of the facility's leaking wastewater lagoons. Mr. Leath is concerned about the facility's environmental impact to nearby property owners. Mr. Leath believes that the Bingham Research Facility should not have been repurposed, as they have a facility in Carrboro that is closer and can be utilized in the same manner.

Rep. Chuck McGrady gave an overview on the City and Counties Environmental Ordinance Working Group. Rep. McGrady said that the Working Group will determine what constitutes an environmental ordinance. The cities and counties want to be heard and other groups want to bring concerns forward.

Ms. Erin Wynia, Legislative and Regulatory Issues Manager, North Carolina League of Municipalities, discussed what cities and counties regulate, existing limits on ordinance powers, and legislative considerations.

There was Commission discussion on the Unified Development Ordinances, statutory grant of power for cities and towns, and how ordinances protect certain environmental areas that are economically important, such as beaches and lakes.

Ms. Johanna Reese, Director of Government Relations, North Carolina Association of County Commissioners, gave an overview on local control, ordinances to meet State or federal requirements, local conditions, or energy efficiencies. There was Commission discussion on local regulations for steep slopes.

Representative Millis spoke about the focus of the working group. Rep. Millis explained that the working group will review regulations that are already in the State purview, that local governments have started to regulate. The Working Group will review any overlaps.

Ms. Elizabeth Robinson, Director of Government Relations, North Carolina Retail Merchants Association, was recognized to discuss issues related to the Working Group. Ms. Robinson explained that North Carolina prohibits the regulation of commerce. The North Carolina Retail Merchants Association has tried to combat local governments who impact commerce. Ms. Robinson gave several examples.

Mr. Chris Thomas, Charlotte Real Estate Association, spoke about stormwater rules and their impacts on development.

Ms. Lisa Martin, Director of Governmental Affairs, North Carolina Home Builders Association, spoke about the North Carolina Building Code and how local governments try to implement ordinances through the Code.

There was Commission discussion on the effect of [House Bill 74](#) (Regulatory Reform Act of 2013) on local ordinances, concerns about onerous local ordinances, constitutional provision to prevent the local regulation of health and safety, as well as the local regulation of commerce.

Mr. Benne Hutson, Chair of the Environmental Management Commission (EMC), gave a presentation on the EMC's quarterly reports, its operations, activities, and progress from July 2013 through December 2013.

Mr. Hutson explained that the EMC is attempting to create rules that are easy to understand and not duplicative. Mr. Huston also noted that the EMC will be required to submit fiscal notes for all rules, which will be time consuming. Mr. Hutson recommends the EMC's reporting requirement be changed to as needed, in lieu of quarterly.

There was Commission discussion on the fiscal notes for rules, the process of repealing a rule, and gravel. Mr. Hutson explained the need for a definition of "gravel." The Commission discussed the temporary rule process.

Mr. Tom Reeder, Director of the Division of Water Resources (DWR), DENR, gave a report on the State Water Supply Plan and the reorganization of DWR. Mr. Reeder also explained water efficiency, water supply assistance to local governments, hydrologic modeling, ecological flows, coastal plain aquifers, interbasin transfers, and the Jordan Lake Pilot Test.

There was Commission discussion on DWR's employee organizational chart, the Jordan Lake Pilot Test and SolarBee's success rate, DENR's oversight and monitoring of Jordan Lake, the recent chemical spill in West Virginia, and recovery and withdrawal of aquifers during drought.

The overview and history of Yadkin Hydroelectric Project was postponed to the March 12, 2014 meeting.

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February 17, 2014

AGENDA

10:00 a.m. Monday

Room 643 Legislative Office Building
Raleigh, North Carolina

1. Call to order
Senator Brent Jackson, Presiding
2. Introductory remarks by Cochairs
Senator Brent Jackson
Representative Mike Hager
Representative Ruth Samuelson
3. Approval of the minutes for the November 13, 2013 meeting of the Commission
4. Report from the Secretary of Environment and Natural Resources
John Skvarla, Secretary
Department of Environment and Natural Resources (DENR)
5. Report on the January, 27, 2014 release of untreated sewage from the East Burlington Wastewater Treatment Plant into the Haw River
 - a. Description and timeline of events
Tom Reeder, Director
Division of Water Resources, DENR

Harold Owen, City Manager
City of Burlington

Michael Layne, Stormwater Manager
Water Resources, City of Burlington
 - b. Water quality conditions
Elaine Chiosso, Haw Riverkeeper

Tom Reeder, Director
Division of Water Resources, DENR
6. Report on the February 2, 2014 release of coal ash from the Duke Energy Dan River Station into the Dan River
 - a. Description and timeline of events
George Everett, Director of Environmental and Legislative Affairs
Duke Energy

Tom Reeder, Director

Division of Water Resources, DENR

b. Water quality conditions

Rick Gaskins, Executive Director
Catawba Riverkeeper Foundation

George Everett, Director of Environmental and Legislative Affairs
Duke Energy

Tom Reeder, Director
Division of Water Resources, DENR

7. Public comment period
8. Commission discussion and announcements
9. Adjourn

The fourth meeting of the Environmental Review Commission (ERC or Commission) was held on Monday, February 17, 2014 at 10:00 a.m. in Room 643 of the Legislative Office Building. Senator Brent Jackson presided.

Mr. John Skvarla, Secretary of Environment and Natural Resources, Department of Environment and Natural Resources (DENR), gave a report on DENR's response to the coal ash spill into the Dan River and the East Burlington Wastewater Treatment Plant spill into the Haw River.

Mr. Tom Reeder, Director of the Division of Water Resources (DWR), DENR, gave a detailed report and a timeline of events on the January, 27, 2014 release of untreated sewage from the East Burlington Wastewater Treatment Plant into the Haw River.

There was Commission discussion on the statutory notice requirements and DENR's discretion to enforce the rules versus the enforcement of the statutes. The Commission also discussed the elimination of the Clean Water Management Trust Fund. Mr. Reeder noted that the Clean Water Revolving Trust Fund and the Drinking Water Trust Fund were still operational.

The Commission discussed how to prevent pipe failures, source water protection plans, GIS (Geographic Information System) use to identify public water supplies, water treatment plants, and waste water treatment plants, and remedial action plans. There was additional Commission discussion on different reporting requirements for facilities that were in close proximity to a drinking water source. Mr. Reeder explained that the reporting requirements are the same. Commission members asked about failing infrastructure and fines levied by DENR against the City of Burlington.

Mr. Harold Owen, City Manager of the City of Burlington, introduced Mr. Michael Layne, Stormwater Management of Water Resources for the City of Burlington. Mr. Layne explained the City of Burlington's treatment plant overflow. Mr. Layne gave an overview of the facility, a timeline of the overflow, potential environmental impacts, probable contributors to pipe failure, and the repair plan.

There was Commission discussion on the 48-hour reporting requirement, the specific place the pipe broke, the pump bypass, whether or not engineers reviewed the pump bypass, the plant's capacity, the increase in pump pressure, the system's age and lifespan. Some Commission members recommended a plan in the high risk areas to consider the age of the pipes and evaluate the conditions of the pipe. Mr. Layne stated that the City of Burlington is currently relining a sewer main and does look at the integrity of the pipe before deciding to reline or replace.

Ms. Elaine Chiosso, Haw Riverkeeper, discussed water quality conditions in the Haw River. Ms. Chiosso said that 3.5 million gallons of raw sewage spilled from the Wastewater Treatment Burlington Plant into the Haw River from January 27, 2014 to January 29, 2014. This was the largest spill in recent history in North Carolina. Ms. Chiosso said that had the spill occurred during a warmer time of year, it could have been a major public health disaster. There was Commission discussion on whether or not this spill would make its way to Jordan Lake.

Mr. Rick Gaskins, Executive Director of the Catawba Riverkeeper Foundation, gave a summary and background on the recent coal ash spill into the Dan River. Mr. Gaskins discussed water quality issues, risk of catastrophic failures, legislative issues, existing law, and potential major health and economic impacts.

Mr. George Everett, Director of Environmental and Legislative Affairs, Duke Energy, discussed the coal ash spill into the Dan River and Duke Energy's response. Mr. Everett gave a timeline and background of coal ash ponds in north Carolina. Mr. Everett said that pipes are regularly inspected and that Duke Energy will address any impacts to the community and their customers.

Mr. Tom Reeder, Director of DWR, DENR, gave a presentation on the Dan River coal ash release and water quality conditions. Mr. Reeder discussed water quality sampling results, field parameters, heavy metals, sedimentation impacts, and long-term monitoring and assessment.

The Commission discussed water quality sampling, potential cleanup costs, the reason coal ash ponds were unlined, the lack of cameras in the pipes, plans for closure of coal ash ponds, whether or not the cleanup costs will be borne by the ratepayers or the shareholders, potential fish contamination, potential impacts on well users, current status of fishing and recreation in the Dan River, how many ponds are covered under National Pollutant Discharge Elimination System (NPDES) permits, what steps are being taken to prevent future coal ash releases, and potential deadlines to remove all coal ash ponds.

The Commission received public comments.

There was Commission discussion on what other states are doing to decommission their coal ash ponds. Secretary Skvarla stated South Carolina has a decommissioning plan. DENR has assembled a taskforce to review coal ash ponds.

March 12, 2014

AGENDA

1:30 p.m. Wednesday

Room 544 Legislative Office Building
Raleigh, North Carolina

1. Call to order
Representative Mike Hager
2. Introductory remarks by Cochairs
Senator Brent Jackson
Representative Mike Hager
Representative Ruth Samuelson
3. Report from the Stormwater Working Group on the study of State stormwater programs, including how partially impervious surfaces are treated in the calculation of built-upon area (Sec. 51(e), S.L. 2013-413)
 - Legislative Proposal: Clarify Gravel under Stormwater Laws
 - Legislative Proposal: Amend Isolated Wetlands Regulation
Senator Brent Jackson
Representative Ruth Samuelson
4. Report from the Water and Sewer Working Group on the study of statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State (Sec. 24, S.L. 2013-413)
 - Legislative Proposal: DENR Study IBT Laws
 - Legislative Proposal: PED Study of Water and Sewer Systems
Senator Fletcher Hartsell
Representative Mike Hager
5. Report from the Review of Engineering Work Working Group (Sec. 58, S.L. 2013-413)
 - Legislative Proposal: Reform Agency Review of Engineering Work
Senator Stan Bingham
Representative Chris Millis
6. Report from the Environmental Ordinance Working Group on the circumstances under which cities and counties should be authorized to enact certain environmental ordinances (Sec. 10.2(c), S.L. 2013-413)
 - Legislative Proposal: Authority to Adopt Certain Ordinances
Senator Andrew Brock
Representative Chuck McGrady
7. Report on additional legislative proposals

- Reporting and Notice of Wastewater Spills
 - Amend Hotel Carbon Monoxide Alarm Requirement
 - Legislative Oversight of Fish and Wildlife Management
 - Terminate Certain Executive Orders
8. Overview of the history of Yadkin Hydroelectric Project
Jennifer McGinnis, Commission Counsel
 9. Commission discussion and announcements
 10. Adjourn

The fifth meeting of the Environmental Review Commission (ERC or Commission) was held on Wednesday, March 12, 2014 at 1:30 p.m. in Room 544 of the Legislative Office Building. Representative Mike Hager presided.

The following legislative proposals were distributed and briefly discussed:

- Legislative proposals from the Stormwater Working Group
 - Clarify Gravel under Stormwater Laws
 - Amend Isolated Wetlands Regulation
- Legislative proposals from the Water and Sewer Working Group
 - DENR Study IBT Laws
 - PED Study of Water and Sewer Systems
- Legislative proposal from the Review of Engineering Work Working Group
 - Reform Agency Review of Engineering Work
- Legislative proposal from the Environmental Ordinance Working Group
 - Authority to Adopt Certain Ordinances
- Report on additional legislative proposals
 - Reporting and Notice of Wastewater Spills
 - Amend Hotel Carbon Monoxide Alarm Requirement
 - Legislative Oversight of Fish and Wildlife Management
 - Terminate Certain Executive Orders

Ms. Jennifer McGinnis, Commission Counsel, gave a presentation on the overview of the history of Yadkin Hydroelectric Project. The full brief can be found [here](#).

April 9, 2014

The sixth meeting of the Environmental Review Commission (ERC or Commission) was held on April 9, 2014 at 8:00 a.m. in Room 643 of the Legislative Office Building. Senator Brent Jackson presided. The Commission adopted this report.

April 22, 2014

The seventh meeting of the Environmental Review Commission (ERC or Commission) was held on April 22, 2014 at 1:30 p.m. in Room 643 of the Legislative Office Building to discuss the Dan River coal ash release. Representative Ruth Samuelson presided.

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WORKING GROUP PROCEEDINGS

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Stormwater Working Group

Submitted to the full Environmental Review Commission on March 12, 2014.

Background:

Section 51.(e) of Session Law 2013-413 directed the Environmental Review Commission (ERC) to study State stormwater programs, including how partially impervious surfaces are treated in the calculation of built-upon area under those programs. The ERC was further directed to report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

In response to the study directive, the ERC Co-Chairs established the Stormwater Working Group, led by Senator Jackson and Representative Samuelson. In addition to studying stormwater issues, the Stormwater Working Group also studied issues related to regulated streams and wetlands. The following is a summary of the activities and the recommendations of the Stormwater Working Group.

Stormwater Permeability of Different Surfaces and Materials; Gravel

November 13, 2013 Meeting of the ERC:

The ERC heard a background presentation on the State stormwater programs, including the annual report on implementation of stormwater runoff rules and programs, from Tracy Davis, Director, Division of Energy, Minerals, and Land Resources, Department of Environment and Natural Resources (DENR). ([PowerPoint Presentation](#))

December 10, 2013 Stormwater Working Group Meetings:

On December 10, the Stormwater Working Group had the following meetings:

- 1:30 PM The Stormwater Working Group met with Dr. Bill Hunt, Associate Professor and Extension Specialist, Department of Biological and Agricultural Engineering, North Carolina State University, regarding the stormwater permeability of different surfaces and materials, especially gravel.
- 2:30 PM The Stormwater Working Group was briefed by staff from DENR and the Environmental Management Commission (EMC) on various issues related to stormwater management, including:
 - The stormwater permeability of different surfaces and materials.
 - Issues related to the exclusion of gravel from built-upon area as defined by Section 51.(a) of S.L. 2013-413.
 - The possibility of the EMC adopting a temporary rule to define gravel.

([DENR Document](#); [EMC Document](#))

December 11, 2013, Stormwater Working Group Meetings and Site Visits:

On December 11, the Stormwater Working Group had the following meetings and site visits:

- 9:00 AM The Stormwater Working Group held a public comment meeting on stormwater permeability of different surfaces and materials, especially gravel, where it heard from the following:
 - Dave Canaan, Director, Mecklenburg County Water and Land Resources
 - Erin Wynia, Legislative and Regulatory Issues Manager, NC League of Municipalities ([League Document](#))
 - Dave Mayes, Stormwater Services Manager, Wilmington
 - Rich Cappola, Town Engineer, Morrisville
 - Natalie Berry, NC Association of County Commissioners and Assistant County Engineer, Henderson County ([County Document](#))
 - Connie Wilson and Bill Arndt, The Carolinas Ready Mixed Concrete Association
 - Grady McCallie, NC Conservation Network
 - Rick Gaskins, Catawba Riverkeeper Foundation
 - John Cox, Water Quality Manager, Durham
 - Don O'Toole, Senior Assistant City Attorney, Durham
 - Jennifer Buzun, Engineer, City of Durham ([City of Durham Document](#))
 - Chris Estes, President, Estes Design (landscape architect from Charlotte)
- 12:30 PM The Stormwater Working Group heard a presentation on the water quality assistance programs of the Department of Agriculture and Consumer Services (DACS) ([DACS Soil and Water Conservation Districts Document](#); [DACS Voluntary Approaches to Stormwater Document](#))
 - Pat Harris, Director, Division of Soil and Water Conservation
 - David Williams, Deputy Director, Division of Soil and Water Conservation
 - Julie Henshaw, Section Chief, Non-point Source Section, Division of Soil and Water Conservation
- 1:30 PM The Stormwater Working Group went on several site visits with DENR and NC State staff at the following:
 - American Institute of Architects North Carolina Center for Architecture and Design where the Stormwater Working Group observed stormwater management structures and practices, such as the facility's rain garden and parking lot surfaced with pervious pavers.
 - Carter-Finley Stadium where the Stormwater Working Group observed various road and parking surfaces, including asphalt, gravel, and grass.

- Wake Stone Corporation quarry where the Stormwater Working Group was introduced to various types of gravel/aggregate. ([Aggregate Gradation Table Document](#))

The Stormwater Working Group also received a proposed study regarding stormwater permeability of gravel from NC State staff. ([NC State Study Proposal Document](#))

Based on the meetings, site visits, and public comment, the Stormwater Working Group, submits the attached legislative proposal: Clarify Gravel under Stormwater Laws

Regulated Streams and Wetlands

January 13, 2014 Stormwater Working Group Site Visits:

On January 13, the Stormwater Working Group had the following site visits:

- 12:30 PM The Stormwater Working Group and DENR staff met Art Alexander at his Highway 70/Yeargan Road property to view and discuss the different types of streams (ephemeral and/or intermittent) found on the property.
- 1:15 PM The Stormwater Working Group and DENR staff visited the Walnut Creek Wetland Center in Raleigh to view and discuss urban wetlands.
- 3:00 PM The Stormwater Working Group and DACS staff met John Langdon at his Johnson County farm to discuss water quality issues and best management practices.

January 14, 2014 Stormwater Working Group Meetings and Site Visits:

On January 14, the Stormwater Working Group had the following meetings and site visits:

- 9:00 AM The Stormwater Working Group heard a presentation from DACS staff on various DACS programs to assist farmers with water supply and water quality issues. ([DACS Ag Cost Share Program Brochure](#), [DACS AgWRAP Implementation Plan](#), and [Soil and Water Conservation Cost Share Programs](#))
- 9:30 AM The Stormwater Working Group heard a presentation from DENR staff on regulated streams and wetlands. ([DENR Document](#))
- 11:00 AM The Stormwater Working Group and DENR staff visited the Brookhaven Nature Park in Raleigh to view and discuss different types of streams (ephemeral, intermittent, and perennial).
- 2:00 PM The Stormwater Working Group held a public comment meeting on regulated streams and wetlands where it heard from the following:
 - Peter Raabe, North Carolina Conservation Director, American Rivers
 - Art Alexander, property owner ([Document Linked](#))
 - Jim Spangler, President, Spangler Environmental Consultants
 - Tom Bean, Director of Government Affairs, NC Wildlife Federation
 - Jennifer Buzun, Engineer, City of Durham

Based on the meetings, site visits, and public comment, the Stormwater Working Group, submits the attached legislative proposal: Amend Isolated Wetland Regulation.

Water and Sewer Working Group

Submitted to the full Environmental Review Commission on March 12, 2014.

Background:

Section 24 of Session Law 2013-413 directed the Environmental Review Commission (ERC) to study the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State. These organizations include sanitary districts, water and sewer authorities, metropolitan water districts, metropolitan sewerage districts, and county water and sewer districts, as well as any similar organizations. The ERC was directed to determine whether, how, and to what extent the number of statutory models should be reduced and consolidated, considering and addressing any impacts that changes would have on the ongoing operations and financing of existing organizations. The ERC was further directed to report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

In response to the study directive, the ERC Co-Chairs established the Water and Sewer Working Group, led by Senator Hartsell and Representative Hager. The following is a summary of the activities and the recommendations of the Water and Sewer Working Group.

November 13, 2013 Meeting of the ERC:

The ERC heard a [background presentation](#) on the different statutory models specified in S.L. 2013-413 from Richard Whisnant from the University of North Carolina at Chapel Hill (UNC) School of Government and Shadi Eskaf from the UNC School of Government Environmental Finance Center.

December 10, 2013 Water and Sewer Group Meeting:

On December 10, the Water and Sewer Working Group met at 1:00 P.M. in Room 421 of the Legislative Office Building regarding the statutory models specified in S.L. 2013-413, financing for organizations operating under those statutory models, and future water supply planning assistance, where it heard from the following:

- [Richard Whisnant](#), Professor, UNC School of Government
- [Jeff Hughes](#), Director, UNC School of Government Environmental Finance Center
- [Tom Reeder](#), Director, Department of Environment and Natural Resources (DENR) Division of Water Resources

January 14, 2014, Water and Sewer Working Group Meeting:

On January 14, the Water and Sewer Working Group met at 1:00 P.M. in Room 421 of the Legislative Office Building regarding the goals of various interested parties, methods available to improve water service and quality, and the DENR's Division of Water Infrastructure, where it heard from the following:

- Erin Wynia, Legislative and Regulatory Issues Manager, North Carolina League of Municipalities
- Daniel Wilson, Executive Director, North Carolina Rural Water Association
 - [Document 1](#)
 - [Document 2](#)
- [Dr. Gregory Characklis](#), Professor, Department of Environmental Sciences and Engineering, UNC
- [Neal Robbins](#), Legislative Liaison, DENR

February 6, 2014, Water and Sewer Working Group Meeting:

On February 6, the Water and Sewer Working Group met at 9:00 A.M. in Room 421 of the Legislative Office Building to discuss the Working Group's recommendations for draft legislation. The Working Group considered recommendations for various studies to be conducted by the General Assembly Program Evaluation Division and DENR.

Recommendations of the Water and Sewer Working Group:

Based on its work, the Water and Sewer Working Group, submits the following legislative proposals on water and sewer services in the State.

Engineering Review Working Group

Submitted to the full Environmental Review Commission on March 12, 2014.

Background:

Sections 58.(a) and (b) of Session Law 2013-413 directed the Departments of Environment and Natural Resources, Health and Human Services, and Transportation, along with local governments that operate delegated permitting programs to study their internal processes for review of applications and plans submitted for approval and to report their findings and recommendations to the Environmental Review Commission (ERC) by January 1, 2014.

Section 58.(c) of Session Law 2013-413 further directed the ERC to study the matter with the assistance of the departments, the local governments, the North Carolina State Board of Examiners for Engineers and Surveyors (NCBELS), and the Professional Engineers of North Carolina (PENC) and to report its findings and recommendations to the 2014 General Assembly upon its convening. In response to the study directive, the ERC Co-Chairs established the Engineering Review Working Group, led by Senator Bingham and Representative Millis. The following is a summary of the activities and the recommendations of the Engineering Review Working Group.

Monday December 9, 2013

On December 9, the Engineering Review Working Group Co-chairs met with staff and Ms. Betsy Bailey (President, PENC), Mr. Andrew Ritter (Executive Director of the NCBELS), and Mr. Gus Simmons, PE for information gathering and informal discussion.

Wednesday January 15, 2014

The Environmental Review Commission received reports from DENR and PENC pursuant to Section 58.(b) of S.L. 2013-413.

Monday February 3, 2014

On February 3, staff to the Engineering Review Working Group met with Andrew Ritter and David Tuttle, Counsel to NCBELS, for information gathering.

Thursday February 6, 2014 1:00pm – 3:00pm

On February 6, the Engineering Review Work Group Cochairs convened stakeholders to provide an informal, open forum for discussion and to specifically address the recommendations that the Environmental Review Commission received from DENR and PENC at its January 15, 2014 meeting. Stakeholders invited to participate included staff from DENR in the Ecosystem Enhancement Program; and the Divisions of Water Resources; Waste Management; Energy, Mining and Land Resources; Coastal Management; and Air Quality, staff from DHHS in the Division of Public Health, staff from DOT, representatives from the League of Municipalities and the Association of County Commissioners, and representatives from NCBELS and PENC.

Based on the meetings with stakeholders, the Engineering Review Working Group submits the attached legislative proposal: Reform Agency Review of Engineering Work.

Many positive recommendations were proposed by the regulatory agencies, PENC, and NCBELS in the conduct of this Working Group that may be accomplished without legislation. To that end, the Working Group Co-Chairs recommend that the stakeholders continue to work together to develop and implement their suggested recommendations to the fullest extent practicable.

Environmental Local Ordinances Working Group

Submitted to the full Environmental Review Commission on March 12, 2014.

Background:

Section 10.2(c) of Session Law 2013-413 directed the Environmental Review Commission (ERC) to study the circumstances under which cities and counties should be authorized to enact ordinances (i) that regulate a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulate a field that is also regulated by a rule adopted by an environmental agency, and (ii) that are more stringent than the State or federal statute or State rule. Sections 10.2(a) and 10.2(b) imposed a temporary limitation on the enactment of ordinances in fields regulated by environmental agencies within the State, except when the ordinance is approved by a unanimous vote of the members present and voting. The ERC was further directed to report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

In response to the study directive, the ERC Co-Chairs established the Environmental Local Ordinances Working Group, led by Senator Brock and Representative McGrady.

The following is a summary of the activities and the recommendations of the Environmental Local Ordinances Working Group.

February 4, 2014, Environmental Local Ordinances Working Group Meeting:

On February 4, the Environmental Local Ordinances Working Group met at 4:30 P.M. in Room 512 of the Legislative Office Building to hear input from the North Carolina Department of Agriculture (NCDA) regarding local ordinances that have conflicted with agency regulations. The Working Group heard from the following:

- Keith Larick, Manager, Environmental Programs, NCDA
- Vernon Cox, Director, Plant Industry Division, NCDA
- Joy Hicks, Legislative Liaison, NCDA
- Jim Burnette, Director, Structural Pest Control and Pesticides Division, NCDA

February 4, 2014, Environmental Local Ordinances Working Group Meeting:

On February 4, the Environmental Local Ordinances Working Group met at 5:00 P.M. in Room 512 of the Legislative Office Building to hear input from the North Carolina Department of Environment and Natural Resources (DENR) regarding local ordinances that have conflicted with agency regulations. The Working Group heard from the following:

- Dexter Matthews, Director, Division of Waste Management, DENR
- Tom Reeder, Director, Division of Water Resources, DENR
- Carr McLamb, Legislative Liaison, DENR
- Tracy Davis, Director, Division of Energy, Mineral, and Land Resources, DENR ([Document](#))

February 17, 2014, Environmental Local Ordinances Working Group Stakeholders Meeting:

On February 17, the Environmental Local Ordinances Working Group met at 2:30 P.M. in Room 512 of the Legislative Office Building to hear input from various stakeholders. The Working Group heard from the following:

- Jay Stem, NC Aggregates Association
- Cassandra Skinner, NC Association of County Commissioners
- Lisa Martin, NC Home Builders ([Document](#))
- Steven Webb, NC Home Builders
- Elizabeth Robinson, NC Retail Merchants
- Andy Ellen, NC Retail Merchants
- Erin Wynia, League of Municipalities
- Cady Thomas, NC Association of Realtors
- Christie Barbee, Carolina Asphalt and Pavement Association

February 17, 2014, Environmental Local Ordinances Working Group Public Comments Hearing:

On February 17, the Environmental Local Ordinances Working Group met at 3:30 P.M. in Room 414 of the Legislative Office Building to receive comments from members of the public. The Working Group heard from the following:

- Jon Carr, NC Rural Water Association ([Document](#))
- Mary Maclean Asbill, Southern Environmental Law Center
- John H. Cox, Water Quality Manager, City of Durham Department of Public Works
- Dan McLawhorn, Office of the City Attorney, City of Raleigh ([Document](#))
- Berry Williams, CFM, NC Association of Floodplain Managers ([Document](#))
- Don O'Toole, City of Durham
- Bill Terry, Mayor, Town of Pittsboro ([Document](#))
- Darryl Norris, Stormwater Specialist, City of Wilson
- Michael Fiocco, Commissioner, Town of Pittsboro
- Jim Ionucci, Chief Engineer, New Hanover County
- Chris O'Keefe, Planning Director, New Hanover County

The Working Group also received written comments from:

- Brian Bock, Chatham County Board of Commissioners ([Document](#))
- W. Lane Bailey, City Manager, City of Lenoir ([Document](#))
- Chris Thomas, President, NAIOP Charlotte ([Document](#))
- Robin Smith, Chair, NC Sedimentation Control Commission ([Document](#))
- David Holec, City Attorney, City of Greenville ([Document](#))

Recommendations of the Water and Sewer Working Group:

Based on its work, the Environmental Local Ordinances Working Group submits the following legislative proposal: Authority to Adopt Certain Ordinances.

LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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BILL DRAFT 2013-SBza-24 [v.9] (01/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/7/2014 10:34:11 AM

Short Title: Clarify Gravel Under Stormwater Laws.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE REGULATION OF GRAVEL UNDER STATE
3 STORMWATER LAWS, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 143-214.7(b2) reads as rewritten:

7 "(b2) For purposes of implementing stormwater programs, "built-upon area"
8 means impervious surface and partially impervious surface to the extent that the
9 partially impervious surface does not allow water to infiltrate through the surface
10 and into the subsoil. "Built-upon area" does not include a ~~wooden-slatted~~
11 ~~deck, deck or~~ the water area of a swimming ~~pool, or gravel.pool.~~"

12 **SECTION 1.(b)** The Environmental Management Commission shall
13 amend its rules to be consistent with the definition of "built-upon area" set out in
14 subsection (b2) of G.S. 143-214.7, as amended by Section 1.(a) of this act.

15 **SECTION 2.** Unless specifically authorized by the General Assembly,
16 neither the Environmental Management Commission nor the Department of
17 Environment and Natural Resources have the authority to define the term "gravel"
18 for purposes of implementing stormwater programs. Any rule adopted by the
19 Environmental Management Commission or the Department of Environment and
20 Natural Resources that defines the term "gravel" for purposes of implementing
21 stormwater programs is not effective and shall not become effective.

22 **SECTION 3.** Of funds available to the Department of Environment
23 and Natural Resources for the 2013-2015 biennium, the Department shall use up
24 to the sum of one hundred ten thousand dollars (\$110,000) to contract with the

1 Department of Biological and Agricultural Engineering at North Carolina State
2 University to conduct the study required by this section. The Department of
3 Biological and Agricultural Engineering at North Carolina State University shall
4 conduct a study to determine the extent to which different aggregate surfaces are
5 pervious, impervious, or partially pervious. The study shall include variables such
6 as different types of aggregate, different types of underlying soil, different levels
7 of compaction, different types of soil preparation and aggregate installation,
8 different depths of aggregate, and any other variables that may significantly affect
9 whether an aggregate surface is pervious, impervious, or partially pervious. The
10 Department of Biological and Agricultural Engineering at North Carolina State
11 University shall submit an interim report on the results of the study to the
12 Department of Environment and Natural Resources and the Environmental
13 Review Commission no later than September 1, 2014. The Department of
14 Biological and Agricultural Engineering at North Carolina State University shall
15 submit a final report on the results of the study to the Department of Environment
16 and Natural Resources and the Environmental Review Commission no later than
17 January 1, 2015.

18 **SECTION 4.** This act is effective when it becomes law. Subsection
19 (b2) of G.S. 143-214.7, as amended by Section 1.(a) of this act, applies to projects
20 for which permit applications are received on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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BILL DRAFT 2013-SBz-29 [v.3] (03/04)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/6/2014 3:24:33 PM**

Short Title: Amend Isolated Wetland Regulation.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE REGULATORY REQUIREMENTS FOR
ISOLATED WETLANDS, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 1(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 1(b) of this act.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .1305 (Review of Applications), both of the following shall apply to the implementation of 15A NCAC 02H .1305:

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to 1 acre of isolated wetlands east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95 for the entire project.

(2) The mitigation ratio under 15A NCAC 02H .1305(g)(6) shall be 1:1.

SECTION 1.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02H .1305 (Review of Applications) consistent with Section 1(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 1(b) of this act. 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 2. The Department of Environment and Natural Resources shall study the surface area thresholds for the regulation of mountain bog isolated

1 wetlands, including whether mountain bog isolated wetlands should have surface
2 area regulatory thresholds different from other types of isolated wetlands. The
3 Department shall report its findings and recommendations to the Environmental
4 Review Commission on or before November 1, 2014.

5 **SECTION 3.** This act is effective when it becomes law. Section 1(b)
6 of this act expires on the date that rules adopted pursuant to Section 1(c) of this act
7 become effective.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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BILL DRAFT 2013-TPz-11 [v.5] (03/03)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/7/2014 4:37:25 PM**

Short Title: DENR Study of IBT Laws.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO STUDY THE STATUTES AND RULES
4 GOVERNING INTERBASIN TRANSFERS, AS RECOMMENDED BY THE
5 ENVIRONMENTAL REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Department of Environment and Natural Resources
8 shall study the statutes and rules governing interbasin transfers and make
9 recommendations as to whether the statutes and rules should be amended. The
10 study shall specifically examine all of the following:

- 11 (1) Whether and to what extent temporary and emergency interbasin
12 transfers, including interbasin transfers to provide drought relief,
13 should be subject to different regulatory requirements than long-
14 term interbasin transfers.
15 (2) Whether and to what extent interbasin transfers between river
16 sub-basins should be subject to different regulatory requirements
17 than interbasin transfers between major river basins.
18 (3) Whether there are types of interbasin transfers that should be
19 exempted from the interbasin certification or other regulatory
20 requirements.

21 **SECTION 2.** No later than October 1, 2014, the Department of
22 Environment and Natural Resources shall report its findings and recommendations
23 to the Environmental Review Commission.

24 **SECTION 3.** This act is effective when it becomes law.

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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D

BILL DRAFT 2013-TPz-10 [v.2] (03/03)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/7/2014 11:07:05 AM**

Short Title: PED Study of Water and Sewer Systems.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO DIRECT THE JOINT LEGISLATIVE PROGRAM EVALUATION
OVERSIGHT COMMITTEE TO DIRECT THE PROGRAM EVALUATION
DIVISION TO STUDY THE BENEFITS THAT MAY RESULT FROM THE
MERGER OF PUBLIC WATER SYSTEMS AND WASTEWATER
COLLECTION AND TREATMENT SYSTEMS, AS RECOMMENDED BY
THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Legislative Program Evaluation Oversight
Committee shall include in the 2014-2015 Work Plan for the Program Evaluation
Division of the General Assembly a study of the benefits that may result from the
merger of public water systems and wastewater collection and treatment works.
The Program Evaluation Division shall specifically include the following in the
study:

- (1) Consideration of whether the benefits that have resulted from the
merger of certain public water systems and certain wastewater
collection and treatment works can be replicated for other
systems. In considering this issue, the Program Evaluation
Division shall investigate the performance of the
Charlotte-Mecklenburg Utility Department, the Cape Fear Public
Utility Authority, and Two Rivers Utilities.
- (2) Whether the State can incentivize public water systems and
wastewater collection and treatment works that provide service
that is affordable, reliable, and in compliance with all applicable
laws to purchase, interconnect with, or enter into joint
management agreements with public water systems and
wastewater collection and treatment works that do not provide
service that is affordable, reliable, and in compliance with all
applicable laws.

1 (3) Whether the State can allow public water systems and
2 wastewater collection and treatment works that provide service
3 that is affordable, reliable, and in compliance with all applicable
4 laws to apply for grant funding or other assistance on the behalf
5 of public water systems and wastewater collection and treatment
6 works that do not provide service that is affordable, reliable, and
7 in compliance with all applicable laws if the award of such
8 funding is contingent on purchase, interconnection, or a joint
9 management agreement between the systems.

10 **SECTION 2.** The Program Evaluation Division shall submit its
11 findings and recommendations to the Joint Legislative Program Evaluation
12 Oversight Committee and the Environmental Review Commission at a date to be
13 determined by the Joint Legislative Program Evaluation Oversight Committee.

14 **SECTION 3.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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D

BILL DRAFT 2013-MHz-186 [v.20] (02/18)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/7/2014 11:30:25 AM**

Short Title: Reform Agency Review of Engineering Work. (Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REFORM THE PROCESS BY WHICH REGULATORY
AUTHORITIES REVIEW SUBMITTALS OF APPLICATIONS FOR
PERMITS, LICENSES, AND APPROVALS, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. The following definitions apply in this act.

(1) Practice of Engineering. – As defined in G.S. 89C-3.

(2) Professional Engineer. – As defined in G.S. 89C-3.

(3) Regulatory Authority. – The Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Transportation, and any unit of local government operating a program (i) that grants permits, licenses, or approvals to the public and (ii) that is either approved by or delegated from the Department of Environment and Natural Resources, the Department of Health and Human Services, or the Department of Transportation.

(4) Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated from the Department of Environment and Natural Resources, the Department of Health and Human Services, or the Department of Transportation.

(5) Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.

1 (6) Working Job Title. – The job title a Regulatory Authority uses to
2 publicly identify an employee with job duties that include the
3 review of Regulatory Submittals. Working Job Title does not
4 mean job titles that are used by the human resources department
5 of a Regulatory Authority to classify jobs containing technical
6 aspects related to the Practice of Engineering.

7 **SECTION 2.** Standardize Certain Regulatory Review Procedures. –
8 No later than December 1, 2014, each Regulatory Authority shall review, and,
9 where necessary, revise its procedures for review of Regulatory Submittals to
10 accomplish the following:

- 11 (1) Standardize the provision of review and comments on Regulatory
12 Submittals so that revisions or requests for additional information
13 that are required by the Regulatory Authority in order to proceed
14 with the permit, license, or approval are clearly delineated from
15 revisions or requests for additional information that constitute
16 suggestions or recommendations by the Regulatory Authority.
17 For purposes of this subdivision, "suggestions or
18 recommendations by the Regulatory Authority" means comments
19 made by the reviewer of the Regulatory Submittal to the
20 Submitting Party that make a suggestion or recommendation for
21 consideration by the Submitting Party but that are not required by
22 the Regulatory Authority in order to proceed with the permit,
23 license, or approval.
- 24 (2) With respect to revisions or requests for additional information
25 that are required by the Regulatory Authority in order to proceed
26 with the permit, license, or approval, the Regulatory Authority
27 shall identify the statutory or regulatory authority for the
28 requirement.

29 **SECTION 3.(a)** Informal Review. – No later than December 1, 2014,
30 each Regulatory Authority shall create a process for each regulatory program
31 administered by the Regulatory Authority for an informal internal review at the
32 request of the Submitting Party in each of the following circumstances:

- 33 (1) The inclusion in a Regulatory Submittal of a design or practice
34 sealed by a Professional Engineer but not included in the
35 Regulatory Authority's existing guidance, manuals, or standard
36 operating procedures. This review should first be conducted by
37 the reviewing employee's supervisor, or, in the case of a
38 Regulatory Authority that is a unit of local government, either the
39 reviewing employee's supervisor or the delegating or approving
40 state agency. If this initial review was not conducted by a
41 Professional Engineer, then the Submitting Party may request
42 review by (i) a Professional Engineer on the staff of the
43 Regulatory Authority; or (ii) the delegating or approving state

1 agency, in the case of a Regulatory Authority that is a unit of
2 local government. If the Regulatory Authority or delegating or
3 approving state agency does not employ a Professional Engineer
4 qualified and competent to perform the review, it may provide
5 for review by a consulting Professional Engineer selected from a
6 list developed and maintained by the Reviewing Authority. The
7 Regulatory Authority may charge the Submitting Party for the
8 costs of the review by the consulting Professional Engineer.
9 Nothing in this subdivision is intended to limit the authority of
10 the Regulatory Authority to make a final decision with regard to
11 a Regulatory Submittal following the reviews described in this
12 subdivision.

- 13 (2) A disagreement between the reviewer of the Regulatory
14 Submittal and the Submitting Party regarding whether the
15 statutory or regulatory authority identified by the Regulatory
16 Authority for revisions or requests for additional information
17 designated as "required" under the procedures set forth in Section
18 2 of this act justifies a required change.

19 **SECTION 3.(b)** Scope. – Nothing in this section shall limit or abrogate
20 any rights available under Chapter 150B of the General Statutes to any Submitting
21 Party.

22 **SECTION 4.(a)** Pilot study. – No later than March 1, 2015, the
23 Department of Environment and Natural Resources shall complete a pilot study on
24 the Pretreatment, Emergency Response and Collection System (PERCS)
25 wastewater collection system permitting program and the stormwater permitting
26 program and perform the following activities with the assistance and cooperation
27 of the North Carolina Board of Examiners for Engineers and Surveyors and the
28 Professional Engineers of North Carolina:

- 29 (1) Produce an inventory of work activities associated with the
30 operation of each regulatory program.
31 (2) Determine the work activities identified under subdivision (1) of
32 this section that constitute the Practice of Engineering.
33 (3) Develop recommendations for ensuring that work activities
34 constituting the Practice of Engineering are conducted with the
35 appropriate level of oversight.

36 **SECTION 4.(b)** Report. – The Department shall report the results of
37 the pilot study to the Environmental Review Commission no later than April 15,
38 2015.

39 **SECTION 5.** Review of working job titles. – No later than December
40 1, 2014, each Regulatory Authority shall do the following:

- 41 (1) Review the working job titles of every employee with job duties
42 that include the review of Regulatory Submittals.

- 1 (2) Propose revisions to the working job titles identified under
2 subdivision (1) of this Section or other administrative measures
3 that will eliminate the public identification as "engineers" of
4 persons reviewing Regulatory Submittals who are not
5 Professional Engineers.

6 **SECTION 6.(a)** Initial Report. – Each Regulatory Authority shall
7 report to the Environmental Review Commission prior to the convening of the
8 2015 Regular Session of the General Assembly on implementation of the
9 following, if applicable:

- 10 (1) The standardized procedures required by Section 2 of this act.
11 (2) The informal review process required by Section 3 of this act.
12 (3) The review of working job titles required by Section 5 of this act.

13 **SECTION 6.(b)** Annual Report. – Beginning in 2016, each Regulatory
14 Authority shall annually report to the Environmental Review Commission no later
15 than January 15 on the informal review process required by Section 3 of this act.
16 The report shall include the number of times the informal review process was
17 utilized and the outcome of the review.

18 **SECTION 6.(c)** Annual Reporting Sunset. – Subsection 6.(b) of this
19 Section expires on January 1, 2019.

20 **SECTION 7.** This act is effective when it becomes law..

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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D

BILL DRAFT 2013-SBz-30 [v.3] (03/06)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/6/2014 3:29:04 PM**

Short Title: Authority to Adopt Certain Ordinances.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS TO
ADOPT CERTAIN AGRICULTURAL AND ENVIRONMENTAL
ORDINANCES, AS RECOMMENDED BY THE ENVIRONMENTAL
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10.2 of S.L. 2013-413 is repealed.

SECTION 2. No later than November 1, 2014, and November 1, 2015, the Department of Agriculture and Consumer Services shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 3. No later than November 1, 2014, and November 1, 2015, the Department of Environment and Natural Resources shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 4. Article 56 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-678. Authority of Board of Agriculture to regulate fertilizers.

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer in any area subject to regulation by the Board pursuant to this Article. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection authority. Nothing in this section shall limit the authority of the Department of Environment and Natural Resources to enforce water quality standards."

SECTION 5. This act is effective when it becomes law.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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D

BILL DRAFT 2013-SBz-28 [v.2] (03/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/6/2014 3:23:52 PM

Short Title: Reporting and Notice of Wastewater Spills. (Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE REPORTING AND PUBLIC NOTICE
REQUIREMENTS APPLICABLE TO DISCHARGES OF WASTEWATER
TO WATERS OF THE STATE, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.1C reads as rewritten:

"§ 143-215.1C. Report to wastewater system customers on system performance; report discharge of untreated wastewater to the Department; publication of notice of discharge of untreated wastewater and waste.

(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year.

(a1) Report Discharge of Untreated Wastewater to the Department. – The owner or operator of any wastewater collection or treatment works for which a permit is issued under this Part shall report a discharge of 1,000 gallons or more of untreated wastewater to the surface waters of the State to the Department within 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. This reporting requirement shall be in addition to

1 any other reporting requirements applicable to the owner or operator of the
2 wastewater collection or treatment works.

3 (b) Publication of Notice of Discharge of Untreated Wastewater. – The
4 owner or operator of any wastewater collection or treatment works, the operation
5 of which is primarily to collect or treat municipal or domestic wastewater and for
6 which a permit is issued under this Part shall:

7 (1) In the event of a discharge of 1,000 gallons or more of untreated
8 wastewater to the surface waters of the State, issue a press
9 release to all print and electronic news media that provide
10 general coverage in the county where the discharge occurred
11 setting out the details of the discharge. The owner or operator
12 shall issue the press release within ~~48-24~~ hours after the owner or
13 operator has determined that the discharge has reached the
14 surface waters of the State. The owner or operator shall retain a
15 copy of the press release and a list of the news media to which it
16 was distributed for at least one year after the discharge and shall
17 provide a copy of the press release and the list of the news media
18 to which it was distributed to any person upon request.

19 (2) In the event of a discharge of 15,000 gallons or more of untreated
20 wastewater to the surface waters of the State, publish a notice of
21 the discharge in a newspaper having general circulation in the
22 county in which the discharge occurs and in each county
23 downstream from the point of discharge that is significantly
24 affected by the discharge. The Secretary shall determine, at the
25 Secretary's sole discretion, which counties are significantly
26 affected by the discharge and shall approve the form and content
27 of the notice and the newspapers in which the notice is to be
28 published. The notice shall be captioned "NOTICE OF
29 DISCHARGE OF UNTREATED SEWAGE". The owner or
30 operator shall publish the notice within 10 days after the
31 Secretary has determined the counties that are significantly
32 affected by the discharge and approved the form and content of
33 the notice and the newspapers in which the notice is to be
34 published. The owner or operator shall file a copy of the notice
35 and proof of publication with the Department within 30 days
36 after the notice is published. Publication of a notice of discharge
37 under this subdivision is in addition to the requirement to issue a
38 press release under subdivision (1) of this subsection.

39 (c) Publication of Notice of Discharge of Untreated Waste. – The owner or
40 operator of any wastewater collection or treatment works, other than a wastewater
41 collection or treatment works the operation of which is primarily to collect or treat
42 municipal or domestic wastewater, for which a permit is issued under this Part
43 shall:

- 1 (1) In the event of a discharge of 1,000 gallons or more of untreated
2 waste to the surface waters of the State, issue a press release to
3 all print and electronic news media that provide general coverage
4 in the county where the discharge occurred setting out the details
5 of the discharge. The owner or operator shall issue the press
6 release within ~~48~~24 hours after the owner or operator has
7 determined that the discharge has reached the surface waters of
8 the State. The owner or operator shall retain a copy of the press
9 release and a list of the news media to which it was distributed
10 for at least one year after the discharge and shall provide a copy
11 of the press release and the list of the news media to which it was
12 distributed to any person upon request.
- 13 (2) In the event of a discharge of 15,000 gallons or more of untreated
14 waste to the surface waters of the State, publish a notice of the
15 discharge in a newspaper having general circulation in the county
16 in which the discharge occurs and in each county downstream
17 from the point of discharge that is significantly affected by the
18 discharge. The Secretary shall determine, at the Secretary's sole
19 discretion, which counties are significantly affected by the
20 discharge and shall approve the form and content of the notice
21 and the newspapers in which the notice is to be published. The
22 notice shall be captioned "NOTICE OF DISCHARGE OF
23 UNTREATED WASTE". The owner or operator shall publish
24 the notice within 10 days after the Secretary has determined the
25 counties that are significantly affected by the discharge and
26 approved the form and content of the notice and the newspapers
27 in which the notice is to be published. The owner or operator
28 shall file a copy of the notice and proof of publication with the
29 Department within 30 days after the notice is published.
30 Publication of a notice of discharge under this subdivision is in
31 addition to the requirement to issue a press release under
32 subdivision (1) of this subsection."

33 **SECTION 2.** This act is effective when it becomes law.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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BILL DRAFT 2013-TPz-9 [v.7] (03/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/7/2014 4:33:08 PM

Short Title: Amend Hotel Carbon Monoxide Alarm Requirement.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE REQUIREMENTS FOR CARBON MONOXIDE
ALARMS IN HOTELS, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 19.(c) of S.L. 2013-413 is repealed.

SECTION 2. Section 19.(e) of S.L. 2013-413 reads as rewritten:

"**SECTION 19.(e)** This section is effective when it becomes law, except that ~~(i) subsection (b) of this section becomes effective October 1, 2013, 2013, and expires October 1, 2014; and (ii) subsection (c) of this section becomes effective October 1, 2014.~~"

SECTION 3. G.S. 143-138(b2) reads as rewritten:

"(b2) Carbon Monoxide ~~Alarms.Detectors.~~ – The Code (i) may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide ~~alarmsdetectors~~ in every dwelling unit having a ~~combustionfossil-fuel burning~~ heater, appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain provisions requiring the installation of electrical carbon monoxide ~~alarmsdetectors~~ at a lodging establishment. Violations of this subsection and rules adopted pursuant to this subsection shall be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

(1) For dwelling units, carbon monoxide ~~alarmsdetectors~~ shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall

1 retain or provide as proof of compliance. A carbon monoxide
2 ~~alarmdetector~~ may be combined with smoke detectors if the
3 combined ~~alarmdetector~~ does both of the following: (i) complies
4 with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide
5 alarms and ANSI/UL217 for smoke detectors; and (ii) emits an
6 alarm in a manner that clearly differentiates between detecting
7 the presence of carbon monoxide and the presence of smoke.

- 8 (2) For lodging establishments, including tourist homes that provide
9 accommodations for seven or more continuous days (extended
10 stay establishments), and bed and breakfasts inns and bed and
11 breakfast homes as defined in G.S. 130A-247, carbon monoxide
12 ~~alarmsdetectors~~ shall be installed in every dwelling unit or
13 sleeping unitenclosed space having a ~~combustionfossil-fuel~~
14 ~~burning~~ heater, appliance, or fireplace and in every dwelling unit
15 or sleeping unitany enclosed space, including a sleeping room,
16 that shares a common wall, floor, or ceiling ~~with a roomwith an~~
17 ~~enclosed space~~ having a ~~combustionfossil-fuel-burning~~ heater,
18 appliance, or fireplace. Carbon monoxide ~~alarmsdetectors~~ shall
19 be (i) listed by a nationally recognized testing laboratory that is
20 ~~approved~~OSHA-approved to test and certify to American
21 National Standards Institute/Underwriters Laboratories
22 (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii)
23 installed in accordance with either the standard of the National
24 Fire Protection Association (NFPA) or the minimum protection
25 designated in the manufacturer's instructions, which the lodging
26 establishment shall retain or provide as proof of compliance, (iii)
27 receive primary power from the building's wiring, where such
28 wiring is served from a commercial source, and (iv) receive
29 power from a battery when primary power is interrupted. A
30 carbon monoxide ~~alarmdetector~~ may be combined with smoke
31 detectors if the combined ~~alarmdetector~~ complies with the
32 requirements of this subdivision for carbon monoxide alarms and
33 ANSI/UL217 for smoke ~~alarmsdetectors~~. In lieu of the carbon
34 monoxide alarms required by this subsection, a carbon monoxide
35 detection system, which includes carbon monoxide detectors and
36 audible notification appliances installed and maintained in
37 accordance with NFPA 720 shall be permitted. The carbon
38 monoxide detectors shall be listed as complying with
39 ANSI/UL2075. For purposes of this subsection, "lodging
40 establishment" means any hotel, motel, tourist home, or other
41 establishment permitted under authority of G.S. 130A-248 to
42 provide lodging accommodations for pay to the ~~public,public-~~
43 and "combustion heater, appliance, or fireplace" means any

1 heater, appliance, or fireplace that burns combustion fuels,
2 including but not limited to natural or liquefied petroleum gas,
3 fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or
4 decorative purposes, including but not limited to space heaters,
5 wall and ceiling heaters, ranges, ovens, stoves, furnaces,
6 fireplaces, water heaters, and clothes dryers. For purposes of this
7 subsection, candles and canned fuels are not considered to be
8 combustion appliances.

9 (3) The Building Code Council shall modify the NC State Building
10 Code (Fire Prevention) to regulate the provisions of this
11 subsection in new and existing lodging establishments, including
12 hotels, motels, tourist homes that provide accommodations for
13 seven or more continuous days (extended stay establishments),
14 and bed and breakfast inns and bed and breakfast homes as
15 defined in G.S. 130A-247; provided nothing in this subsection
16 shall prevent the Building Code Council from establishing more
17 stringent rules regulating carbon monoxide alarms or detectors
18 for new lodging establishments, including hotels, motels, tourist
19 homes that provide accommodations for seven or more
20 continuous days (extended stay establishments), and bed and
21 breakfast inns and bed and breakfast homes as defined in
22 G.S. 130A-247. The Building Code Council shall modify the NC
23 State Building Code (Fire Prevention) minimum inspection
24 schedule to include annual inspections of new and existing
25 lodging establishments, including hotels, motels, and tourist
26 homes that provide accommodations for seven or more
27 continuous days (extended stay establishments), and bed and
28 breakfast inns and bed and breakfast homes as defined in
29 G.S. 130A-247 for the purpose of compliance with this
30 subsection.

31 (4) Upon discovery of a violation of this subsection that poses an
32 imminent hazard and that is not corrected during an inspection of
33 a lodging establishment subject to the provisions of
34 G.S. 130A-248, the code official responsible for enforcing the
35 NC State Building Code (Fire Prevention) shall immediately
36 notify the local health director for the county in which the
37 violation was discovered or his designee by verbal contact and
38 shall also submit a written report documenting the violation of
39 this subsection to the local health director for the county in which
40 the violation was discovered or his designee on the next working
41 day following the discovery of the violation. Within one working
42 day of receipt of the written report documenting a violation of
43 this subsection, the local health director for the county in which

1 the violation was discovered or his designee shall investigate and
2 take appropriate action regarding the permit for the lodging
3 establishment, as provided in G.S. 130A-248. Lodging
4 establishments having five or more rooms that are exempted
5 from the requirements of G.S. 130A-248 by G.S. 130A-250 shall
6 be subject to the penalties set forth in the NC State Building
7 Code (Fire Prevention).

8 (5) Upon discovery of a violation of this subsection that does not
9 pose an imminent hazard and that is not corrected during an
10 inspection of a lodging establishment subject to the provisions of
11 G.S. 130A-248, the owner or operator of the lodging
12 establishment shall have a correction period of three working
13 days following the discovery of the violation to notify the code
14 official responsible for enforcing the NC State Building Code
15 (Fire Prevention) verbally or in writing that the violation has
16 been corrected. If the code official receives such notification, the
17 code official may re-inspect the portions of the lodging
18 establishment that contained violations, but any fees for
19 re-inspection shall not exceed the fee charged for the initial
20 inspection. If the code official receives no such notification, or if
21 a re-inspection discovers that previous violations were not
22 corrected, the code official shall submit a written report
23 documenting the violation of this subsection to the local health
24 director for the county in which the violation was discovered or
25 his designee within three working days following the termination
26 of the correction period or the re-inspection, whichever is later.
27 The local health director shall investigate and may take
28 appropriate action regarding the permit for the lodging
29 establishment, as provided in G.S. 130A-248. Lodging
30 establishments having five or more rooms that are exempted
31 from the requirements of G.S. 130A-248 by G.S. 130A-250 shall
32 be subject to the penalties set forth in the NC State Building
33 Code (Fire Prevention)."

34 **SECTION 4.** G.S. 130A-248 reads as rewritten:

35 **"§ 130A-248. Regulation of food and lodging establishments.**

36 ...

37 (b) No establishment shall commence or continue operation without a
38 permit or transitional permit issued by the Department. The permit or transitional
39 permit shall be issued to the owner or operator of the establishment and shall not
40 be transferable. If the establishment is leased, the permit or transitional permit
41 shall be issued to the lessee and shall not be transferable. If the location of an
42 establishment changes, a new permit shall be obtained for the establishment. A
43 permit shall be issued only when the establishment satisfies all of the requirements

1 of the ~~rules, rules and the requirements of subsection (g) of this section.~~ The
2 Commission shall adopt rules establishing the requirements that must be met
3 before a transitional permit may be issued, and the period for which a transitional
4 permit may be issued. The Department may also impose conditions on the
5 issuance of a permit or transitional permit in accordance with rules adopted by the
6 Commission. A permit or transitional permit shall be immediately revoked in
7 accordance with G.S. 130A-23(d) for failure of the establishment to maintain a
8 minimum grade of C. A permit or transitional permit may otherwise be suspended
9 or revoked in accordance with G.S. 130A-23.

10 ...

11 (g) All hotels, motels, tourist homes, and other establishments that provide
12 lodging for pay shall comply with the requirements of G.S. 143-138(b2)(2). Upon
13 notification of a violation of G.S. 143-138(b2)(2) by the code official responsible
14 for enforcing the NC State Building Code (Fire Prevention) in accordance with
15 G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit
16 issued pursuant to this section in accordance with G.S. 130A-23.~~install either a~~
17 ~~battery operated or electrical carbon monoxide detector in every enclosed space~~
18 ~~having a fossil fuel burning heater, appliance, or fireplace and in any enclosed~~
19 ~~space, including a sleeping room, that shares a common wall, floor, or ceiling with~~
20 ~~an enclosed space having a fossil fuel burning heater, appliance, or fireplace.~~
21 ~~Carbon monoxide detectors shall be listed by a nationally recognized testing~~
22 ~~laboratory that is OSHA-approved to test and certify to American National~~
23 ~~Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or~~
24 ~~ANSI/UL2075, and installed in accordance with either the standard of the National~~
25 ~~Fire Protection Association or the minimum protection designated in the~~
26 ~~manufacturer's instructions, which the establishment shall retain or provide as~~
27 ~~proof of compliance. A carbon monoxide detector may be combined with smoke~~
28 ~~detectors if the combined detector complies with the requirements of this~~
29 ~~subdivision for carbon monoxide alarms and ANSI/UL217 for smoke detectors."~~

30 **SECTION 5.** This act is effective when it becomes law.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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BILL DRAFT 2013-SBz-25 [v.4] (01/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/6/2014 3:22:39 PM

Short Title: Legislative Oversight of Fish & Wildlife Mgmt.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH THE JOINT LEGISLATIVE COMMISSION ON
FISH AND WILDLIFE, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 120 of the General Statutes is amended by
adding a new Article to read:

"Article 12S.

"Joint Legislative Commission on Fish and Wildlife.

**"§ 120.70.160. Creation and membership of Joint Legislative Commission on
Fish and Wildlife.**

(a) The Joint Legislative Commission on Fish and Wildlife is established.

(b) The Commission shall consist of 16 members as follows:

(1) Eight members of the Senate appointed by the President Pro
Tempore of the Senate, including the Chair or Cochairs of the
Senate Committee on Appropriations – Natural and Economic
Resources or the equivalent committee and at least two members
of the minority party.

(2) Eight members of the House of Representatives appointed by the
Speaker of the House of Representatives, including the Chair or
Cochairs of the House of Representatives Committee on
Appropriations – Natural and Economic Resources or the
equivalent committee and at least two members of the minority
party.

(c) The President Pro Tempore of the Senate and the Speaker of the House
of Representatives shall ensure geographic diversity of membership in making the
appointments under subsection (b) of this section.

(d) Terms on the Commission are for two years and begin on the convening
of the General Assembly in each odd-numbered year. Members may complete a

1 term of service on the Commission even if they do not seek reelection or are not
2 reelected to the General Assembly, but resignation or removal from service in the
3 General Assembly constitutes resignation or removal from service on the
4 Commission. A member continues to serve until a successor is appointed.

5 **"§ 120-70.161. Purpose and powers and duties of Commission.**

6 (a) The Joint Legislative Commission on Fish and Wildlife shall exercise
7 legislative oversight over the management of fish and wildlife in the State. In the
8 exercise of this oversight, the Commission may do any of the following:

9 (1) Monitor and evaluate the programs, policies, and actions of the
10 Marine Fisheries Commission, the Division of Marine Fisheries
11 of the Department of Environment and Natural Resources, the
12 Wildlife Resources Commission, and of any other board,
13 commission, department, or agency of the State or local
14 government that manages fish and wildlife.

15 (2) Review and evaluate existing and proposed State statutes and
16 rules affecting the management of fish and wildlife in the State
17 and determine whether any modification of these statutes or rules
18 is in the public interest.

19 (3) Monitor changes in federal law and court decisions affecting the
20 management of fish and wildlife in the State.

21 (4) Monitor and evaluate fishing- and hunting-related industries in
22 the State and study measures to promote these industries.

23 (5) Study any other matters related to the management of fish and
24 wildlife in the State that the Commission considers necessary to
25 fulfill its mandate.

26 (b) The Commission may make reports and recommendations, including
27 proposed legislation, to the General Assembly from time to time as to any matter
28 relating to its oversight and the powers and duties set out in this section.

29 **"§ 120-70.62. Organization of Commission.**

30 (a) The President Pro Tempore of the Senate and the Speaker of the House
31 of Representatives shall each designate a cochair of the Joint Legislative
32 Commission on Fish and Wildlife. The Commission may meet at any time upon
33 the call of either cochair, whether or not the General Assembly is in session.

34 (b) A quorum of the Commission is eight members.

35 (c) While in the discharge of its official duties, the Commission has the
36 powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through
37 120-19.4. The Commission may contract for consultants or hire employees in
38 accordance with G.S. 120-32.02.

39 (d) From funds available to the General Assembly, the Legislative Services
40 Commission shall allocate monies to fund the Joint Legislative Commission on
41 Fish and Wildlife. Members of the Commission receive subsistence and travel
42 expenses as provided in G.S. 120-3.1. The Legislative Services Commission,
43 through the Legislative Services Officer, shall assign professional staff to assist

1 the Commission in its work. Upon the direction of the Legislative Services
2 Commission, the Supervisors of Clerks of the Senate and of the House of
3 Representatives shall assign clerical staff to the Commission. The expenses for
4 clerical employees shall be borne by the Commission."

5 **SECTION 2.** Section 1.2(a) of S.L. 2011-291 reads as rewritten:

6 "SECTION 1.2.(a) The duties of the following committees and
7 commissions are transferred to the Joint Legislative Commission on Governmental
8 Operations:

- 9 (1) Joint Legislative Oversight Committee on Capital Improvements.
- 10 (2) Joint Legislative Commission on Future Strategies for North
11 Carolina.
- 12 (3) Joint Select Committee on Low-Level Radioactive Waste.
- 13 (4) Legislative Committee on New Licensing Boards.
- 14 ~~(5) Joint Legislative Commission on Seafood and Aquaculture.~~
- 15 (6) Joint Legislative Utility Review Commission."

16 **SECTION 3.** G.S. 120-76 reads as rewritten:

17 "**§ 120-76. Powers and duties of the Commission.**

18 The Commission shall have the following powers:

- 19 (1) To conduct program evaluation studies of the various
20 components of State agency activity as they relate to:
 - 21 a. Service benefits of each program relative to expenditures;
 - 22 b. Achievement of program goals;
 - 23 c. Use of indicators by which the success or failure of a
24 program may be gauged; and
 - 25 d. Conformity with legislative intent.
- 26 (2) To study legislation which would result in new programs with
27 statewide implications for feasibility and need. These studies
28 may be jointly conducted with the Fiscal Research Division of
29 the Legislative Services Commission.
- 30 (3) To study on a continuing basis the implementation of State
31 government reorganization with respect to:
 - 32 a. Improvements in administrative structure, practices and
33 procedures;
 - 34 b. The relative effectiveness of centralization and
35 decentralization of management decisions for agency
36 operation;
 - 37 c. Opportunities for effective citizen participation; and
 - 38 d. Broadening of career opportunities for professional staff.
- 39 (4) To make such studies and reports of the operations and functions
40 of State government as it deems appropriate or upon petition by
41 resolution of either the Senate or the House of Representatives.
- 42 (5) To produce routine written reports of findings for general
43 legislative and public distribution. Special attention shall be

1 given to the presentation of findings to the appropriate
2 committees of the Senate and the House of Representatives. If
3 findings arrived at during a study have a potential impact on
4 either the finance or appropriations deliberations, such findings
5 shall immediately be presented to the committees. Such reports
6 shall contain recommendations for appropriate executive action
7 and when legislation is considered necessary to effect change,
8 draft legislation for that purpose may be included. Such reports
9 as are submitted shall include but not be limited to the following
10 matters:

- 11 a. Ways in which the agencies may operate more
12 economically and efficiently;
- 13 b. Ways in which agencies can provide better services to the
14 State and to the people; and
- 15 c. Areas in which functions of State agencies are duplicative,
16 overlapping, or failing to accomplish legislative
17 objectives, or for any other reason should be redefined or
18 redistributed.

19 (6) To devise a system, in cooperation with the Fiscal Research
20 Division of the Legislative Services Commission, whereby all
21 new programs authorized by the General Assembly incorporate
22 an evaluation component. The results of such evaluations may be
23 made to the Appropriations Committees at the beginning of each
24 regular session.

25 (7) To evaluate and approve or deny requests from the Department
26 of Transportation regarding the funding of federally eligible
27 construction projects as provided in the fourth paragraph of
28 G.S. 136-44.2.

29 (8) The Joint Legislative Commission on Governmental Operations
30 shall be consulted by the Governor before the Governor does any
31 of the following:

- 32 a. Repealed by Session Laws 2007-117, s. 2, effective July
33 1, 2007.
- 34 b. Authorizes expenditures in excess of the total
35 requirements of a purpose or program as enacted by the
36 General Assembly and as provided by G.S. 143C-6-4.
- 37 c. Proceeds to reduce programs subsequent to a reduction of
38 ten percent (10%) or more in the federal fund level
39 certified to a department and any subsequent changes in
40 distribution formulas.
- 41 d. Takes extraordinary measures under Article III, Section
42 5(3) of the Constitution to effect necessary economies in
43 State expenditures required for balancing the budget due

1 to a revenue shortfall, including, but not limited to, the
2 following: loans among funds, personnel freezes or
3 layoffs, capital project reversions, program eliminations,
4 and use of reserves. However, if the Committee fails to
5 meet within 10 calendar days of a request by the Governor
6 for its consultation, the Governor may proceed to take the
7 actions he feels are appropriate and necessary and shall
8 then report those actions at the next meeting of the
9 Commission.

10 e. Approves a new capital improvement project funded from
11 gifts, grants, receipts, special funds, self-liquidating
12 indebtedness, and other funds or any combination of funds
13 for the project not specifically authorized by the General
14 Assembly. The budget for each capital project must
15 include projected revenues in an amount not less than
16 projected expenditures.

17 (9) To examine, on a continuing basis, capital improvements
18 approved and undertaken for State facilities and institutions and
19 to have oversight over implementation of the six-year capital
20 improvements plan developed pursuant to G.S. 143C-8-5.

21 (10) To establish a subcommittee to evaluate the need for any new
22 licensing board by establishing criteria and procedures for
23 reviewing proposed licensing boards. To assure that no new
24 licensing board shall be established unless the following criteria
25 are met:

26 a. The unregulated practice of the profession or occupation
27 can substantially harm or endanger the public health,
28 safety, or welfare, and the potential for such harm is
29 recognizable and not remote or dependent upon tenuous
30 argument.

31 b. The profession or occupation possesses qualities that
32 distinguish it from ordinary labor.

33 c. Practice of the profession or occupation requires
34 specialized skill or training.

35 d. A substantial majority of the public does not have the
36 knowledge or experience to evaluate whether the
37 practitioner is competent.

38 e. The public is not effectively protected by other means.

39 f. Licensure will not have a substantial adverse economic
40 impact upon consumers of the practitioner's goods or
41 services.

42 (11) To evaluate the North Carolina Utilities Commission, by doing
43 the following:

- 1 a. Reviewing the actions of the North Carolina Utilities
2 Commission, including the review of its interim and final
3 orders, to the end that the members of the General
4 Assembly may better judge whether these actions serve
5 the best interest of the citizens of North Carolina,
6 individual and corporate.
- 7 b. Inquiring into the role of the North Carolina Utilities
8 Commission, the Public Staff, and the several utility
9 companies in the development of alternate sources of
10 energy.
- 11 c. Submitting evaluations to the General Assembly, from
12 time to time, of the performance of the North Carolina
13 Utilities Commission, the Public Staff, and the various
14 utilities operating in the State. A proposed draft of such
15 evaluations shall be submitted to the North Carolina
16 Utilities Commission, the Public Staff, and the affected
17 public utilities prior to submission to the General
18 Assembly, and the affected entity shall be given an
19 opportunity to be heard before the Commission prior to
20 the completion of the evaluation and its submission to the
21 General Assembly.
- 22 (12) To make reports and recommendations to the General Assembly,
23 from time to time, on matters relating to the powers and duties
24 set out in this section.
- 25 (13) To review and evaluate changes in federal law and regulations,
26 relevant court decisions, and changes in technology affecting any
27 of the duties of the Commission.
- 28 (14) To review and evaluate changes in federal law and regulation, or
29 changes brought about by court actions, as well as changes in
30 technology affecting any of the duties of the Commission, to
31 determine whether the State's laws require modification as a
32 result of those changes.
- 33 ~~(15) With regard to seafood and aquaculture:~~
- 34 ~~a. To monitor and study the seafood industry in North~~
35 ~~Carolina, including studies of the feasibility of increasing~~
36 ~~the State's production, processing, and marketing of~~
37 ~~seafood.~~
- 38 ~~b. To study the potential for increasing the role of~~
39 ~~aquaculture in all regions of the State.~~
- 40 ~~c. To evaluate the feasibility of creating a central permitting~~
41 ~~office for fishing and aquaculture matters.~~
- 42 ~~d. To evaluate actions of the Division of Marine Fisheries of~~
43 ~~the Department of Environment and Natural Resources,~~

1 the Wildlife Resources Commission of the Department of
2 Environment and Natural Resources and of any other
3 State or local government agency as such actions relate to
4 the seafood and aquaculture industries.

5 e. To make recommendations regarding regulatory matters
6 relating to the seafood and aquaculture industries
7 including, but not limited to evaluating the necessity to
8 substantially increase penalties for trespass and theft of
9 shellfish and other aquaculture products.

10 f. To review and evaluate changes in federal law and
11 regulations, relevant court decisions, and changes in
12 technology affecting the seafood and aquaculture
13 industries.

14 g. To review existing and proposed State law and rules
15 affecting the seafood and aquaculture industries and to
16 determine whether any modification of law or rules is in
17 the public interest."

18 **SECTION 4.** G.S. 113-175.6 reads as rewritten:

19 **"§ 113-175.6. Report.**

20 The Chair of the Marine Fisheries Commission and the Chair of the Wildlife
21 Resources Commission shall jointly submit to the Joint Legislative Commission
22 on ~~Governmental Operations~~Fish and Wildlife by October 1 of each year a report
23 on the Marine Resources Fund and the Endowment Fund that shall include the
24 source and amounts of all moneys credited to each fund and the purpose and
25 amount of all disbursements from each fund during the prior fiscal year."

26 **SECTION 5.** G.S. 113-182.1 reads as rewritten:

27 **"§ 113-182.1. Fishery Management Plans.**

28 (a) The Department shall prepare proposed Fishery Management Plans for
29 adoption by the Marine Fisheries Commission for all commercially or
30 recreationally significant species or fisheries that comprise State marine or
31 estuarine resources. Proposed Fishery Management Plans shall be developed in
32 accordance with the Priority List, Schedule, and guidance criteria established by
33 the Marine Fisheries Commission under G.S. 143B-289.52.

34 (b) The goal of the plans shall be to ensure the long-term viability of the
35 State's commercially and recreationally significant species or fisheries. Each plan
36 shall be designed to reflect fishing practices so that one plan may apply to a
37 specific fishery, while other plans may be based on gear or geographic areas. Each
38 plan shall:

- 39 (1) Contain necessary information pertaining to the fishery or
40 fisheries, including management goals and objectives, status of
41 relevant fish stocks, stock assessments for multiyear species,
42 fishery habitat and water quality considerations consistent with
43 Coastal Habitat Protection Plans adopted pursuant to

1 G.S. 143B-279.8, social and economic impact of the fishery to
2 the State, and user conflicts.

3 (2) Recommend management actions pertaining to the fishery or
4 fisheries.

5 (3) Include conservation and management measures that will provide
6 the greatest overall benefit to the State, particularly with respect
7 to food production, recreational opportunities, and the protection
8 of marine ecosystems, and that will produce a sustainable
9 harvest.

10 (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.

11 (5) Specify a time period, not to exceed two years from the date of
12 the adoption of the plan, to end overfishing. This subdivision
13 shall not apply if the Fisheries Director determines that the
14 biology of the fish, environmental conditions, or lack of
15 sufficient data make implementing the requirements of this
16 subdivision incompatible with professional standards for
17 fisheries management.

18 (6) Specify a time period, not to exceed 10 years from the date of the
19 adoption of the plan, for achieving a sustainable harvest. This
20 subdivision shall not apply if the Fisheries Director determines
21 that the biology of the fish, environmental conditions, or lack of
22 sufficient data make implementing the requirements of this
23 subdivision incompatible with professional standards for
24 fisheries management.

25 (7) Include a standard of at least fifty percent (50%) probability of
26 achieving sustainable harvest for the fishery or fisheries. This
27 subdivision shall not apply if the Fisheries Director determines
28 that the biology of the fish, environmental conditions, or lack of
29 sufficient data make implementing the requirements of this
30 subdivision incompatible with professional standards for
31 fisheries management.

32 (c) To assist in the development of each Fishery Management Plan, the
33 Chair of the Marine Fisheries Commission shall appoint a fishery management
34 plan advisory committee. Each fishery management plan advisory committee shall
35 be composed of commercial fishermen, recreational fishermen, and scientists, all
36 with expertise in the fishery for which the Fishery Management Plan is being
37 developed.

38 (c1) The Department shall consult with the regional advisory committees
39 established pursuant to G.S. 143B-289.57(e) regarding the preparation of each
40 Fishery Management Plan. Before submission of a plan for review by the Joint
41 Legislative Commission on ~~Governmental Operations~~, Fish and Wildlife, the
42 Department shall review any comment or recommendation regarding the plan that
43 a regional advisory committee submits to the Department within the time limits

1 established in the Schedule for the development and adoption of Fishery
2 Management Plans established by G.S. 143B-289.52. Before the Commission
3 adopts a management measure to implement a plan, the Commission shall review
4 any comment or recommendation regarding the management measure that a
5 regional advisory committee submits to the Commission.

6 (d) Each Fishery Management Plan shall be reviewed at least once every
7 five years. The Marine Fisheries Commission may revise the Priority List and
8 guidance criteria whenever it determines that a revision of the Priority List or
9 guidance criteria will facilitate or improve the development of Fishery
10 Management Plans or is necessary to restore, conserve, or protect the marine and
11 estuarine resources of the State. The Marine Fisheries Commission may not revise
12 the Schedule for the development of a Fishery Management Plan, once adopted,
13 without the approval of the Secretary of Environment and Natural Resources.

14 (e) The Secretary of Environment and Natural Resources shall monitor
15 progress in the development and adoption of Fishery Management Plans in
16 relation to the Schedule for development and adoption of the plans established by
17 the Marine Fisheries Commission. The Secretary of Environment and Natural
18 Resources shall report to the Joint Legislative Commission on ~~Governmental~~
19 ~~Operations~~Fish and Wildlife on progress in developing and implementing the
20 Fishery Management Plans on or before 1 September of each year. The Secretary
21 of Environment and Natural Resources shall report to the Joint Legislative
22 Commission on ~~Governmental-Operations~~Fish and Wildlife within 30 days of the
23 completion or substantial revision of each proposed Fishery Management Plan.
24 The Joint Legislative Commission on ~~Governmental-Operations~~Fish and Wildlife
25 shall review each proposed Fishery Management Plan within 30 days of the date
26 the proposed Plan is submitted by the Secretary. The Joint Legislative
27 Commission on ~~Governmental-Operations~~Fish and Wildlife may submit comments
28 and recommendations on the proposed Plan to the Secretary within 30 days of the
29 date the proposed Plan is submitted by the Secretary.

30 (e1) If the Secretary determines that it is in the interest of the long-term
31 viability of a fishery, the Secretary may authorize the Commission to develop
32 temporary management measures to supplement an existing Fishery Management
33 Plan pursuant to this subsection. Development of temporary management
34 measures pursuant to this subsection is exempt from subsections (c), (c1), and (e)
35 of this section and the Priority List, Schedule, and guidance criteria established by
36 the Marine Fisheries Commission under G.S. 143B-289.52. During the next
37 review period for a Fishery Management Plan supplemented pursuant to this
38 subsection, the Commission shall either incorporate the temporary management
39 measures into the revised Fishery Management Plan or the temporary management
40 measures shall expire on the date the revised Fishery Management Plan is adopted.

41 (f) The Marine Fisheries Commission shall adopt rules to implement
42 Fishery Management Plans in accordance with Chapter 150B of the General
43 Statutes.

1 (g) To achieve sustainable harvest under a Fishery Management Plan, the
2 Marine Fisheries Commission may include in the Plan a recommendation that the
3 General Assembly limit the number of fishermen authorized to participate in the
4 fishery. The Commission may recommend that the General Assembly limit
5 participation in a fishery only if the Commission determines that sustainable
6 harvest cannot otherwise be achieved. In determining whether to recommend that
7 the General Assembly limit participation in a fishery, the Commission shall
8 consider all of the following factors:

- 9 (1) Current participation in and dependence on the fishery.
- 10 (2) Past fishing practices in the fishery.
- 11 (3) Economics of the fishery.
- 12 (4) Capability of fishing vessels used in the fishery to engage in
13 other fisheries.
- 14 (5) Cultural and social factors relevant to the fishery and any
15 affected fishing communities.
- 16 (6) Capacity of the fishery to support biological parameters.
- 17 (7) Equitable resolution of competing social and economic interests.
- 18 (8) Any other relevant considerations."

19 **SECTION 6.** G.S. 143B-279.8 reads as rewritten:

20 **"§ 143B-279.8. Coastal Habitat Protection Plans.**

21 (a) The Department shall coordinate the preparation of draft Coastal Habitat
22 Protection Plans for critical fisheries habitats. The goal of the Plans shall be the
23 long-term enhancement of coastal fisheries associated with each coastal habitat
24 identified in subdivision (1) of this subsection. The Department shall use the staff
25 of those divisions within the Department that have jurisdiction over marine
26 fisheries, water quality, and coastal area management in the preparation of the
27 Coastal Habitat Protection Plans and shall request assistance from other federal
28 and State agencies as necessary. The plans shall:

- 29 (1) Describe and classify biological systems in the habitats,
30 including wetlands, fish spawning grounds, estuarine or aquatic
31 endangered or threatened species, primary or secondary nursery
32 areas, shellfish beds, submerged aquatic vegetation (SAV) beds,
33 and habitats in outstanding resource waters.
- 34 (2) Evaluate the function, value to coastal fisheries, status, and
35 trends of the habitats.
- 36 (3) Identify existing and potential threats to the habitats and the
37 impact on coastal fishing.
- 38 (4) Recommend actions to protect and restore the habitats.

39 (b) Once a draft Coastal Habitat Protection Plan has been prepared, the
40 chairs of the Coastal Resources Commission, the Environmental Management
41 Commission, and the Marine Fisheries Commission shall each appoint two
42 members of the commission he or she chairs to a six-member review committee.
43 The six-member review committee, in consultation with the Department, shall

1 review the draft Plan and may revise the draft Plan on a consensus basis. The draft
2 Plan, as revised by the six-member review committee, shall then be submitted to
3 the Coastal Resources Commission, the Environmental Management Commission,
4 and the Marine Fisheries Commission, each of which shall independently consider
5 the Plan for adoption. If any of the three commissions is unable to agree to any
6 aspect of a Plan, the chair of each commission shall refer that aspect of the Plan to
7 a six-member conference committee to facilitate the resolution of any differences.
8 The six-member conference committee shall be appointed in the same manner as a
9 six-member review committee and may include members of the six-member
10 review committee that reviewed the Plan. Each final Coastal Habitat Protection
11 Plan shall consist of those provisions adopted by all three commissions. The three
12 commissions shall review and revise each Coastal Habitat Protection Plan at least
13 once every five years.

14 (c) In carrying out their powers and duties, the Coastal Resources
15 Commission, the Environmental Management Commission, and the Marine
16 Fisheries Commission shall ensure, to the maximum extent practicable, that their
17 actions are consistent with the Coastal Habitat Protection Plans as adopted by the
18 three commissions. The obligation to act in a manner consistent with a Coastal
19 Habitat Protection Plan is prospective only and does not oblige any commission to
20 modify any rule adopted, permit decision made, or other action taken prior to the
21 adoption or revision of the Coastal Habitat Protection Plan by the three
22 commissions. The Coastal Resources Commission, the Environmental
23 Management Commission, and the Marine Fisheries Commission shall adopt rules
24 to implement Coastal Habitat Protection Plans in accordance with Chapter 150B
25 of the General Statutes.

26 (d) If any of the three commissions concludes that another commission has
27 taken an action that is inconsistent with a Coastal Habitat Protection Plan, that
28 commission may request a written explanation of the action from the other
29 commission. A commission shall provide a written explanation: (i) upon the
30 written request of one of the other two commissions, or (ii) upon its own motion if
31 the commission determines that it must take an action that is inconsistent with a
32 Coastal Habitat Protection Plan.

33 (e) The Coastal Resources Commission, the Environmental Management
34 Commission, and the Marine Fisheries Commission shall report to the Joint
35 Legislative Commission on ~~Governmental Operations~~Fish and Wildlife and the
36 Environmental Review Commission on progress in developing and implementing
37 the Coastal Habitat Protection Plans, including the extent to which the actions of
38 the three commissions are consistent with the Plans, on or before 1 September of
39 each year.

40 (f) The Secretary of Environment and Natural Resources shall report to the
41 Environmental Review Commission and the Joint Legislative Commission on
42 ~~Governmental Operations~~Fish and Wildlife within 30 days of the completion or
43 substantial revision of each draft Coastal Habitat Protection Plan. The

1 Environmental Review Commission and the Joint Legislative Commission on
2 ~~Governmental Operations~~Fish and Wildlife shall concurrently review each draft
3 Coastal Habitat Protection Plan within 30 days of the date the draft Plan is
4 submitted by the Secretary. The Environmental Review Commission and the Joint
5 Legislative Commission on ~~Governmental Operations~~Fish and Wildlife may
6 submit comments and recommendations on the draft Plan to the Secretary within
7 30 days of the date the draft Plan is submitted by the Secretary."

8 **SECTION 7.** This act becomes effective January 1, 2015.

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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BILL DRAFT 2013-RIxz-18 [v.3] (03/04)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/2/2014 12:41:05 PM**

Short Title: State Nat. & Hist. Preserve Deletions.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REMOVE CERTAIN LANDS FROM THE STATE NATURE
3 AND HISTORIC PRESERVE, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 authorizes the dedication of State and local government properties as part of the
7 State Nature and Historic Preserve upon acceptance by a law enacted by a
8 three-fifths vote of the members of each house of the General Assembly and
9 provides for removal of properties from the State Nature and Historic Preserve by
10 a law enacted by a three-fifths vote of the members of each house of the General
11 Assembly; and

12 Whereas, the General Assembly enacted the State Nature and Historic
13 Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the
14 conditions and procedures under which properties may be specifically dedicated
15 for the purposes set out in Section 5 of Article XIV of the North Carolina
16 Constitution; and

17 Whereas, G.S. 113-44.14 provides for additions to, and deletions from,
18 the State Parks System upon authorization by the General Assembly; Now,
19 therefore,

20
21 The General Assembly of North Carolina enacts:

22
23 **SECTION 1.** G.S. 143-260.10 reads as rewritten:
24 **"§ 143-260.10. Components of State Nature and Historic Preserve.**

25 The following are components of the State Nature and Historic Preserve
26 accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

- 27 (1) All lands and waters within the boundaries of the following units
28 of the State Parks System as of May 5, 2009: Baldhead Island
29 State Natural Area, Bay Tree Lake State Park, Bear Paw State

1 Natural Area, Beech Creek Bog State Natural Area, Bullhead
2 Mountain State Natural Area, Bushy Lake State Natural Area,
3 Carolina Beach State Park, Carvers Creek State Park, Cliffs of
4 the Neuse State Park, Chowan Swamp State Natural Area, Deep
5 River State Trail, Dismal Swamp State Park, Elk Knob State
6 Park, Fort Fisher State Recreation Area, Fort Macon State Park,
7 Goose Creek State Park, ~~Gorges State Park~~, Haw River State
8 Park, Hammocks Beach State Park, Jones Lake State Park, Lake
9 Norman State Park, Lea Island State Natural Area, ~~Lower Haw~~
10 ~~River State Natural Area~~, ~~Lumber River State Park~~, Mayo River
11 State Park, Medoc Mountain State Park, Merchants Millpond
12 State Park, Mitchells Millpond State Natural Area, Mount
13 Mitchell State Park, Occoneechee Mountain State Natural Area,
14 Pettigrew State Park, Pilot Mountain State Park, Pineola Bog
15 State Natural Area, Raven Rock State Park, Run Hill State
16 Natural Area, Sandy Run Savannas State Natural Area,
17 Singletary Lake State Park, Sugar Mountain State Natural Area,
18 Theodore Roosevelt State Natural Area, and Weymouth
19 Woods-Sandhills Nature Preserve.

20 (2) All lands and waters within the boundaries of William B.
21 Umstead State Park as of May 5, 2009, with the exception of
22 Tract Number 65, containing 22.93140 acres as shown on a
23 survey prepared by John S. Lawrence (RLS) and Bennie R.
24 Smith (RLS), entitled "Property of The State of North Carolina
25 William B. Umstead State Park", dated January 14, 1977 and
26 filed in the State Property Office, which was removed from the
27 State Nature and Historic Preserve by Chapter 450, Section 1 of
28 the 1985 Session Laws. The tract excluded from the State Nature
29 and Historic Preserve under this subdivision is deleted from the
30 State Parks System in accordance with G.S. 113-44.14. The State
31 of North Carolina may only exchange this land for other land for
32 the expansion of William B. Umstead State Park or sell and use
33 the proceeds for that purpose. The State of North Carolina may
34 not otherwise sell or exchange this land.

35 (3) Repealed by Session Laws 1999-268, s. 2.

36 (4) All lands within the boundaries of Morrow Mountain State Park
37 as of May 5, 2009, with the exception of the following tract: That
38 certain tract or parcel of land at Morrow Mountain State Park in
39 Stanly County, North Albemarle Township, containing 0.303
40 acres, more or less, as surveyed and platted by Thomas W. Harris
41 R.L.S., on a map dated August 27, 1988, and filed in the State
42 Property Office, reference to which is hereby made for a more
43 complete description.

- (5) Repealed by Session Laws 1999-268, s. 2.
- (6) All land within the boundaries of Crowders Mountain State Park as of May 5, 2009, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.
 - b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.
 - c. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page No. 85, located on the north side of SR 2245 (Bethlehem Road) and containing 14,964 square feet as shown on the survey entitled "Survey for Crowders Mountain State Park, Deed Book 1103-107, Township 4 Kings Mountain, Cleveland County, N.C." by David W. Dickson, P.A. dated February 28, 2008.
 - d. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1103, page 107, and containing 0.06 acres and 0.515 acres as shown on the survey entitled "Boundary Survey for the State of N.C. Department of Administration, Township No. Four Cleveland County, N.C." by Carolina Design Group, PLLC dated 11-6-2007.
 - e. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, described in Deed Book 2829, page 518, and containing 0.15 acres as shown on the survey entitled "Survey Made at the Request of Larry Hyde, Park Superintendent,

Crowders Mountain State Park" by Gray Surveying Co.,
Inc. dated 9-12-2012.

- (7) All lands owned in fee simple by the State within the boundaries of New River State Park as of May 5, 2009.
- (8) All lands and waters within the boundaries of Stone Mountain State Park as of May 5, 2009, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.
- (9) All lands and waters located within the boundaries of the following State Historic Sites as of May 5, 2009: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.
- (10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.
- (12) All lands and waters located within the boundaries of Hanging Rock State Park as of May 5, 2009, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and

- 1 Historic Preserve under this subdivision is deleted from the State
2 Parks System in accordance with G.S. 113-44.14.
- 3 (13) All lands and waters located within the boundaries of South
4 Mountains State Park as of May 5, 2009, with the exception of
5 the following tracts. The tracts excluded from the State Nature
6 and Historic Preserve under this subdivision are deleted from the
7 State Parks System in accordance with G.S. 113-44.14.
- 8 a, b. Repealed by Session Laws 2007-307, s. 1, effective July
9 28, 2007.
- 10 c. The portions of land at South Mountains State Park that
11 lie south of the centerline of the CCC road as shown on
12 the drawing entitled "Land Trade between South
13 Mountains State Park and Adjacent Game Lands along
14 CCC Road" prepared by the ~~Division of Parks and~~
15 ~~Recreation, dated March 15, 1999, Wildlife Resources~~
16 ~~Commission in January 2013,~~ and filed in the State
17 Property Office and that lie within: (i) the tract or property
18 in Burke County, Lower Fork Township, described in
19 Deed Book 495, Page 501; (ii) the tract or property in
20 Burke County, Lower Fork and Upper Fork Townships,
21 described in Deed Book 715, Page 719; or, (iii) within the
22 tracts or property in Burke County, Upper Fork Township,
23 described in Deed Book 860, Page 341, and Deed Book
24 884, Page 1640. The State of North Carolina may only
25 exchange this land for other land for the expansion of
26 South Mountains State Park or sell this land and use the
27 proceeds for that purpose. The State may not otherwise
28 sell or exchange this land.
- 29 d. Repealed by Session Laws 2007-307, s. 1, effective July
30 28, 2007.
- 31 (14) Repealed by Session Laws 2003-234, s. 1, effective June 19,
32 2003.
- 33 (15) All lands and waters within the boundaries of Jockey's Ridge
34 State Park as of May 5, 2009, with the exception of the following
35 tracts: The portion of those certain tracts or parcels of land at
36 Jockey's Ridge State Park in Dare County, Nags Head Township,
37 described in Deed Book 227, Page 499, and Deed Book 227,
38 Page 501, and containing 33,901 square feet as shown on the
39 survey prepared by Styons Surveying Services entitled "Raw
40 Water Well Site 13 Jockey's Ridge State Park" dated March 7,
41 2001, and filed in the State Property Office; the portion of that
42 certain tract or parcel of land at Jockey's Ridge State Park in
43 Dare County, Nags Head Township, described in Deed Book

222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office. Office; and the portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 501 and Deed Book 230, Page 525, and containing 12,650 square feet as shown on the preliminary plat entitled "Easement Survey for Town of Nags Head" by Seaboard Surveying and Planning, Inc., dated 8-29-2012.

- (16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of May 5, 2009. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes.

- (17) All lands and waters within the Eno River State Park as of May 5, 2009, with the exception of the following tracts:

1 a. The portion of that certain tract or parcel of land at Eno
2 River State Park in Durham County, Durham Outside
3 Township, described in Deed Book 435, Page 673, and
4 Plat Book 87, Page 66, containing 11,000 square feet and
5 being the portion of Lot No. 2 shown as the existing
6 scenic easement hereby removed on the drawing prepared
7 by Sear-Brown entitled "Recombination Plat Eno Forest
8 Subdivision" bearing the preparer's file name
9 00-208-07.dwg, and filed with State Property Office. The
10 tract excluded from the State Nature and Historic Preserve
11 under this subdivision is deleted from the State Parks
12 System pursuant to G.S. 113-44.14. The State of North
13 Carolina may only exchange this land for other land for
14 the expansion of Eno River State Park or sell this land and
15 use the proceeds for that purpose. The State may not
16 otherwise sell or exchange this land.

17 b. The portion of that certain tract or parcel of land at Eno
18 River State Park in Orange County, described in Deed
19 Book 3878, Page 461, and Plat Book 98, Page 11,
20 containing 5,313 square feet and required for the
21 permanent easements for bridge replacement project
22 B-4216 on SR 1002 (St. Mary's Road), as shown in the
23 drawing entitled "Preliminary Plans, Project Reference
24 No. B-4216" prepared for North Carolina Department of
25 Transportation by Mulkey Engineers and Consultants
26 dated March 10, 2009, and filed with the State Property
27 Office. The tracts excluded from the State Nature and
28 Historic Preserve under this section are deleted from the
29 State Parks System pursuant to G.S. 113-44.14. The State
30 of North Carolina may only exchange this land for other
31 land for the expansion of Eno River State Park or sell this
32 land and use the proceeds for that purpose. The State may
33 not otherwise sell or exchange this land.

34 (18) All land and waters within the boundaries of Hemlock Bluffs
35 State Natural Area as of May 5, 2009, with the exception of the
36 following tracts: The portion of that certain tract or parcel of land
37 at Hemlock Bluffs State Natural Area in Wake County, Swift
38 Creek Township, described in Deed Book 2461, Page 037,
39 containing 2,025 square feet and being the portion of this tract
40 shown as proposed R/W on the drawing prepared by Titan
41 Atlantic Group entitled "Right of Way Acquisition Map for
42 Town of Cary Widening of Kildaire Farm Road (SR 1300) from
43 Autumgate Drive to Palace Green" sheet 1 of 3 bearing the

preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(19) All lands and waters within the boundaries of Lake James State Park as of May 5, 2009, with the exception of the following tracts:

- a. The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation across this tract to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.

1 b. The portion of that certain tract or parcel of land at Lake
2 James State Park in McDowell County, Nebo Township,
3 described in Deed Book 377, Page 423, and also shown as
4 Tract B on the plat of survey prepared by Kenneth D.
5 Suttles, RLS, dated December 4, 1987, entitled "Lake
6 James State Park," Sheet 1 of 2, recorded in Plat Book 4,
7 Page 275 of the McDowell County Registry, for a 40-foot
8 right-of-way beginning at the southwest corner of Tract B
9 and continuing along the southern boundary 86 38' 51" E
10 for 400 feet to the now or former John D. Walker
11 property. The State of North Carolina may grant an
12 easement across this tract to extinguish prescriptive
13 easements on Tract B to improve management of the State
14 park property. The State may not otherwise sell or
15 exchange this land. The easement excluded from the State
16 Nature and Historic Preserve under this subdivision is
17 deleted from the State Parks System pursuant to
18 G.S. 113-44.14.

19 (20) All lands and waters within the boundaries of Lake Waccamaw
20 State Park as of May 5, 2009, with the exception of the following
21 tracts: The portions of that certain tract or parcel of land at Lake
22 Waccamaw State Park in Columbus County described in Deed
23 Book 835, Page 590, containing 48,210 square feet and being the
24 portion of this tract shown as new R/W and permanent utility
25 easement on drawing prepared by State of North Carolina
26 Department of Transportation entitled "Map of Proposed Right of
27 Way Property of State of North Carolina (Parks and Recreation)
28 Columbus County" for Tip B-3830 on SR 1947 (Bella Coola
29 Road) done by John E. Kaukola, PLS No. 3999 and compiled
30 1-18-2008, and filed with the State Property Office. The tracts
31 excluded from the State Nature and Historic Preserve under this
32 section are deleted from the State Parks System pursuant to
33 G.S. 113-44.14. The State of North Carolina may only exchange
34 this land for other land for the expansion of Lake Waccamaw
35 State Park or sell this land and use the proceeds for that purpose.
36 The State may not otherwise sell or exchange this land.

37 (21) All lands and waters within the boundaries of Chimney Rock
38 State Park as of May 5, 2009, with the exception of the following
39 tract: The portion of that certain tract or parcel of land at
40 Chimney Rock State Park in Rutherford County being a portion
41 of Parcel 2 as described in Deed Book 933, Page 598, containing
42 346 square feet and being shown as proposed right-of-way for
43 bridge replacement project B-4258 on U.S. 64 over the Broad

1 River on drawing prepared by Kimley-Horn and Associates for
2 the North Carolina Department of Transportation and revised
3 October 26, 2007, and filed with the State Property Office. The
4 tracts excluded from the State Nature and Historic Preserve under
5 this section are deleted from the State Parks System pursuant to
6 G.S. 113-44.14. The State of North Carolina may only exchange
7 this land for other land for the expansion of Chimney Rock State
8 Park or sell this land and use the proceeds for that purpose. The
9 State may not otherwise sell or exchange this land.

10 (22) All State-owned land and waters within the boundaries of the
11 Mountains-to-Sea Trail as of May 5, 2009, with the exception of
12 the following tract: The portion of that certain tract or parcel in
13 Johnston County described in Deed Book 3634, Page 278,
14 containing 4.72 acres and being described as proposed easement
15 area for Piedmont Natural Gas Company transmission line on
16 drawing entitled "Easement Survey Prepared for Piedmont
17 Natural Gas Company, Line 142, Easement to be Acquired from
18 the State of North Carolina" by McKim & Creed and dated July
19 31, 2008, and revised March 11, 2009. The State of North
20 Carolina may grant an easement to Piedmont Natural Gas
21 Company across this tract to facilitate the transmission of natural
22 gas. The grant of the easement within the Mountains-to-Sea Trail
23 to Piedmont Natural Gas Company under this section constitutes
24 authorization by the General Assembly that the described tract of
25 land may be used for a purpose other than the public purposes
26 specified in Section 5 of Article XIV of the North Carolina
27 Constitution, Article 25B of Chapter 143 of the General Statutes,
28 and Article 2C of Chapter 113 of the General Statutes. The State
29 of North Carolina may use the proceeds from the easement only
30 for the expansion or improvement of the Mountains-to-Sea Trail
31 or another State park. The State may not otherwise sell or
32 exchange this land.

33 (23) All State-owned land and waters within the boundaries of Gorges
34 State Park as of May 5, 2009 with the exception of the following
35 tracts: The portions of that certain tract or parcel of land in
36 Transylvania County described in Deed Book 267, Page 838
37 containing a total of 7.26 acres for NC Department of
38 Transportation project TIP R-2409C US 64 Safety Improvements
39 [right-of-way surveys to be provided]. The tract excluded from
40 the State Nature and Historic Preserve under this subdivision is
41 deleted from the State Parks System in accordance with
42 G.S. 113-44.14. The State of North Carolina may only exchange
43 this land for other land for the expansion of Gorges State Park or

1 sell this land and use the proceeds for that purpose. The State
2 may not otherwise sell or exchange this land.

3 (24) All State-owned land and waters within the boundaries of
4 Lumber River State Park as of May 5, 2009 with the exception of
5 the following tracts: The portions of those certain tracts or
6 parcels of land in Robeson County described in Deed Book 919,
7 Page 862, Deed Book 1097, Page 837, Deed Book 935, Page
8 170, Deed Book 1125, Page 562 and Deed Book 1117, Page 680
9 containing a total of 3.39 acres for NC Department of
10 Transportation secondary road project 6C.078030 SR 2245 (VC
11 Britt Road) and shown on survey entitled "Survey of Tracts 1A
12 and 1B, VC Britt Rd, Orrum NC" prepared by the NC
13 Department of Transportation. The tracts excluded from the State
14 Nature and Historic Preserve under this subdivision are deleted
15 from the State Parks System in accordance with G.S. 113-44.14.
16 The State of North Carolina may only exchange this land for
17 other land for the expansion of Lumber River State Park or sell
18 this land and use the proceeds for that purpose. The State may
19 not otherwise sell or exchange this land.

20 (25) All State-owned land and waters within the boundaries of Lower
21 Haw State Natural Area as of May 5, 2009 with the exception of
22 the following tract: the portion of that certain tract in Chatham
23 County described in Deed Book 1319, Page 1047 containing [to
24 be determined] square feet [area and survey title to be provided].
25 The tract excluded from the State Nature and Historic Preserve
26 under this subdivision is deleted from the State Parks System in
27 accordance with G.S. 113-44.14. The State of North Carolina
28 may only exchange this land for other land for the expansion of
29 Lower Haw State Natural Area or sell this land and use the
30 proceeds for that purpose. The State may not otherwise sell or
31 exchange this land."

32 **SECTION 2.** This act is effective when it becomes law.