

2017-2018

**HOUSE
ENVIRONMENT**

MINUTES

Environment

2017-2018 Session

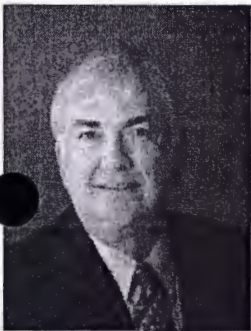
Clerks: Nancy Fox and Leslie Murray



Rep. Pat McElraft, Chair



Rep. Larry Yarborough, Chair



**Rep. Adams
Vice-Chair**



**Rep. Harrison
Vice-Chair**



**Rep. McGrady
Vice-Chair**



**Rep. Autry
Member**



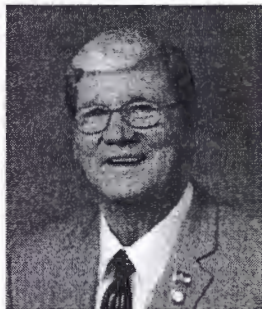
**Rep. Bradford
Member**



**Rep. Brockman
Member**



**Rep. Collins
Member**



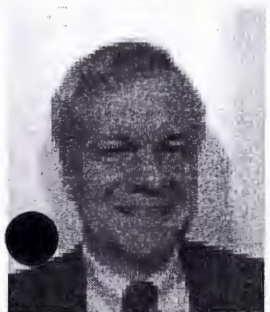
**Rep. Dixon
Member**



**Rep. Garrison
Member**



**Rep. Iler
Member**



**Rep. Lehman
Member**



**Rep. G. Martin
Member**



**Rep. Muller
Member**

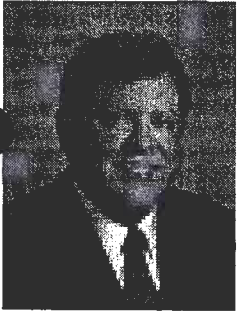


**Rep. Steinburg
Member**

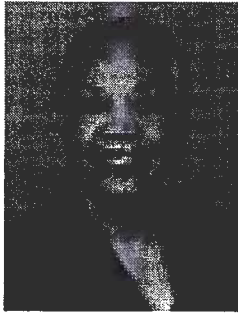


**Rep. Stone
Member**





Rep. Strickland
Member



Rep. Terry
Member



HOUSE COMMITTEE ON ENVIRONMENT

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
<u>Chairs:</u>				
Pat McElraft	Nancy Fox	36275	634	9
Larry Yarborough	Leslie Murray	50850	1301	67
<u>Vice Cahirs:</u>				
Jay Adams	Susan Phillips	35988	2223	73
Pricey Harrison	Rita Harris	35771	1218	70
Chuck McGrady	Kimberly Neptune	35956	304	15
John Autry	Tina Riley-Humphrey	50706	1019	115
John Bradford	Anita Spence	35828	2123	75
Cecil Brockman	Grady O'brien	35825	1311	106
Jeff Collins	Wes Householder	35802	1106	31
Jimmy Dixon	Michael Wiggins	53021	2226	18
Terry Garrison	Anita Bennett	35824	1017	95
Frank Iler	Carla Langdon	301-1450	639	14
Grier Martin	Sylvia Hammons	35773	1023	94
Bob Muller	Gloria Whitehead	59664	633	32
Marcia Morey	Pamela Best	37663	1111	104
Bob Steinburg	Diana London	30010	301B	43
Scott Stone	Marissa Turner	35886	2213	77
Larry Strickland	KJ Stancil	35849	602	112
Evelyn Terry	Franklin Terry	35777	1015	80



Corrected #2: Notice Time Change

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 6, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Larry Yarborough, Presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 244	Public Participation/Composting Facilities.	Representative Howard Representative McElraft Representative McGrady Representative Setzer Representative Dixon
HB 319	Study Solar Facility Decommissioning Rqmts.	Representative Dixon
HB 320	Study Electronics Recycling.	Representative Dixon
HB 321	Study Solid Waste Disposal Tax.	Representative Dixon

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:33 PM on Wednesday, April 05, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



Corrected #1: Notice Time Change

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 6, 2017
TIME: 10:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Larry Yarborough, Presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 244	Public Participation/Composting Facilities.	Representative Howard Representative McElraft Representative McGrady Representative Setzer
HB 319	Study Solar Facility Decommissioning Rqmts.	Representative Dixon
HB 320	Study Electronics Recycling.	Representative Dixon
HB 321	Study Solid Waste Disposal Tax.	Representative Dixon

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:44 PM on Tuesday, April 04, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 6, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Larry Yarborough, Presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 244	Public Participation/Composting Facilities.	Representative Howard Representative McElraft Representative McGrady Representative Setzer Representative Dixon
HB 319	Study Solar Facility Decommissioning Rqmts.	Representative Dixon
HB 320	Study Electronics Recycling.	Representative Dixon
HB 321	Study Solid Waste Disposal Tax.	Representative Dixon

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:59 PM on Thursday, March 30, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**House Committee on Environment
Thursday, April 6, 11:00 AM
Room 1228/1327**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

BILL NO.	SHORT TITLE	SPONSOR
H 320	Study Electronics Recycling	
H 321	Study Solid Waste Disposal Tax	
H 319	Study Solar Decommissioning Requirements	
H 244	Public Participation/Composting Facilities	

Presentations

Other Business

Adjournment



**House Committee on Environment
Thursday, April 6, at 11:00
Room 1228/1327**

MINUTES

The House Committee on Environment met at 11:00 on April 6, 2017 in Room 1228/1327. Representatives Adams, Autry, Bradford, Brockman, Collins, Dixon, Garrison, Harrison, Iler, Martin, McElraft, McGrady, Millis, Morey, Steinburg, Stone, Strickland, Terry, and Yarborough attended.

Rep. Larry Yarborough presided.

The following bills were considered:

HB 320 Study Electronics Recycling (Rep. Dixon)
Reported Favorable

HB 321 Study Solid Waste Disposal Tax (Rep. Dixon)
Reported Favorable

HB 319 Study Solar Decommissioning Requirements (Rep. Dixon)
Favorable and re-referred to Energy and Public Utilities

HB 244 Public Participation/Composting Facilities (Reps. Howard, McElraft, McGrady, Setzer)
No vote

The meeting adjourned at 11:50.

Rep. Larry Yarborough
Presiding

Leslie Murray, Committee Clerk



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE

HB 320 Study Electronics Recycling.
 Draft Number: None
 Serial Referral: None
 Recommended Referral: None
 Long Title Amended: No
 Floor Manager: Dixon

HB 321 Study Solid Waste Disposal Tax.
 Draft Number: None
 Serial Referral: None
 Recommended Referral: None
 Long Title Amended: No
 Floor Manager: Dixon

FAVORABLE AND RE-REFERRED

HB 319 Study Solar Facility Decommissioning Rqmts.
 Draft Number: None
 Serial Referral: **ENERGY AND PUBLIC UTILITIES**
 Recommended Referral: None
 Long Title Amended: No
 Floor Manager: Dixon

TOTAL REPORTED: 3



* C M R 1 8 1 - V - 1 *



(Nancy Fox and Leslie Murray)

[illegible]



House Environment Committee

[illegible]



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 320

Short Title: Study Electronics Recycling. (Public)

Sponsors: Representative Dixon.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

March 13, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY
RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND
TELEVISIONS IN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission shall study North Carolina's recycling requirements for discarded computer equipment and televisions. In conducting this study, the Commission shall consider (i) the changing waste stream, including the transition from televisions containing cathode ray tubes to flat screen televisions; (ii) the current status of North Carolina's recycling system, including markets, and cost and financing issues; (iii) additional options for disposal of electronic products; and (iv) any other issue the Commission deems relevant. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

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





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 321

Short Title: Study Solid Waste Disposal Tax.

(Public)

Sponsors: Representative Dixon.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

March 13, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY
NORTH CAROLINA'S SOLID WASTE DISPOSAL TAX.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission shall study North Carolina's solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes. In conducting this study, the Commission shall examine (i) a detailed history of the annual revenue generated from the tax, and its distribution over time to the Department of Environmental Quality and local governments; (ii) a detailed history of expenditures by the Department of Environmental Quality of tax proceeds received to date, including to whom and for what purposes the expenditures were made; (iii) all work completed by the Department of Environmental Quality using proceeds of the tax, including detailed information on the location of sites at which work was performed, and a summary of the status of said sites; (iv) plans for future work to be conducted by the Department of Environmental Quality using proceeds of the tax, including detailed information on sites to be addressed, and proposed schedules for work; (v) the current balance of the Inactive Hazardous Sites Cleanup Fund; and (vi) any other issue the Commission deems relevant. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

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





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 319

Short Title: Study Solar Facility Decommissioning Rqmts. (Public)

Sponsors: Representative Dixon.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment, if favorable, Energy and Public Utilities

March 13, 2017

A BILL TO BE ENTITLED
AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY
MATTERS ASSOCIATED WITH THE DECOMMISSIONING OF UTILITY-SCALE
SOLAR PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission shall study matters related to the decommissioning of utility-scale solar projects. The study shall include, at a minimum, analysis of all of the following matters:

- (1) The need for performance bonding to ensure proper decommissioning and closure of existing or future-built solar facilities.
- (2) Whether or not any materials used in utility-scale solar projects, including solar panels and the constituent materials thereof, could be classified as hazardous material.
- (3) Whether or not solar panels, including all of the constituent materials thereof, can be safely disposed of in landfills.
- (4) The economic feasibility and availability of recycling solar panels.
- (5) Whether or not the land upon which an utility-scale solar project is constructed could be economically placed back into use for agriculture crop production after cessation of the activities of an utility-scale solar project.
- (6) The data-based expected economically productive life cycle of various types of solar panels currently in use.

For purposes of this section, the term "utility-scale solar project" means a ground-mounted photovoltaic (PV), concentrating photovoltaic (CPV), or concentrating solar power (CSP or solar thermal) project directly connected to the electrical transmission grid for sale to wholesale customers. The term includes the solar arrays, accessory buildings, transmission facilities, and any other infrastructure necessary for the operation of the project. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

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





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 244
Committee Substitute Favorable 3/14/17

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID
3 WASTE MANAGEMENT FACILITY PERMITTING, TO PROVIDE FOR NOTICE
4 AND PUBLIC HEARING FOR COMPOSTING FACILITIES, AND TO REDUCE ODOR
5 EMISSIONS FROM THOSE FACILITIES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 130A-294(a)(4) reads as rewritten:

8 **"§ 130A-294. Solid waste management program.**

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

12 ...
13 (4) a. Develop a permit system governing the establishment and operation
14 of solid waste management facilities. A landfill with a disposal area
15 of 1/2 acre or less for the on-site disposal of land clearing and inert
16 debris is exempt from the permit requirement of this section and shall
17 be governed by G.S. 130A-301.1. Demolition debris from the
18 decommissioning of manufacturing buildings, including electric
19 generating stations, that is disposed of on the same site as the
20 decommissioned buildings, is exempt from the permit requirement of
21 this section and rules adopted pursuant to this section and shall be
22 governed by G.S. 130A-301.3. The Department shall not approve an
23 application for a new permit, major permit modification, or a
24 substantial amendment to a permit for a sanitary landfill, excluding
25 demolition landfills as defined in the rules of the Commission, except
26 as provided in subdivisions (3) and (4) of subsection (b1) of this
27 section. No permit shall be granted for a solid waste management
28 facility having discharges that are point sources until the Department
29 has referred the complete plans and specifications to the Commission
30 and has received advice in writing that the plans and specifications
31 are approved in accordance with the provisions of G.S. 143-215.1. In
32 any case where the Department denies a permit for a solid waste
33 management facility, it shall state in writing the reason for denial and
34 shall also state its estimate of the changes in the applicant's proposed
35 activities or plans that will be required for the applicant to obtain a
36 permit.



1
2 c. The Department shall deny an application for a permit for a solid
3 waste management facility if the Department finds that:

4 ...
5 3. Construction or operation of the facility would result in
6 significant damage to ecological systems, natural resources,
7 cultural sites, recreation areas, or historic sites of more than
8 local significance. These areas include, but are not limited to,
9 national or State parks or forests; wilderness areas; historic
10 sites; recreation areas; school grounds or athletic fields;
11 existing community facilities hosting outdoor activities;
12 segments of the natural and scenic rivers system; wildlife
13 refuges, preserves, and management areas; areas that provide
14 habitat for threatened or endangered species; primary nursery
15 areas and critical fisheries habitat designated by the Marine
16 Fisheries Commission; and Outstanding Resource Waters
17 designated by the Commission.

18 "

19 **SECTION 2.** G.S. 130A-309.11 reads as rewritten:

20 **"§ 130A-309.11. Compost standards and applications.**

21 ...
22 (b) The Commission shall adopt rules to establish standards for the production of
23 compost. Rules shall be adopted not later than 24 months after the initiation of rule making.
24 Such rules shall include:

- 25 (1) Requirements necessary to produce hygienically safe compost products for
26 varying applications.
27 (2) A classification scheme for compost based on:
28 a. The types of waste composted, including at least one type containing
29 only yard trash;
30 b. The maturity of the compost, including at least three degrees of
31 decomposition for fresh, semi-mature, and mature; and
32 c. The levels of organic and inorganic constituents in the compost.
33 (3) Requirements necessary to substantially reduce and minimize fugitive
34 emissions and offensive odors from the composting facility that will
35 adversely affect the general health, safety, and welfare of persons beyond the
36 facility's boundary.

37 ...
38 (f) The Department shall not issue or renew a permit for the construction, operation,
39 expansion, or modification of a solid waste management facility that will produce compost
40 from solid waste or solid waste co-composted with other wastes without first conducting a
41 public information hearing in the county where the proposed facility is to be located. The
42 Department shall give notice of the public information hearing at least 15 days and no more
43 than 30 days prior to the hearing by publication on the Department's Web site, by publication in
44 a daily or weekly local newspaper of general circulation, and by any other method deemed
45 necessary or appropriate by the Division to give actual notice of the activities to persons
46 potentially affected. No permit shall be issued or renewed less than 90 days following the
47 public information hearing required by this subsection."

48 **SECTION 3.** This act becomes effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 244
Committee Substitute Favorable 3/14/17
PROPOSED COMMITTEE SUBSTITUTE H244-CSRI-4 [v.1]

04/05/2017 11:15:16 AM

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID
WASTE MANAGEMENT FACILITY PERMITTING, TO PROVIDE FOR NOTICE
AND PUBLIC HEARING FOR COMPOSTING FACILITIES, AND TO REDUCE ODOR
EMISSIONS FROM THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294(a)(4) reads as rewritten:

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

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

...

- (4) a. Develop a permit system governing the establishment and operation
of solid waste management facilities. A landfill with a disposal area
of 1/2 acre or less for the on-site disposal of land clearing and inert
debris is exempt from the permit requirement of this section and shall
be governed by G.S. 130A-301.1. Demolition debris from the
decommissioning of manufacturing buildings, including electric
generating stations, that is disposed of on the same site as the
decommissioned buildings, is exempt from the permit requirement of
this section and rules adopted pursuant to this section and shall be
governed by G.S. 130A-301.3. The Department shall not approve an
application for a new permit, major permit modification, or a
substantial amendment to a permit for a sanitary landfill, excluding
demolition landfills as defined in the rules of the Commission, except
as provided in subdivisions (3) and (4) of subsection (b1) of this
section. No permit shall be granted for a solid waste management
facility having discharges that are point sources until the Department
has referred the complete plans and specifications to the Commission
and has received advice in writing that the plans and specifications
are approved in accordance with the provisions of G.S. 143-215.1. In
any case where the Department denies a permit for a solid waste
management facility, it shall state in writing the reason for denial and
shall also state its estimate of the changes in the applicant's proposed



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activities or plans that will be required for the applicant to obtain a permit.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; school grounds or athletic fields; existing community facilities hosting outdoor activities; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

...."

SECTION 2. G.S. 130A-309.11 reads as rewritten:

"§ 130A-309.11. Compost standards and applications.

(b) The Commission shall adopt rules to establish standards for the production of compost. Rules shall be adopted not later than 24 months after the initiation of rule making. Such rules shall include:

- (1) Requirements necessary to produce hygienically safe compost products for varying applications.
- (2) A classification scheme for compost based on:
 - a. The types of waste composted, including at least one type containing only yard trash;
 - b. The maturity of the compost, including at least three degrees of decomposition for fresh, semi-mature, and mature; and
 - c. The levels of organic and inorganic constituents in the compost.
- (3) Requirements necessary to substantially reduce and minimize fugitive emissions and offensive odors from the composting facility that will adversely affect the general health, safety, and welfare of persons beyond the facility's boundary. These requirements shall not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

(f) The Department shall not issue or renew a permit for the construction, operation, expansion, or modification of a solid waste management facility that will produce compost from solid waste or solid waste co-composted with other wastes without first conducting a public information hearing in the county where the proposed facility is to be located. The Department shall give notice of the public information hearing at least 15 days and no more than 30 days prior to the hearing by publication on the Department's Web site, by publication in a daily or weekly local newspaper of general circulation, and by any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected. No permit shall be issued or renewed less than 90 days following the public information hearing required by this subsection. The requirements of this subsection

1 shall not apply to composting activities occurring at a bona fide farm operation for which
2 composting is not the operation's primary source of income."

3 **SECTION 3.** This act becomes effective October 1, 2017.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

H

D

HOUSE BILL 244

Committee Substitute Favorable 3/14/17

PROPOSED COMMITTEE SUBSTITUTE H244-CSRI-4 [v.1]

04/05/2017 11:15:16 AM

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID WASTE MANAGEMENT FACILITY PERMITTING, TO PROVIDE FOR NOTICE AND PUBLIC HEARING FOR COMPOSTING FACILITIES, AND TO REDUCE ODOR EMISSIONS FROM THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294(a)(4) reads as rewritten:

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

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

...

- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed



* H 2 4 4 - C S R I - 4 *

activities or plans that will be required for the applicant to obtain a permit.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; school grounds or athletic fields; existing community facilities hosting outdoor activities; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

...."

SECTION 2. G.S. 130A-309.11 reads as rewritten:

"§ 130A-309.11. Compost standards and applications.

(b) The Commission shall adopt rules to establish standards for the production of compost. Rules shall be adopted not later than 24 months after the initiation of rule making. Such rules shall include:

- (1) Requirements necessary to produce hygienically safe compost products for varying applications.
- (2) A classification scheme for compost based on:
 - a. The types of waste composted, including at least one type containing only yard trash;
 - b. The maturity of the compost, including at least three degrees of decomposition for fresh, semi-mature, and mature; and
 - c. The levels of organic and inorganic constituents in the compost.
- (3) Requirements necessary to substantially reduce and minimize fugitive emissions and offensive odors from the composting facility that will adversely affect the general health, safety, and welfare of persons beyond the facility's boundary. These requirements shall not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

(f) The Department shall not issue or renew a permit for the construction, operation, expansion, or modification of a solid waste management facility that will produce compost from solid waste or solid waste co-composted with other wastes without first conducting a public information hearing in the county where the proposed facility is to be located. The Department shall give notice of the public information hearing at least 15 days and no more than 30 days prior to the hearing by publication on the Department's Web site, by publication in a daily or weekly local newspaper of general circulation, and by any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected. No permit shall be issued or renewed less than 90 days following the public information hearing required by this subsection. The requirements of this subsection

1 shall not apply to composting activities occurring at a bona fide farm operation for which
2 composting is not the operation's primary source of income."

3 **SECTION 3.** This act becomes effective October 1, 2017.





HOUSE BILL 320: Study Electronics Recycling.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Rep. Dixon
Analysis of: First Edition

Date: April 6, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 320 would require the Environmental Review Commission (ERC) to study North Carolina's recycling requirements for discarded computer equipment and televisions.*

CURRENT LAW: State law, originally enacted in 2010, requires recycling of computer equipment and televisions discarded in the State, and prohibits disposal of these items in the State's landfills.

Under the statutes, a computer equipment manufacturer: (i) must register with the Department of Environmental Quality (DEQ); (ii) implement one of three plans for the collection and recycling of computer equipment discarded by consumers; and (iii) pay an annual fee in an amount based on the plan selected to the Department (\$2,500 - \$15,000). A Level I recycling plan fundamentally requires a manufacturer to take responsibility for discarded computer equipment that it manufactured. The plan must provide for environmentally-sound management practices to transport and recycle computer equipment collected by the manufacturer. Level II and III plans require a manufacturer to take responsibility for discarded computer equipment manufactured by other companies, as well as equipment that it manufactured; maintain physical collection sites to receive discarded computer equipment from consumers (10 sites for Level II plans, 50 sites for Level III plans); and host at least two collection events annually within the State.

Similarly, the statutes require television manufacturers to: (i) register with DEQ; (ii) annually recycle the manufacturer's market share allocation of televisions; and (iii) pay an annual fee of \$2,500 to the Department.

Fees collected from computer equipment and television manufacturers are credited to the Electronics Management Fund. The Department is authorized to use a portion of the fee proceeds for administration of the program's requirements, and to distribute the remaining funds annually to eligible local governments for local programs that manage discarded computer equipment, televisions, and other electronic devices.

BILL ANALYSIS: The bill would require the ERC to study North Carolina's recycling requirements for discarded computer equipment and televisions, including consideration of the following matters:

- The changing waste stream, including the transition from televisions containing cathode ray tubes to flat screen televisions

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 320

Page 2

- The current status of North Carolina's recycling system, including markets, and cost and financing issues.
- Additional options for disposal of electronic products.

The ERC would be required to report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

EFFECTIVE DATE: This bill would be effective when it becomes law.



HOUSE BILL 321: Study Solid Waste Disposal Tax.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Rep. Dixon
Analysis of: First Edition

Date: April 6, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 321 would require the Environmental Review Commission (ERC) to study the State's tax on the disposal of waste in landfills, including annual revenue generated, work performed by the Department of Environmental Quality (Department) using the proceeds of the tax since its inception, and the Department's plans for future work to be conducted using proceeds of the tax.*

CURRENT LAW: Article 5G of Chapter 105 of the General Statutes, originally enacted in 2007, imposes a tax on the disposal of municipal solid waste and construction and demolition debris in any landfill located within the State at a rate of \$2.00 per ton of waste. The proceeds of this tax are distributed as follows:

- 50% to the Inactive Hazardous Sites Cleanup Fund.
- 37.5% to cities and counties on a per capita basis to be used solely for solid waste management programs and services.
- 12.5% to the General Fund.

BILL ANALYSIS: The bill would require the ERC to study North Carolina's solid waste disposal tax, including examination of the following matters:

- A detailed history of the annual revenue generated from the tax, and its distribution over time to the Department and local governments.
- A detailed history of expenditures by the Department of tax proceeds received to date, including to whom and for what purposes the expenditures were made.
- All work completed by the Department using proceeds of the tax.
- Plans for future work to be conducted by the Department using proceeds of the tax, including detailed information on sites to be addressed, and proposed schedules for work.

The ERC would be required to report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

EFFECTIVE DATE: This bill would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578





HOUSE BILL 319: Study Solar Facility Decommissioning Rqmts.

2017-2018 General Assembly

Committee:	House Environment. If favorable, re-refer to Energy and Public Utilities	Date:	April 6, 2017
Introduced by:	Rep. Dixon	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 319 requires the Environmental Review Commission (ERC) to study matters related to decommissioning of utility-scale solar projects.*

CURRENT LAW: There are currently no State-level requirements for decommissioning of solar projects, although there are a number of local governments with solar development ordinances that include decommissioning requirements.

BILL ANALYSIS: The bill requires the ERC to study matters related to the decommissioning of utility-scale solar projects, including, at a minimum, analysis of all of the following matters:

- The need for performance bonding to ensure proper decommissioning and closure of existing or future-built solar facilities.
- Whether or not any materials used in utility-scale solar projects, including solar panels and the constituent materials thereof, could be classified as hazardous material.
- Whether or not solar panels, including all of the constituent materials thereof, can be safely disposed of in landfills.
- The economic feasibility and availability of recycling solar panels.
- Whether or not the land upon which an utility-scale solar project is constructed could be economically placed back into use for agriculture crop production after cessation of the activities of an utility-scale solar project.
- The data-based expected economically productive life cycle of various types of solar panels currently in use.

For purposes of this study, the term "utility-scale solar project" means a ground-mounted photovoltaic (PV), concentrating photovoltaic (CPV), or concentrating solar power (CSP or solar thermal) project directly connected to the electrical transmission grid for sale to wholesale customers. The term includes the solar arrays, accessory buildings, transmission facilities, and any other infrastructure necessary for the operation of the project.

The ERC would be required to report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly

EFFECTIVE DATE: This bill would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

H

D

HOUSE BILL 244

Committee Substitute Favorable 3/14/17

PROPOSED COMMITTEE SUBSTITUTE H244-CSRI-4 [v.1]

04/05/2017 11:15:16 AM

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID WASTE MANAGEMENT FACILITY PERMITTING, TO PROVIDE FOR NOTICE AND PUBLIC HEARING FOR COMPOSTING FACILITIES, AND TO REDUCE ODOR EMISSIONS FROM THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294(a)(4) reads as rewritten:

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

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

...

- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed



* H 2 4 4 - C S R I - 4 *

activities or plans that will be required for the applicant to obtain a permit.

...

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

...

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; school grounds or athletic fields; existing community facilities hosting outdoor activities; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

...."

SECTION 2. G.S. 130A-309.11 reads as rewritten:

"§ 130A-309.11. **Compost standards and applications.**

...

(b) The Commission shall adopt rules to establish standards for the production of compost. Rules shall be adopted not later than 24 months after the initiation of rule making. Such rules shall include:

- (1) Requirements necessary to produce hygienically safe compost products for varying applications.
- (2) A classification scheme for compost based on:
 - a. The types of waste composted, including at least one type containing only yard trash;
 - b. The maturity of the compost, including at least three degrees of decomposition for fresh, semi-mature, and mature; and
 - c. The levels of organic and inorganic constituents in the compost.
- (3) Requirements necessary to substantially reduce and minimize fugitive emissions and offensive odors from the composting facility that will adversely affect the general health, safety, and welfare of persons beyond the facility's boundary. These requirements shall not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

...

(f) The Department shall not issue or renew a permit for the construction, operation, expansion, or modification of a solid waste management facility that will produce compost from solid waste or solid waste co-composted with other wastes without first conducting a public information hearing in the county where the proposed facility is to be located. The Department shall give notice of the public information hearing at least 15 days and no more than 30 days prior to the hearing by publication on the Department's Web site, by publication in a daily or weekly local newspaper of general circulation, and by any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected. No permit shall be issued or renewed less than 90 days following the public information hearing required by this subsection. The requirements of this subsection

1 shall not apply to composting activities occurring at a bona fide farm operation for which
2 composting is not the operation's primary source of income."

3 **SECTION 3.** This act becomes effective October 1, 2017.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 244
Committee Substitute Favorable 3/14/17
PROPOSED COMMITTEE SUBSTITUTE H244-CSRI-4 [v.1]

04/05/2017 11:15:16 AM

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

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AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID
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* H 2 4 4 - C S R I - 4 *

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 - c. The levels of organic and inorganic constituents in the compost.
- (3) Requirements necessary to substantially reduce and minimize fugitive emissions and offensive odors from the composting facility that will adversely affect the general health, safety, and welfare of persons beyond the facility's boundary. These requirements shall not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

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2 composting is not the operation's primary source of income."

3 **SECTION 3.** This act becomes effective October 1, 2017.





NORTH CAROLINA GENERAL ASSEMBLY

Legislative Services Office

Paul Coble, Legislative Services Officer

Legislative Analysis Division
300 N. Salisbury Street, Suite 545
Raleigh, NC 27603-5925
Tel. 919-733-2578 Fax 919-715-5460

Karen Cochrane-Brown
Director

February 3, 2017

The Honorable Larry Yarborough, Co-Chair
Environment Committee
North Carolina House of Representatives
16 W. Jones Street, Room 1301
Raleigh, NC 27601-1096

Dear Representative Yarborough:

Congratulations on your appointment as Co-Chair of the Environment Committee.

I have asked Mr. Jeffrey Hudson, Ms. Jennifer McGinnis, Ms. Jennifer Mundt, Mr. Chris Saunders, Ms. Layla Cummings, and Ms. Mariah Matheson of the Legislative Analysis Division, to serve as staff to this Committee. At the direction of the Co-Chairs, the staff will aid in all aspects of the Committee's work and will attend meetings at the Committee's scheduled meeting time.

I have asked Mr. Hudson to serve as the coordinating staff person (point person) for the committee staff's efforts. The role of the coordinating staff will be to serve as the primary contact for the Committee Chairs and Committee Clerks to use in arranging committee meetings and identifying bills to be considered. If you are unable to reach Mr. Hudson at anytime, please feel free to contact any other committee staff member for assistance. Should you wish to contact any staff member, they may be reached by telephone at (919) 733-2578.

My best wishes to you and the Committee in its work. If I may be of any service to you or the Committee, please contact me.

Yours truly,

A handwritten signature in cursive script that reads "Karen Cochrane-Brown".

Karen Cochrane-Brown
Director

KCB: rlh

cc: Hon. Tim Moore, Speaker
Hon. Phil Berger, President Pro Tempore
Hon. Pat McElraft, Co-Chair
Mr. Bart Goodson
Mr. Jim Blaine
Mr. Paul Coble

Mr. Jeffrey Hudson
Ms. Jennifer McGinnis
Ms. Jennifer Mundt
Mr. Chris Saunders
Ms. Layla Cummings
Ms. Mariah Matheson
Mr. Brian Peck
Ms. Kelsey Lewis





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Environment

House Standing Committee

- Bills in Committee: *None*
- NCGA Users Only: Bills in Committee Report
- Meeting notices via e-mail

Members

Chairman

Rep. McElraft

Chairman

Rep. Yarborough

Vice Chairman

Rep. Adams

Vice Chairman

Rep. Harrison

Vice Chairman

Rep. McGrady

Members

Rep. Autry, Rep. Bradford, Rep. Brockman, Rep. Collins, Rep. Dixon, Rep. Garrison, Rep. Iler, Rep. Lehman, Rep. G. Martin, Rep. Millis, Rep. Steinburg, Rep. Stone, Rep. Strickland, Rep. Terry

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VISITOR REGISTRATION SHEET

House Committee on Environment

4/6/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Doug Lassiter	NCSTA
Michael Sart	NC DEQ - WM
Ellen Lorscheider	NC DEQ DWM
Shawn McKee	NC DEQ DWM
Wendy Worley	NC DEQ DEACS
Xuan Menald	WM
Suhari	NCSEA
Noah Marsh	Food Fwd 12 Fox Chase Ln Durham, NC 27713
SEAN FALLON	McGill Environmental Systems of NC,
Gary Gittese	McGill Environmental Systems of NC
Eric Wallace	Wallace Farm Inc, or NC Coalition for Healthy Soils, Inc



VISITOR REGISTRATION SHEET

House Committee on Environment

4/6/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peter Gallins	Gallins Family Farm, Inc. Davie County 222 RockyDale Lane, Mocksville, NC 27028
Amy Brooks	Brooks Contractor & NC Coalition for Healthy Soils
Alex Miller	AMGA
Dick Calbi	Law Office of RHC PLLC + NCHS
ALBERT ROBERT RUBIN	A.R. RUBIN & ASSOCIATES 192 FERRINGTON POST, 27312
Cheryl Marks	NC DEQ - DWH
Swan Vici	Duke Energy
LAURA PURKAYST	MHC
Matthew Dockher	App State
David Mc Gowan	NKPC



VISITOR REGISTRATION SHEET

House Committee on Environment
Name of Committee

4/6/2017
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John	NCSEA
Tom BERN	EDP, NCSEA
Butch Gunnells	NC Ber
Hand Bruloh	Bruloh + Assoc
Scott Laster	LEGANC
Betsy McCann	LEGANC
Julie Roberts	NCSEA
Nancy Thompson	Weyerhaeuser
T NEEDEN	NC Senate Staff
Kate Todd	NCDCV
CHOU SAVANDESI	DACS
R. D. Mecker	DACS
Star Hodge	NC DEQ



VISITOR REGISTRATION SHEET

House Committee on Environment

4/6/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

MMA Asbill	SELC
Hayden Bauguess	Electricities
Rochelle Sparks	CF SA
Sarah Collins	NCLM
David Crawford	AIF
Dana Fenton	City of Charlotte
Jaz Turner	Duke Energy
Katy King	OP



Nancy Fox (Rep. Pat McElraft)

From: Nancy Fox (Rep. Pat McElraft) on behalf of Rep. Pat McElraft
Sent: Wednesday, April 19, 2017 09:48 AM
To: pmcelraft@ec.rr.com
Subject: FW: <NCGA> House Environment Committee Meeting Notice for Thursday, April 20, 2017 at 11:00 AM - CORRECTED #4
Attachments: Add Meeting to Calendar_LINC_.ics

Corrected #4: Removed HB 524 and HB 825

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

****HB 557 and HB 632 to be heard for discussion only**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Yarborough Representative Howard Representative McElraft Representative McGrady Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner



Representative Harrison

Respectfully,

Representative Pat McElraft, Co-Chair

Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:21 PM on Tuesday, April 18, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



Corrected #3: HB 557 and HB 632 to be heard for discussion only

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
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<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Boswell Representative Shepard
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner Representative Harrison
<u>HB 825</u>	Protect NC Children From Lead Exposure.	Representative Warren Representative Faircloth Representative Horn Representative Boswell



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:25 AM on Monday, April 17, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



Corrected #2:

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: HB 557 and HB 632 to be heard for discussion only
COMMENTS: Rep. Pat McElraft, presiding

**** **HB 557 and HB 632 to be heard for discussion only**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Yarborough Representative Howard Representative McElraft Representative McGrady Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Boswell Representative Shepard
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner Representative Harrison
<u>HB 825</u>	Protect NC Children From Lead Exposure.	Representative Warren Representative Faircloth Representative Horn Representative Boswell



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:15 AM on Monday, April 17, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
		Representative Yarborough
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Howard
		Representative McElraft
		Representative McGrady
		Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft
		Representative Yarborough
<u>HB 557</u>	Mitigation Services Amendments.	Representative Millis
		Representative McElraft
		Representative Bradford
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Boswell
		Representative Shepard



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 9:55 AM on Thursday, April 13, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



House Committee on Environment
Thursday, April 20, 2017, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 56	Amend Environmental Laws.	Representative McElraft Representative Yarborough
HB 244	Public Participation/Composting Facilities.	Representative Howard Representative McElraft Representative McGrady Representative Setzer
HB 402	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
HB 576	Allow Aerosolization of Leachate.	Representative Dixon
HB 748	Underground Damage Prevention Act/Changes.	Representative Millis
HB 770	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner Representative Harrison
HB 557	Mitigation Services Amendments. For Discussion Only	Representative Millis Representative McElraft Representative Bradford
HB 632	Amend Mitigation Services Law. For Discussion Only	Representative Torbett Representative Lewis Representative McGrady

Presentations

Other Business

Adjournment



House Committee on Environment
Thursday, April 20, 2017 at 11:00AM
Room 1228/1327 LB

MINUTES

The House Committee on Environment met at 11:00 AM on April 20, 2017 in Room 1228/1327 LB. Representatives Adams, Autry, Bradford, Brockman, Collins, Dixon, Garrison, Harrison, Iler, Martin, McElraft, McGrady, Millis, Morey, Steinburg, Stone, Strickland, Terry, and Yarborough attended.

Rep. Pat McElraft presided.

The meeting was called to order and Rep. McElraft thanked everyone for attending. Sergeant-at-Arms, Pages, and staff were noticed and thanked for their service to the Environment Committee.

The following bills were considered:

HB 56 Amend Environmental Laws (Rep. McElraft, Yarborough)
Reported favorable com.sub. Unfavorable original bill.

HB 244 (CS#1) Public Participation/Composting Facilities. (Representatives Howard, McElraft, McGrady, Setzer,)
Reported favorable com sub no.2 Unfavorable com sub no.1

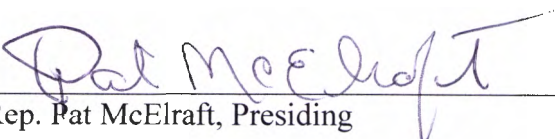
HB 402 Limit Env.Liability for certain Recyclers (Reps. McElraft, Yarborough)
Reported Favorable

HB 632 Amend Mitigation Service Law (Reps. Torbett, Lewis, McGrady)
Favorable and Re-Referred to Transportation

HB 770 Noncommercial USTs/Rule-Making Report (Reps. Hall, McElraft, B.Turner, and Harrison)
Favorable com sub, Unfavorable original bill

HB 576 Allow Aerosolization of Leachate (Rep. Dixon) (Article see attachment #1)
Favorable com sub, Unfavorable original bill and Re-referred to Agriculture

The meeting adjourned at 11:50


Rep. Pat McElraft, Presiding


Nancy Fox, Committee Clerk



House Environment Committee

[illegible]



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE

✓ HB 402

Limit Env. Liability for Certain Recyclers.

Draft Number:	None
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Yarborough

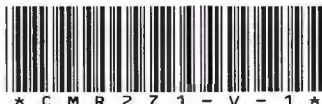
FAVORABLE AND RE-REFERRED

✓ HB 632

Amend Mitigation Services Law.

Draft Number:	None
Serial Referral:	TRANSPORTATION
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Torbett

TOTAL REPORTED: 2



* C M R 2 7 1 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 770 Noncommercial USTs/Rule-Making Report.
Draft Number: H770-PCS40516-R1-8
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: K. Hall

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

✓ HB 244 (CS#1) Public Participation/Composting Facilities.
Draft Number: H244-PCS30367-R1-5
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Howard

TOTAL REPORTED: 2



* C M R 2 8 3 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 56 Amend Environmental Laws.
Draft Number: H56-PCS40517-RI-1
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McElraft

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 576 Allow Aerosolization of Leachate.
Draft Number: H576-PCS40518-RI-9
Serial Referral: AGRICULTURE
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Dixon

TOTAL REPORTED: 2



* C M R 2 8 8 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 56 Amend Environmental Laws.
Draft Number: H56-PCS40517-RI-1
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McElraft

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 576 Allow Aerosolization of Leachate.
Draft Number: H576-PCS40518-RI-9
Serial Referral: AGRICULTURE
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Dixon

TOTAL REPORTED: 2





**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 770	Noncommercial USTs/Rule-Making Report.
	Draft Number: H770-PCS40516-RI-8
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: K. Hall

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

HB 244 (CS#1)	Public Participation/Composting Facilities.
	Draft Number: H244-PCS30367-RI-5
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: Yes
	Floor Manager: Howard

TOTAL REPORTED: 2



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**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE

HB 402	Limit Env. Liability for Certain Recyclers.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Yarborough

FAVORABLE AND RE-REFERRED

HB 632	Amend Mitigation Services Law.
	Draft Number: None
	Serial Referral: TRANSPORTATION
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Torbett

TOTAL REPORTED: 2



* C M R 2 7 1 - V - 1 *





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

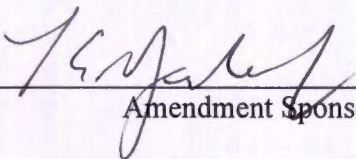
H56-ARI-18 [v.1]

Amends Title [NO]
H56-CSRI-1 [v.13]

Date _____, 2017

Representative Yarborough

- 1 moves to amend the bill on page 7, line 1, through page 8, line 9, by deleting those lines.
2
3

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 5 6 - A R I - 1 8 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 576

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H576-ARI-17 [v.1]

Page 1 of 1

Amends Title [YES]
First Edition

Date _____, 2017

Representative Dixon

1 moves to amend the bill on page 1, line 4,
2 by rewriting that line to read:

3
4 "LEACHATE AND WASTEWATER FROM A MUNICIPAL SOLID WASTE LANDFILL
5 AND PROVIDE THAT";

6
7 and on page 3, line 4,
8 by rewriting that line to read:

9
10 "from a sanitary landfill for the disposal of municipal solid waste, except those permitted for
11 the disposal of coal combustion residuals, the Department shall approve aerosolization".
12

SIGNED _____

Jimmy Dixon
Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 5 7 6 - A R I - 1 7 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 770

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H770-ARI-16 [v.2]

Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2017

Representative K. Hall

1 moves to amend the bill on page 1, line 6,
2 by rewriting that line to read:

3
4 "SECTION 1. The Environmental Management Commission shall adopt temporary";

5
6
7 and on page 1, line 10,
8 by rewriting that line to read:

9
10 "SECTION 2. The Commission shall report regarding the status of the rule making".
11
12

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 7 7 0 - A R I - 1 6 - V - 2 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 56
PROPOSED COMMITTEE SUBSTITUTE H56-CSRI-1 [v.13]
04/19/2017 10:48:19 AM

Short Title: Amend Environmental Laws.

(Public)

Sponsors:

Referred to:

February 8, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.

The General Assembly of North Carolina enacts:

**PART I. MODIFY REQUIREMENTS FOR PREPARATION OF EMERGENCY
ACTION PLANS FOR DAM SAFETY**

SECTION 1. G.S. 143-215.31(a1) reads as rewritten:

"(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection;

- (1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.
- (2) The Emergency Action Plan shall include, at a minimum, all of the following:
 - a. A description of potential emergency conditions that could occur at the dam, including security risks.
 - b. A description of actions to be taken in response to an emergency condition at the dam.
 - c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.
 - d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a ~~licensed~~ professional engineer or a person under the responsible charge of a ~~licensed~~ professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by ~~G.S. 130A-309.201~~ G.S. 130A-309.201, or the Department determines that preparation by a professional engineer or a person under the responsible charge of a professional engineer is



* H 5 6 - C S R I - 1 *

necessary to protect public health, safety, and welfare; the environment; or natural resources.

- (3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.
- (4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.
- (5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.
- (6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in 18 C.F.R. § 333.112."

PART II. FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

SECTION 2. G.S. 130A-310.72 reads as rewritten:

"§ 130A-310.72. Financial assurance requirement.

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

- (1) Annual reporting of land use controls.
- (2) The maintenance of durable or low-maintenance covers for contaminated soil."

PART III. REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

SECTION 3.(a) G.S. 130A-294(k) is repealed.

SECTION 3.(b) G.S. 130A-309.17 is repealed.

PART IV. LAND USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

1 **SECTION 4.(a)** G.S. 143B-279.9(b) reads as rewritten:
2 **"§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health**
3 **at contaminated sites.**

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

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

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

46 **SECTION 4.(b)** G.S. 143B-279.11 reads as rewritten:
47 **"§ 143B-279.11. Recordation of residual petroleum from an—underground or**
48 **aboveground storage tank—tanks, or other sources.**

49 (a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this
50 section. This section applies only to a cleanup pursuant to a remedial action plan that addresses
51 environmental damage resulting from a discharge or release of petroleum from an underground

1 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General ~~Statutes~~.Statutes,
2 or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article
3 21A of Chapter 143 of the General Statues.

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

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

33 (d) The Department shall review the proposed Notice to determine whether the Notice
34 meets the requirements of this section and rules adopted to implement this section and shall
35 provide the owner, operator, or other person responsible for the discharge or release of
36 petroleum from an underground storage tank-tank, aboveground storage tank, or other
37 petroleum source, with a notarized copy of the approved Notice. After the Department
38 approves the Notice, the owner, operator, or other person responsible for the discharge or
39 release of petroleum from an underground storage tank-tank, aboveground storage tank, or
40 other petroleum source, shall file a notarized copy of the approved Notice in the register of
41 deeds office in the county or counties in which the real property is located (i) before the
42 property is conveyed or (ii) within 30 days after the owner, operator, or other person
43 responsible for the discharge or release receives notice from the Department that no further
44 action is required under the remedial action plan, whichever first occurs. If the owner, operator,
45 or other person responsible for the discharge or release fails to file the Notice as required by
46 this section, any determination by the Department that no further action is required is void. The
47 owner, operator, or other person responsible for the discharge or release, may record the Notice
48 required by this section without the agreement of the owner of the real property. The owner,
49 operator, or other person responsible for the discharge or release shall submit a certified copy
50 of the Notice as filed in the register of deeds office to the Department.

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

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

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

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

PART V. CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

SECTION 5. 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 land, or a spill of any amount that reaches to the surface waters of the State, to the Department as soon as practicable, but no later than 24 hours after the owner or operator has first knowledge of the spill. ~~determined that the discharge has reached the surface waters of the State.~~ This reporting requirement shall be in addition to any other reporting requirements applicable to the owner or operator of the wastewater collection or treatment works.

(b) Publication of Notice of Discharge of Untreated Wastewater. – 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~~ shall:

...

(c) Publication of Notice of Discharge of Untreated Waste. – The owner or operator of any wastewater collection or treatment works, other than a wastewater collection or treatment

works the operation of which is primarily to collect or treat municipal or domestic wastewater, for which a permit is issued under this Part wastewater shall:

- (1) In the event of a discharge of 1,000 gallons or more of untreated waste to land, or a spill of any amount that reaches to the surface waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 24 hours after the owner or operator has first knowledge of the spill. ~~determined that the discharge has reached the surface waters of the State.~~ The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

..."

PART VI. MISCELLANEOUS CHANGES TO WATER QUALITY PROVISIONS

SECTION 6. G.S. 143-215.1 reads as rewritten:

"§ 143-215.1. Control of sources of water pollution; permits required.

...

(a7) ~~For high rate infiltration wastewater disposal systems that utilize non native soils or materials in a basin sidewall to enhance infiltration, the non native soils or materials in the sidewall shall not be considered part of the disposal area provided that all of the following standards are met:~~

- (1) ~~In addition to the requirements established by the Commission pursuant to subsection (a4) of G.S. 143-215.1, the treatment system shall include a mechanism to provide filtration of effluent to 0.5 microns or less and all essential treatment units shall be provided in duplicate.~~
- (2) ~~Particle size analysis in accordance with ASTM guidelines for all native and non native materials shall be performed. Seventy five percent (75%) of all non native soil materials specified shall have a particle size of less than 4.8 millimeters.~~
- (3) ~~Non native materials shall comprise no more than fifty percent (50%) of the basin sidewall area.~~
- (4) ~~Systems meeting the standards set out in subdivisions (1), (2), and (3) of this subsection shall be considered nondischarge systems, and the outfall of any associated groundwater lowering device shall be considered groundwater provided the outfall does not violate water quality standards.~~

...

(c) Applications for Permits and Renewals for Facilities Discharging to the Surface Waters. –

...

- (4) Not later than ~~60~~ 90 days following ~~notice of intent or, any required State or federal review, or if a public hearing is held,~~ within 90 days following consideration of the matters and things presented at such hearing, the Commission shall grant or deny any application for issuance of a new permit or for renewal of an existing permit. All permits or renewals issued by the Commission and all decisions denying application for permit or renewal shall be in writing.

...

1 (d) Applications and Permits for Sewer Systems, Sewer System Extensions and
2 Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities
3 Not Discharging to the Surface Waters of the State. –

4 (1) All applications for new permits and for renewals of existing permits for
5 sewer systems, sewer system extensions and for disposal systems, and for
6 land application of waste, or treatment works which do not discharge to the
7 surface waters of the State, and all permits or renewals and decisions
8 denying any application for permit or renewal shall be in writing. ~~The~~
9 ~~Commission shall act on a permit application as quickly as possible.~~ The
10 Commission may conduct any inquiry or investigation it considers necessary
11 before acting on an application and may require an applicant to submit plans,
12 specifications, and other information the Commission considers necessary to
13 evaluate the application. The Department shall determine whether an
14 application for a permit issued pursuant to this subsection is complete within
15 90 days after the Department receives the application for the permit. A
16 determination of completeness means that the application includes all
17 required components but does not mean that the required components
18 provide all of the information that is required for the Department to make a
19 decision on the application. If the Department determines that an application
20 is not complete, the Department shall notify the applicant of the components
21 needed to complete the application. An applicant may submit additional
22 information to the Department to cure the deficiencies in the application.
23 The Department shall make a final determination as to whether the
24 application is complete within the later of: (i) 90 days after the Department
25 receives the application for the permit less the number of days that the
26 applicant uses to provide the additional information; or (ii) 30 days after the
27 Department receives the additional information from the applicant. The
28 Department shall issue a permit decision on an application for a permit
29 within one year after the Department determines that the application is
30 complete. The Department and the applicant may mutually agree to extend
31 any time period under this subsection. If the Department fails to act within
32 any time period set out in this subsection, the applicant may treat the failure
33 to act as a denial of the permit and may challenge the denial as provided in
34 Chapter 150B of the General Statutes. ~~If the Commission fails to act on an~~
35 ~~application for a permit, including a renewal of a permit, within 90 days~~
36 ~~after the applicant submits all information required by the Commission, the~~
37 ~~application is considered to be approved.~~ Permits and renewals issued in
38 approving such facilities pursuant to this subsection shall be effective ~~until~~
39 ~~until: (i) the date specified therein or until rescinded unless modified or~~
40 ~~therein, unless an application to renew the permit has been submitted to the~~
41 ~~Department, in which case the underlying permit shall continue in effect~~
42 ~~until the Department has issued a permit decision on the application to renew~~
43 ~~the permit; or (ii) the date on which a permit is revoked by the~~
44 ~~Commission.~~Commission, if applicable. Prior to acting on a permit
45 application for the land application of bulk residuals resulting from the
46 operation of a wastewater treatment facility, the Commission shall provide
47 notice and an opportunity for comment from the governing board of the
48 county in which the site of the land application of bulk residuals is proposed
49 to be located. Local governmental units to whom pretreatment program
50 authority has been delegated shall establish, maintain, and provide to the
51 public, upon written request, a list of pretreatment applications received.

- (2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments.

...

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

..."

PART VII. CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 7.(a) G.S. 143-355(m) is repealed.

SECTION 7.(b) If Senate Bill 131, 2017 Regular Session, becomes law, then G.S. 143-355(p), as enacted by Section 4.16(c) of that act, reads as rewritten:

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

PART VIII. COASTAL AREA MANAGEMENT ACT MODIFICATIONS

SECTION 8.(a) G.S. 113A-124(c) is amended by adding a new subdivision to read:

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

- (1) To recommend to the Secretary the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.
- (2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.
- (3) To hold such public hearings as the Commission deems appropriate.
- (4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.

- (5) Repealed by Session Laws 1987, c. 827, s. 141.
- (6) To delegate the power to determine whether a contested case hearing is appropriate in accordance with G.S. 113A-121.1(b).
- (7) To delegate the power to grant or deny requests for declaratory rulings under G.S. 150B-4 in accordance with standards adopted by the Commission.
- (8) To adopt rules to implement this Article.
- (9) To delegate the power to approve land-use plan for a county in accordance with G.S. 113A-110(f) to any qualified employee of the Department."

SECTION 8.(b) G.S. 113A-119 reads as rewritten:

"§ 113A-119. Permit applications generally.

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

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

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

PART IX. MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

SECTION 9.(a) G.S. 113-300.6 reads as rewritten:

"§ 113-300.6. Governor to execute compact; form of compact.

The Governor shall execute an Interstate Wildlife Violator Compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

...Article II.

Definitions.

Unless the context requires otherwise, the definitions in this Article apply through this compact and are intended only for the implementation of this compact:

...

1 (15) "Wildlife" means all species of animals, including but not necessarily limited
2 to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans,
3 which are defined as "wildlife" and are protected or otherwise regulated by
4 statute, law, regulation, ordinance, or administrative rule in a party state.
5 "Wildlife" includes all species of animals that are protected or regulated by
6 the Wildlife Resources Commission. ~~Commission, the Marine Fisheries~~
7 ~~Commission, or the Division of Marine Fisheries in the Department of~~
8 ~~Environmental Quality. "Wildlife" also means food fish and shellfish as~~
9 ~~defined by statute, law, regulation, ordinance, or administrative rule in a~~
10 ~~party state.~~ Species included in the definition of "wildlife" vary from state to
11 state and determination of whether a species is "wildlife" for the purposes of
12 this compact shall be based on local law.

13 ..."

14 **SECTION 9.(b)** G.S. 113-300.7 reads as rewritten:

15 **"§ 113-300.7. Appointment of Compact Administrator; implementation; rules;**
16 **amendments.**

17 (a) The Chair of the Wildlife Resources Commission, ~~in consultation with the Chair of~~
18 ~~the Marine Fisheries Commission and the Fisheries Director,~~ Commission shall appoint the
19 Compact Administrator for North Carolina. The Compact Administrator shall serve at the
20 pleasure of the Chair of the Wildlife Resources Commission.

21 (b) The Wildlife Resources ~~Commission,~~ Commission and the Secretary of
22 ~~Environmental Quality, and the Division of Marine Fisheries~~ Quality may suspend or revoke the
23 license, privilege, or right of any person to hunt, fish, trap, possess, or transport wildlife in this
24 State to the extent that the license, privilege, or right has been suspended or revoked by another
25 compact member under the provisions of this Article.

26 (c) The Wildlife Resources Commission ~~and the Marine Fisheries Commission~~ shall
27 adopt rules necessary to carry out the purposes of this Article.

28 (d) Any proposed amendment to the Compact shall be submitted to the General
29 Assembly as an amendment to G.S. 113-300.6. In order to be endorsed by the State of North
30 Carolina as provided by subsection (b) of Article IX of the Compact, a proposed amendment to
31 the Compact must be enacted into law."

32

33 **PART X. USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL** 34 **ACCOUNT**

35 **SECTION 10.** G.S. 143-215.3A reads as rewritten:

36 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title**
37 **V Account; I & M Air Pollution Control Account; reports.**

38 ...

39 (b1) The I & M Air Pollution Control Account is established as a nonreverting account
40 within the Department. Fees transferred to the Division of Air Quality of the Department
41 pursuant to G.S. 20-183.7(c) shall be credited to the I & M Air Pollution Control Account and
42 shall be applied to the costs of developing and implementing an air pollution control ~~program~~
43 ~~for mobile sources program.~~

44 ..."

45

46 **PART XI. EFFECTIVE DATE**

47 **SECTION 11.** This act is effective when it becomes law.



HOUSE BILL 56: Amend Environmental Laws.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Reps. McElraft, Yarborough
Analysis of: PCS to First Edition
H56-CSRI-1

Date: April 20, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 56 would amend various environmental laws.*

CURRENT LAW, BACKGROUND and BILL ANALYSIS:

PART I -- MODIFY REQUIREMENTS FOR PREPARATION OF EMERGENCY ACTION PLANS FOR DAM SAFETY

Current law requires the owners of dams classified as high- or intermediate-hazard to develop an Emergency Action Plan for the dam and submit the plan to the Department of Environmental Quality (Department) and the Department of Public Safety. In addition to requirements for descriptions of actions to be taken in response to an emergency condition at the dam, and emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam, a Plan must include downstream inundation maps depicting areas that would be affected by a dam failure and sudden release of the impoundment. Such maps currently do not require preparation by a professional engineer unless the dam is associated with a coal ash pond.

Section 1 of the PCS would modify existing law to require that a downstream inundation map be prepared by a professional engineer, or a person under their responsible charge, if the Department determines that preparation by a professional engineer is necessary to protect public health, safety, and welfare; the environment; or natural resources.

PART II -- FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

Current law requires persons conducting risk-based¹ remediation of a contaminated site to establish financial assurance that will ensure that sufficient funds are available to implement and maintain the actions or controls specified in the remedial action plan for the site.

Section 2 of the PCS would modify financial assurance requirements for persons conducting risk-based remediation by allowing the Department to waive the financial assurance requirement if the Department finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

¹ Cleanup using site-specific cleanup standards designed to protect public health, safety, and welfare and the environment based on the current and anticipated future use of a site, which are generally not as stringent as the applicable unrestricted use standards.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 56

Page 2

- Annual reporting of land use controls.
- The maintenance of durable or low-maintenance covers for contaminated soil.

PART III. REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

Under current law G.S. 130A-294(k) requires generators of hazardous waste and operators of hazardous waste facilities to submit, in association with payment of required fees, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste.

Section 3(a) of the PCS would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced, and that generators meet the waste minimization criteria through other requirements.

Under current law G.S. 130A-309.17 requires registration of persons transporting, collecting, or recycling specific amounts of used oil, and imposes reporting requirements. Associated fees for these activities were repealed in 2015, but the registration and reporting requirement was left intact

Section 3(b) of the PCS would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced.

PART IV. LAND USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

Current law requires that a remedial action plan for cleanup of environmental damage from a discharge or release of petroleum from an underground storage tank (UST) include an agreement by the person responsible for the discharge or release to record a notice of any applicable land-use restrictions on the on the current or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup².

Section 4(a) of the PCS would add discharges or releases of petroleum from aboveground storage tanks (AST) and other sources (discharges or releases not from an UST or AST) to the requirement that a remedial action plan for cleanup of the contamination or release from these sources include an agreement to record a notice of any applicable land-use restrictions. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for land-use restrictions) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

Current law requires that a person responsible for the discharge or release of petroleum from an UST to record a "NOTICE OF RESIDUAL PETROLEUM" if residual petroleum is left on a property after a risk-based cleanup has occurred and record a notice of any applicable land-use restrictions on the current

² Generally, cleanup of environmental contamination must be performed to meet unrestricted use standards, meaning contaminant concentrations present at a location are acceptable for all uses; are protective of public health, safety, and welfare and the environment; and comply with an applicable program's standards established by statute or rule adopted by the Environmental Management Commission, the Commission for Public Health, or the Department of Environmental Quality (DEQ). Risk-based cleanup, however, allows cleanup based on site-specific risk factors, which are generally not as stringent as the applicable unrestricted use standards.

House PCS 56

Page 3

or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup. This notice must be filed in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs.

Section 4(b) of the PCS would add discharges or releases of petroleum from ASTs and other sources (discharges or releases not from an UST or AST) to the requirement for recordation of such a notice. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for recording a notice of residual petroleum) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

PART V. CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

Current law obligates 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 required, to do all of the following: (i) for those systems having an average annual flow of greater than 200,000 gallons per day, provide an annual report to the system's customers on the system's performance; (ii) report discharges of 1,000 gallons or more of untreated wastewater to the surface waters of the State to the Department as soon as practicable, but no later than 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State, and issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge; (iii) in the event of a discharge of 15,000 gallons or more of untreated wastewater to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. Similar requirements apply to owners and operators of wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater.

Section 5 of the PCS would:

- Eliminate the limiting language that only applies these requirements to systems for which a permit is required.
- Modify the reporting trigger, to require that an owner or operator must report discharges of 1,000 gallons or more of untreated wastewater to land, or a spill of any amount that reaches waters of the State, within 24 hours after the owner or operator has first knowledge of the spill.

PART VI. MISCELLANEOUS CHANGES TO WATER QUALITY PROVISIONS

Section 6 of the PCS would make various changes to the statute governing control of sources of water pollution, and establishes permit requirements for the sources of water pollution as follows:

- Repeal a provision regarding high infiltration wastewater disposal systems, which provides that such systems meeting certain standards, are to be considered "nondischarge systems" and states that the "outfall of any associated groundwater lowering device shall be considered groundwater provided the outfall does not violate water quality standards." The Department reports that the

House PCS 56

Page 4

statute should be repealed as: (i) it has been determined by the United States Environmental Protection Agency (USEPA) that the statute allows for a direct conduit to surface waters, which is a violation of the federal Clean Water Act; and (ii) given that the USEPA has determined that such a system allows a discharge for which a National Pollutant Discharge Elimination System (NPDES) permit is required, unless the language is repealed such a system would be required to obtain two separate permits for the same facility, resulting in an undue burden on the facility, and Department staff.

- Amend a provision governing applications for permits and renewals for facilities that discharge to surface waters, which currently provides that the Environmental Management Commission (EMC) must grant or deny an application for a new or renewed permit, no later than 60 days following a notice of intent, or if a public hearing is held, within 90 days following consideration of the matters presented at the hearing.

The PCS would modify the timeclock under current law to provide that the EMC must issue a decision to grant or deny a permit within 90 days following: (i) any required State or federal review, or (ii) if a public hearing is held, after consideration of materials presented at the hearing.

- Amend a provision governing applications and permits for sewer systems, sewer system extensions and pretreatment facilities, land application of waste, and for wastewater treatment facilities not discharging to the surface waters of the State, which currently provides: (i) the EMC must act on a permit application "as quickly as possible", but providing that if the EMC fails to act on a permit application, including a renewal, within 90 days after the applicant submits all information required by the EMC, the application is considered to be approved; and (ii) that permit and renewals are effective until the date specified therein or until rescinded, unless modified or revoked by the EMC.

The PCS would modify this provision by: (i) requiring the Department to determine a permit application's completeness within 90 days of receipt of the application, and establishing a process for the Department to procure additional information from an applicant with additional time allowed for review of that information, as necessary; (ii) requiring the Department to issue a permit decision on a permit application within one year after the Department determines that the application is complete; (iii) providing that if the Department fails to act within any required timeframe, the applicant may treat the failure to act as a denial of the permit and may challenge the denial under the Administrative Procedure Act.

- Amend a provision that currently: (i) requires disposal systems permitted under the water quality or solid waste statutes to have a compliance boundary beyond which groundwater quality standards may not be exceeded; and (ii) provides that multiple contiguous properties under common ownership and permitted for use as a disposal system must be treated as a single property with regard to determination of such a boundary.

The PCS would modify the provision governing multiple contiguous properties under common ownership, to provide that they would also be treated as a single property for the purposes of establishing setbacks to property lines.

PART VII. CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

House PCS 56

Page 5

Current law requires the Department to develop a State water supply plan, with the stated purpose of assuring "the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth..."

Section 7(a) of the PCS would repeal this provision at the request of the Department, to reflect an approach of combined water quality and quantity planning into a consolidated plan for water resources.

Current law requires the Department to report to the Environmental Review Commission (ERC) on the implementation of the Department's powers and duties as it relates to its management of water resources, including information on the development of the State water supply plan and the development of basinwide hydrologic models.

Section 7(b) of the PCS would repeal the reference to the State water supply plan, at the request of the Department, to reflect an approach of combined water quality and quantity into a consolidated plan for water resources.

PART VIII. COASTAL AREA MANAGEMENT ACT MODIFICATIONS

ALLOW DELEGATION OF CAMA LAND-USE PLAN APPROVAL AUTHORITY TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMEND CAMA PERMIT NOTICE REQUIREMENTS

Under current law, the Coastal Area Management Act (CAMA) requires each coastal-area county³ to prepare a land-use plan⁴, which must be approved by the Coastal Resources Commission (CRC).

Section 8(a) of the PCS would allow the CRC to delegate approval of county land-use plans to any qualified employee of the Department.

Under current law, CAMA requires the Secretary of Environmental Quality to issue public notice of a development permit application, upon receipt of the application. Notice must be made by:

- Mail to persons who have requested notice and interested State agencies.
- Posting a notice at the location of the proposed development.
- And, with the exception of a permit application for minor development⁵, by publishing notice of the application at least once in one newspaper of general circulation in the county or counties where the development would be located.

³ Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

⁴ Under CAMA, land-use plans must consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, and must give special attention to the protection and appropriate development of areas of environmental concern designated under CAMA.

⁵ A "major development" is any development which requires permission, licensing, approval, certification or authorization in any form from the EMC, the Department, the Department of Administration, the North Carolina Oil and Gas Commission, the North Carolina Pesticides Board, the North Carolina Sedimentation Control Commission, or any federal agency or authority; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating

House PCS 56

Page 6

Section 8(b) of the PCS would except minor permit applications from the requirement for notice by posting at the location of the proposed development.

PART IX. MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

Under current law, Article II of Chapter 113 of the General Statutes governs the State's participation in the Interstate Wildlife Violator Compact. The Article defines wildlife, in part, to mean:

"... all species of animals that are protected or regulated by the Wildlife Resources Commission, the Marine Fisheries Commission, or the Division of Marine Fisheries in the Department of Environmental Quality. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state..."

The governing statutes otherwise assign the Marine Fisheries Commission (MFC) and the Division of Marine Fisheries (DMF) with various powers and duties related to the Compact.

Sections 9(a) and 9(b) of the PCS would delete all references to the MFC and the DMF from the Article.

PART X. USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL ACCOUNT

Under current law, funds in the I & M Air Pollution Control Account must be applied to the costs of developing and implementing an air pollution control program for mobile sources.

Section 10 of the PCS would delete the reference to "mobile sources", allowing funds from the account to be applied for development and implementation of air pollution control programs for both mobile and stationary sources.

PART XI. EFFECTIVE DATE

This PCS would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 244
Committee Substitute Favorable 3/14/17

Short Title: Public Participation/Composting Facilities.

(Public)

Sponsors:

Referred to:

March 6, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO BROADEN THE SCOPE OF IMPACTS TO BE CONSIDERED IN SOLID
3 WASTE MANAGEMENT FACILITY PERMITTING, TO PROVIDE FOR NOTICE
4 AND PUBLIC HEARING FOR COMPOSTING FACILITIES, AND TO REDUCE ODOR
5 EMISSIONS FROM THOSE FACILITIES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 130A-294(a)(4) reads as rewritten:

8 "§ 130A-294. Solid waste management program.

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

12 ...

13 (4) a. Develop a permit system governing the establishment and operation
14 of solid waste management facilities. A landfill with a disposal area
15 of 1/2 acre or less for the on-site disposal of land clearing and inert
16 debris is exempt from the permit requirement of this section and shall
17 be governed by G.S. 130A-301.1. Demolition debris from the
18 decommissioning of manufacturing buildings, including electric
19 generating stations, that is disposed of on the same site as the
20 decommissioned buildings, is exempt from the permit requirement of
21 this section and rules adopted pursuant to this section and shall be
22 governed by G.S. 130A-301.3. The Department shall not approve an
23 application for a new permit, major permit modification, or a
24 substantial amendment to a permit for a sanitary landfill, excluding
25 demolition landfills as defined in the rules of the Commission, except
26 as provided in subdivisions (3) and (4) of subsection (b1) of this
27 section. No permit shall be granted for a solid waste management
28 facility having discharges that are point sources until the Department
29 has referred the complete plans and specifications to the Commission
30 and has received advice in writing that the plans and specifications
31 are approved in accordance with the provisions of G.S. 143-215.1. In
32 any case where the Department denies a permit for a solid waste
33 management facility, it shall state in writing the reason for denial and
34 shall also state its estimate of the changes in the applicant's proposed
35 activities or plans that will be required for the applicant to obtain a
36 permit.



1 ...
2 c. The Department shall deny an application for a permit for a solid
3 waste management facility if the Department finds that:

4 ...
5 3. Construction or operation of the facility would result in
6 significant damage to ecological systems, natural resources,
7 cultural sites, recreation areas, or historic sites of more than
8 local significance. These areas include, but are not limited to,
9 national or State parks or forests; wilderness areas; historic
10 sites; recreation areas; school grounds or athletic fields;
11 existing community facilities hosting outdoor activities;
12 segments of the natural and scenic rivers system; wildlife
13 refuges, preserves, and management areas; areas that provide
14 habitat for threatened or endangered species; primary nursery
15 areas and critical fisheries habitat designated by the Marine
16 Fisheries Commission; and Outstanding Resource Waters
17 designated by the Commission.

18"
19 SECTION 2. G.S. 130A-309.11 reads as rewritten:

20 "§ 130A-309.11. Compost standards and applications.

21 ...
22 (b) The Commission shall adopt rules to establish standards for the production of
23 compost. Rules shall be adopted not later than 24 months after the initiation of rule making.
24 Such rules shall include:

- 25 (1) Requirements necessary to produce hygienically safe compost products for
26 varying applications.
27 (2) A classification scheme for compost based on:
28 a. The types of waste composted, including at least one type containing
29 only yard trash;
30 b. The maturity of the compost, including at least three degrees of
31 decomposition for fresh, semi-mature, and mature; and
32 c. The levels of organic and inorganic constituents in the compost.
33 (3) Requirements necessary to substantially reduce and minimize fugitive
34 emissions and offensive odors from the composting facility that will
35 adversely affect the general health, safety, and welfare of persons beyond the
36 facility's boundary.

37 ...
38 (f) The Department shall not issue or renew a permit for the construction, operation,
39 expansion, or modification of a solid waste management facility that will produce compost
40 from solid waste or solid waste co-composted with other wastes without first conducting a
41 public information hearing in the county where the proposed facility is to be located. The
42 Department shall give notice of the public information hearing at least 15 days and no more
43 than 30 days prior to the hearing by publication on the Department's Web site, by publication in
44 a daily or weekly local newspaper of general circulation, and by any other method deemed
45 necessary or appropriate by the Division to give actual notice of the activities to persons
46 potentially affected. No permit shall be issued or renewed less than 90 days following the
47 public information hearing required by this subsection."

48 SECTION 3. This act becomes effective October 1, 2017.



HOUSE BILL 244: Enhanced Rqmts./Composting Facilities.

2017-2018 General Assembly

Committee:	House Environment	Date:	April 20, 2017
Introduced by:	Reps. Howard, McElraft, McGrady, Setzer	Prepared by:	Jennifer McGinnis
Analysis of:	PCS to Second Edition H244-CSRI-5		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 244 would: (i) establish a requirement for a 500 foot buffer between new solid waste management facilities and schools, athletic fields, and community facilities; (ii) require the Environmental Management Commission (EMC) to adopt rules to reduce fugitive emissions and odors from composting facilities; and (iii) require the Department to provide public notice of issuance or renewal of a permit for a composting facility, prior to approving a permit.*

The PCS would make the following changes to the Second Edition of the bill:

- Changes the requirement that the Department consider significant impacts to schools, athletic fields, and community facilities, when permitting a solid waste management facility (including a compost facility), and, in lieu, establishes a requirement for a 500 foot buffer between new solid waste management facilities and schools, athletic fields, and community facilities.
- Deletes the word “welfare” in the requirement concerning development of rules to minimize odor and other emissions from composting operations.
- Eliminates the requirement for a public hearing, and sets forth a process for the required public notice.
- Provides that odor rules to be developed, and the requirement for public notice, would not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

CURRENT LAW and BILL ANALYSIS:

Section 1

The rules governing solid waste management facilities set forth a number of setback requirements for various types of facilities, for instance:

Municipal solid waste landfills (MSWLF):

- Property line buffer - a minimum 300-foot buffer between the MSWLF unit and all property lines.
- Private residences and wells - a minimum 500-foot buffer between the MSWLF unit and existing private residences and wells.

Septage land application sites:

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 244

Page 2

- Residence not occupied by the applicant – 500 feet.
- Place of business, other than the septage management firm office, or place of public assembly – 500 feet.
- Well or spring – 500 feet.

The PCS would direct the Department to require a buffer of at least 500 feet between the outermost boundary of any new solid waste management facility, and the outermost boundary of any property on which any of the following are located: (i) a school and associated athletic fields, or (ii) community facilities hosting outdoor activities.

Section 2

The General Statutes require that the EMC adopt rules for compost production at solid waste facilities including rules for: (i) production of hygienically safe compost products; and (ii) the development of a classification scheme for different composts based on types of waste composted and other factors. Such rules would not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

The PCS would amend the applicable statute to additionally require the EMC to adopt rules necessary to substantially reduce and minimize fugitive emissions and offensive odors from composting facilities that would adversely affect the general health and safety of persons beyond the facility's boundary.

In addition, Section 2 would require the Department to provide public notice of a new permit, or permit renewal, for a composting facility, prior to issuance or renewal of a permit for the facility. This notice requirement would not apply to composting activities occurring at a bona fide farm operation for which composting is not the operation's primary source of income.

EFFECTIVE DATE: This act would become effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 632

Short Title: Amend Mitigation Services Law.

(Public)

Sponsors: Representatives Torbett, Lewis, and McGrady (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment, if favorable, Transportation

April 10, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND LAWS RELATED TO THE PROVISION OF MITIGATION
SERVICES.

The General Assembly of North Carolina enacts:

COST-EFFECTIVE MITIGATION

SECTION 1.1. G.S. 143-214.9 reads as rewritten:

"§ 143-214.9. Division of Mitigation Services: purposes.

The purposes of the Division of Mitigation Services are as follows:

- (1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the Division of Mitigation Services.
- (2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.
- (3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.
- (4) To increase the ecological effectiveness of compensatory mitigation.
- (5) To achieve a net increase in wetland acres, functions, and values in each major river basin.
- (6) To prioritize cost-effective approaches to compliance with mitigation requirements that maximize the remaining productive uses of public and private lands consistent with the other purposes of this section.
- ~~(6)~~(7) To foster a comprehensive approach to environmental protection."

SECTION 1.2. G.S. 143-214.12 reads as rewritten:

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

(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for





1 payments made in lieu of compensatory mitigation as described in subsection (b) of this
2 section. No funds shall be expended from this Fund for any purpose other than those directly
3 contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of
4 ~~wetlands and wetlands, streams, and~~ riparian areas in accordance with the basinwide plan as
5 described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem
6 taxes required under G.S. 146-22.3 when the Department is the State agency making the
7 acquisition.

8 (a1) The Department may distribute funds from the Ecosystem Restoration Fund directly
9 to a federal or State agency, a local government, or a private, nonprofit conservation
10 organization to acquire, manage, and maintain real property or an interest in real property for
11 the purposes set out in subsection (a) of this section. ~~A recipient of funds under this subsection~~
12 ~~shall grant a conservation easement in the real property or interest in real property acquired~~
13 ~~with the funds to the Department in a form that is acceptable to the Department.~~ A recipient of
14 funds under this subsection that acquires a conservation easement or interest in real property
15 appurtenant to a restoration project delivered to the Division of Mitigation Services may
16 transfer the conservation easement or interest in real property to a federal or State agency, a
17 local government, or a private, nonprofit conservation organization approved by the Division of
18 Mitigation Services. The Department may convey real property or an interest in real property
19 that has been acquired under the Division of Mitigation Services to a federal or State agency, a
20 local government, or a private, nonprofit conservation organization approved by the Division of
21 Mitigation Services to acquire, manage, and maintain real property or an interest in real
22 property for the purposes set out in subsection (a) of this section. ~~A~~ When a grantee of real
23 property or an interest in real property under this subsection shall grant grants a conservation
24 easement in the real property or interest in real property ~~to the Department~~ to a federal or State
25 agency, a local government, or a private, nonprofit conservation organization approved by the
26 Division of Mitigation Services, the grant shall be made in a form that is acceptable to the
27 Department.

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

41 (c) Accounting of Payments. – The Department shall provide an itemized statement that
42 accounts for each payment into the Fund. The statement shall include the expenses and
43 activities financed by the payment."
44

45 MAXIMIZE USES OF RIPARIAN BUFFER

46 SECTION 2. Article 21 of Chapter 143 of the General Statutes is amended by
47 adding a new section to read:

48 "§ 143-214.7D. Permitted uses of privately held riparian buffer.

49 Except as otherwise required by federal law, land within a riparian buffer required to be
50 maintained under a State or local permit or other regulatory approval in which neither the State
51 nor its subdivisions holds any property interest may be used by a property owner to satisfy any



1 other development-related regulatory requirements based on property size. These requirements
2 include, but are not limited to, stormwater best management practices (where the Department
3 finds the practice is compatible with the purposes of the riparian buffer), residential density,
4 and nonresidential intensity calculations and yields, tree conservation purposes, open space or
5 conservation area requirements, setbacks, perimeter buffers, and lot area requirements."
6

7 **REVISE MITIGATION SERVICES PROGRAMS**

8 **SECTION 3.(a)** The Division of Mitigation Services of the Department of
9 Environmental Quality shall revise its mitigation services programs to focus its efforts on the
10 preservation, enhancement, and restoration of ecological functions rather than on the spatial
11 proximity of mitigation projects.

12 **SECTION 3.(b)** The Environmental Management Commission, with the assistance
13 of the Division of Mitigation Services of the Department of Environmental Quality, shall
14 review and revise the nutrient offset fee for the Jordan Lake Watershed to establish fees for the
15 different sub-watersheds within the Jordan Lake Watershed that reflect the actual costs of
16 performing the mitigation in the sub-watersheds.

17 **SECTION 3.(c)** The Division of Mitigation Services of the Department of
18 Environmental Quality shall calculate wetland mitigation fees by multiplying the relevant rates
19 by the number of credits being purchased and shall calculate stream mitigation fees by
20 multiplying the relevant rates by the number of whole credits being purchased. The
21 Environmental Management Commission shall amend its rules to be consistent with this
22 section.
23

24 **DEPARTMENT OF TRANSPORTATION MITIGATION REPORTING**

25 **SECTION 4.(a)** The Department of Transportation shall report annually no later
26 than February 1 to the Environmental Review Commission regarding implementation of the
27 2016 Memorandum of Understanding between the Department of Environmental Quality and
28 the Department of Transportation establishing procedures for the provision of compensatory
29 mitigation by the Department of Environmental Quality's Division of Mitigation Services to
30 offset impacts to waters and wetlands from the Department of Transportation's activities. The
31 report shall include, at a minimum, the following components:

- 32 (1) An update to the portion of the inventory of wetland and stream mitigation
33 credits in State ownership required by section 14.21 of S.L. 2016-94 to
34 include property or credits acquired and disposed of in the prior calendar
35 year by or on behalf of the Department of Transportation.
- 36 (2) The Department of Transportation's plan and timetable for disposition of
37 surplus wetland and stream mitigation credits. For purposes of this
38 subdivision, surplus wetland and stream mitigation credits are those credits
39 located in areas where there is no current or projected mitigation needs and
40 that were (i) generated as part of a mitigation project built by the Department
41 prior to 2003, but not associated with a mitigation need associated with a
42 particular transportation project; (ii) generated as part of a mitigation project
43 built by the Department for which the projection of mitigation need
44 exceeded actual needs; (iii) acquired incidental to procurement of targeted
45 assets for individual transportation projects; or (iv) the excess credit yield for
46 mitigation projects that generated greater credit yield at project closeout than
47 was anticipated at project initiation.
- 48 (3) An overview of the Department of Transportation's Mitigation Order
49 submitted to the Division of Mitigation Services pursuant to the
50 Memorandum of Understanding.



(4) A breakdown of credits obtained in the prior year from the Division of Mitigation Services and credits obtained from sources of mitigation other than the Division and a projection of this breakdown for Department of Transportation projects that are prioritized for funding and expected to be let over the next seven years.

(5) Legal barriers to further disposition of excess credits, along with suggested legislation to address those barriers.

SECTION 4.(b) This section expires March 1, 2020.

MITIGATION BONDING REFORM

SECTION 5. The Division of Mitigation Services shall review and revise its bidding and contracting procedures for procurement of mitigation services to include, at a minimum, the following policies:

(1) Bonding or other financial surety required for the construction of a mitigation project shall reflect only the minimum amount necessary to secure State funds provided through a contract between the Division and a private mitigation provider.

(2) Post-construction bonding periods and amounts shall reflect the minimum length of time necessary to determine with a reasonable degree of certainty project success and the reasonably determined level of financial risk to the State from total or partial failure of the mitigation project.

The Division shall report to the Environmental Review Commission regarding the review and revisions required by this section no later than December 1, 2017. The report shall include an explanation of the methodology followed in setting bonding amounts and time lines for procured mitigation projects and a description of any changes made to the Division's procedures as a result of the review required by this section.

STUDY OF STATE-OWNED PROPERTIES

SECTION 6. The Department of Administration shall develop an inventory of all State-owned properties, determine which State-owned properties would be appropriate for compensatory mitigation to satisfy the compensatory mitigation required of State agencies, and determine whether the stewardship and maintenance of certain State-owned properties would be more efficiently and effectively administered by private nonprofit organizations such as conservation land trusts. Other State agencies, including the Department of Transportation and the Department of Environmental Quality, shall assist the Department of Administration in the implementation of this section. The Department of Administration shall submit the results of implementing this section to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission no later than February 1, 2017.

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 402

Short Title: Limit Env. Liability for Certain Recyclers.

(Public)

Sponsors: Representatives McElraft and Yarborough (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

March 20, 2017

A BILL TO BE ENTITLED
AN ACT TO GENERALLY EXEMPT PERSONS WHO ARRANGE FOR RECYCLING OF
RECYCLABLE MATERIALS FROM LIABILITY FOR HAZARDOUS SUBSTANCES
RELEASED OR THREATENED TO BE RELEASED AT A FACILITY OWNED OR
OPERATED BY ANOTHER PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.7 reads as rewritten:

"§ 130A-310.7. Action for reimbursement; liability of responsible parties; notification of completed remedial action.

(a) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in this subsection, any person who:

- (1) Discharges or deposits; or
- (2) Contracts or arranges for any discharge or deposit; or
- (3) Accepts for discharge or deposit; or
- (4) Transports or arranges for transport for the purpose of discharge or deposit

any hazardous substance, the result of which discharge or deposit is the existence of an inactive hazardous substance or waste disposal site, shall be considered a responsible party. Neither an innocent landowner who is a bona fide purchaser of the inactive hazardous substance or waste disposal site without knowledge or without a reasonable basis for knowing that hazardous substance or waste disposal had occurred nor a person whose interest or ownership in the inactive hazardous substance or waste disposal site is based on or derived from a security interest in the property shall be considered a responsible party. A responsible party shall be directly liable to the State for any or all of the reasonably necessary expenses of developing and implementing a remedial action program for such site. The Secretary shall bring an action for reimbursement of the Inactive Hazardous Sites Cleanup Fund in the name of the State in the superior court of the county in which the site is located to recover such sum and the cost of bringing the action. The State must show that a danger to the public health or the environment existed and that the State complied with the provisions of this Part.

(b) There shall be no liability under this section for a person who can establish by a preponderance of the evidence that the danger to the public health or the environment caused by the site was caused solely by:

- (1) An act of God; or
- (2) An act of war; or
- (3) An intentional act or omission of a third party (but this defense shall not be available if the act or omission is that of an employee or agent of the



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1 defendant, or if the act or omission occurs in connection with a contractual
2 relationship with the defendant); or

3 (4) Any combination of the above causes.

4 (b1) Notwithstanding subsection (a) of this section, there shall be no liability under this
5 section for a person who arranges for recycling of recyclable materials with respect to such
6 materials if that person has complied with all standards, requirements, and criteria set forth in
7 the Superfund Recycling Equity Act of 1999, 42 U.S.C. § 9627, as amended.

8 (c) The definitions set out in G.S. 130A-310.31(b) apply to this subsection. Any person
9 may submit a written request to the Department for a determination that a site that is subject to
10 this Part has been remediated to unrestricted use standards as provided in Part 5 of Article 9 of
11 Chapter 130A of the General Statutes. A request for a determination that a site has been
12 remediated to unrestricted use standards shall be accompanied by the fee required by
13 G.S. 130A-310.39(a)(2). If the Department determines that the site has been remediated to
14 unrestricted use standards, the Department shall issue a written notification that no further
15 remediation will be required at the site. The notification shall state that no further remediation
16 will be required at the site unless the Department later determines, based on new information or
17 information not previously provided to the Department, that the site has not been remediated to
18 unrestricted use standards or that the Department was provided with false or incomplete
19 information. Under any of those circumstances, the Department may withdraw the notification
20 and require responsible parties to remediate the site to unrestricted use standards."

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



HOUSE BILL 402: Limit Env. Liability for Certain Recyclers.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Reps. McElraft, Yarbrough
Analysis of: First Edition

Date: April 20, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 402 would exempt persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria.*

CURRENT LAW/BACKGROUND: The federal Superfund law (officially the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA") imposes liability on parties responsible for, in whole or in part, the presence of hazardous substances at a site. There are four classes of Superfund liable parties:

- Current owners and operators of a facility,
- Past owners and operators of a facility at the time hazardous wastes were disposed,
- Generators and parties that arranged for the disposal or transport of the hazardous substances, and
- Transporters of hazardous waste that selected the site where the hazardous substances were brought.

The Superfund Recycling Equity Act (SREA) of 1999, however, amended CERCLA to exempt certain persons who "arranged for recycling of recyclable materials" from such liability. A recycler, however, must satisfy a number of criteria, demonstrated by a preponderance of the evidence, in order to avail themselves of the liability exemption. For instance, the following conditions must exist at the time of the transaction:

- A market exists for the material.
- The party must have exercised reasonable care to determine whether a consuming facility is in compliance with all applicable environmental laws.

G.S. 130A-310.7, sometimes considered the State's "superfund" law, provides that, with limited exceptions, any person who:

- Discharges or deposits; or
- Contracts or arranges for any discharge or deposit; or
- Accepts for discharge or deposit; or

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 402

Page 2

- Transports or arranges for transport for the purpose of discharge or deposit

any hazardous substance, the result of which discharge or deposit is the existence of an inactive hazardous substance or waste disposal site, shall be considered a responsible party and liable for cleanup of the site.

BILL ANALYSIS: The bill would amend G.S. 130A-310.7 to exempt persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria set forth in the federal SREA.

EFFECTIVE DATE: This bill would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 770

Short Title: Noncommercial USTs/Rule-Making Report. (Public)

Sponsors: Representatives K. Hall, McElraft, B. Turner, and Harrison (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A REPORT ON RULES FOR REMEDIATION OF CERTAIN
3 UNDERGROUND STORAGE TANKS REQUIRED BY THE 2015 APPROPRIATIONS
4 ACT.
5 The General Assembly of North Carolina enacts:
6 **SECTION 1.** The Department of Environmental Quality shall adopt temporary
7 rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017.
8 Notwithstanding G.S. 150B-21.1(d), the temporary rules shall remain in effect until the
9 effective date of the permanent rule adopted to replace the temporary rule.
10 **SECTION 2.** The Department shall report regarding the status of the rule making
11 required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research Division
12 and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and
13 Economic Resources no later than December 31, 2017.
14 **SECTION 3.** This act is effective when it becomes law.



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HOUSE BILL 770: Noncommercial USTs/Rule-Making Report.

2017-2018 General Assembly

Committee:	House Environment	Date:	April 20, 2017
Introduced by:	Reps. K. Hall, McElraft, B. Turner, Harrison	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 770 would require the Department of Environmental Quality (Department) to: (i) adopt temporary rules to reflect modifications to requirements for assessment and corrective action in response to discharges and releases from petroleum underground storage tanks (USTs), which were enacted by the General Assembly in 2015; and (ii) report on the status of this rulemaking process to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.*

CURRENT LAW: Section 14.16B of S.L. 2015-241 (2015 Appropriations Act) directed the Department to amend several rules pertaining to risk-based assessment and corrective action for USTs to do the following:

- "(1) Not require a responsible party to take immediate action or initial abatement actions with respect to a discharge or release from a noncommercial underground storage tank until such time as the Department has classified the risk posed by the discharge or release, except for those actions determined by the Department to be necessary to protect public health, safety, and welfare and the environment, and to mitigate any fire, explosion, or vapor hazard.
- (2) Notify the responsible party that no cleanup, no further cleanup, or no further action will be required by the Department if the risk posed by a discharge or release from a noncommercial underground storage tank is determined by the Department to be low risk, without requiring soil remediation pursuant to 15A NCAC 02L .0408. The Department may, however, reclassify the risk if it later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment."

In addition, the Department was directed to implement these provisions, in advance of rulemaking, as soon as the legislation became law.

BILL ANALYSIS: The bill directs the Department to adopt temporary rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017, and provides that the temporary rules will remain in effect until permanent rules are adopted, and have become effective. The bill also requires the Department to report on the status of such rulemaking to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

EFFECTIVE DATE: This bill would be effective when it becomes law.

aren Cochrane-Brown
Director



Legislative Analysis
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919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 576

Short Title: Allow Aerosolization of Leachate.

(Public)

Sponsors: Representative Dixon.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

April 6, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO APPROVE AEROSOLIZATION AS AN ACCEPTABLE METHOD FOR DISPOSAL OF LEACHATE AND WASTEWATER FROM A LANDFILL AND PROVIDE THAT AEROSOLIZATION OF LEACHATE OR WASTEWATER THAT RESULTS IN EFFLUENT-FREE PRODUCTION OR A ZERO-LIQUID DISCHARGE DOES NOT CONSTITUTE A DISCHARGE THAT REQUIRES A PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-294(a) reads as rewritten:

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

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

...

- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and



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- 1 shall also state its estimate of the changes in the applicant's proposed
2 activities or plans that will be required for the applicant to obtain a
3 permit.
- 4 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1,
5 2007.
- 6 c. The Department shall deny an application for a permit for a solid
7 waste management facility if the Department finds that:
- 8 1. Construction or operation of the proposed facility would be
9 inconsistent with or violate rules adopted by the Commission.
 - 10 2. Construction or operation of the proposed facility would
11 result in a violation of water quality standards adopted by the
12 Commission pursuant to G.S. 143-214.1 for waters, as
13 defined in G.S. 143-213.
 - 14 3. Construction or operation of the facility would result in
15 significant damage to ecological systems, natural resources,
16 cultural sites, recreation areas, or historic sites of more than
17 local significance. These areas include, but are not limited to,
18 national or State parks or forests; wilderness areas; historic
19 sites; recreation areas; segments of the natural and scenic
20 rivers system; wildlife refuges, preserves, and management
21 areas; areas that provide habitat for threatened or endangered
22 species; primary nursery areas and critical fisheries habitat
23 designated by the Marine Fisheries Commission; and
24 Outstanding Resource Waters designated by the Commission.
 - 25 4. Construction or operation of the proposed facility would
26 substantially limit or threaten access to or use of public trust
27 waters or public lands.
 - 28 5. The proposed facility would be located in a natural hazard
29 area, including a floodplain, a landslide hazard area, or an
30 area subject to storm surge or excessive seismic activity, such
31 that the facility will present a risk to public health or safety.
 - 32 6. There is a practical alternative that would accomplish the
33 purposes of the proposed facility with less adverse impact on
34 public resources, considering engineering requirements and
35 economic costs.
 - 36 7. The cumulative impacts of the proposed facility and other
37 facilities in the area of the proposed facility would violate the
38 criteria set forth in sub-sub-subdivisions 2. through 5. of this
39 sub-subdivision.
 - 40 8. Construction or operation of the proposed facility would be
41 inconsistent with the State solid waste management policy
42 and goals as set out in G.S. 130A-309.04 and with the State
43 solid waste management plan developed as provided in
44 G.S. 130A-309.07.
 - 45 9. The cumulative impact of the proposed facility, when
46 considered in relation to other similar impacts of facilities
47 located or proposed in the community, would have a
48 disproportionate adverse impact on a minority or low-income
49 community protected by Title VI of the federal Civil Rights
50 Act of 1964. This subdivision shall apply only to the extent
51 required by federal law.

- 1 d. Management of land clearing debris burned in accordance with 15A
2 NCAC 02D.1903 shall not require a permit pursuant to this section.
3 e. For the purpose of the disposal of leachate and wastewater collected
4 from a sanitary landfill, the Department shall approve aerosolization
5 of such leachate and wastewater as an acceptable method of disposal.
6 Aerosolization of leachate or wastewater that results in effluent-free
7 production or a zero-liquid discharge does not constitute a discharge
8 that requires a permit under either Article 21 or Article 21B of
9 Chapter 143 of the General Statutes.

10"

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





HOUSE BILL 576: Allow Aerosolization of Leachate.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Rep. Dixon
Analysis of: First Edition

Date: April 20, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 576 would: (i) require the Department of Environmental Quality (Department) to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill; and (ii) provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.*

CURRENT LAW/ BACKGROUND: In February 2016, a working group of the Environmental Review Commission met to discuss a variety of issues related to waste management. During that process, the working group received information on aerosolization as a process for disposal of leachate at landfills, and a briefing on aerosolization projects operating within the State. According to information received by the working group¹, aerosolization of wastewater is a process by which larger particles (50-2,000 microns) are formed into droplets and then dispersed over a relatively small area (100' x 300'). Such projects require a permit from the Department's Division of Waste Management.

BILL ANALYSIS: The bill would modify the statute governing permitting authority of the Department over establishment and operation of solid waste management facilities to require the Department to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill. In addition, this section would provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.

EFFECTIVE DATE: The bill would be effective when it becomes law.

¹ See additional information at

[http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group \(S.L. 2015-241, Sec. 14.21\(a\)\(b\)\)\1 - February 10, 2016](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group (S.L. 2015-241, Sec. 14.21(a)(b))\1 - February 10, 2016)

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



Reference List

- Alibek, Ken. *Biohazard*. New York: Dell Publishing/Random House, 1999.
- Artenstein, Andrew W. et al. "History of Military Contributions to the Study of Vaccines against Infectious Diseases." *Military Medicine* Vol 170: April Supplement. 2005.
- Bograkos, William. *How Serious Should the U.S. Take the Non-State Threat of (Biological) WMD?* Submitted to the Faculty of the Naval War College. Newport, R.I. April 2010.
- Carus, W. Seth. *Bioterrorism and Biocrime. The Illicit Use of Biological Agents since 1900.* Center for Counterproliferation Research. The National Defense University. Washington D.C. February 2001.
- Centers for Disease Control and Prevention. "Update: Multistate Outbreak of Monkeypox—Illinois, Indiana, Kansas, Missouri, Ohio, and Wisconsin, 2003." *Morbidity and Mortality Weekly Report*. Vol. 52/No. 27. 11 July 2003.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Background. "Emerging Infectious Diseases: A Strategy for the 21st Century: A Strategic Plan. 1998.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases, Division of Vector-Borne Infectious Diseases. *West Nile Virus*. October 2005. Available from www.cdc.gov/ncidod/dvbid/westnile.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Division of Global Migration and Quarantine. *Update: Human Infection with Avian Influenza A (H5N1) Virus in Asia*. Outbreak Notice. 23. September, 2005. Available from www.cdc.gov/travel/other/avian_influenza_se_asia_2005.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Special Pathogens Branch. *Known Cases and Outbreaks of Marburg Hemorrhagic Fever, in Chronological Order*. May 2005. Available from www.cdc.gov/ncidod/dvrd/spb/mnpages/dispages/marburg/marburgtable.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. *Fact Sheet: Basic information about SARS*. Severe Acute Respiratory Syndrome (SARS). May, 2005. Available from www.cdc.gov/ncidod/sars/factsheet.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. *Fact Sheet: What You Should Know About Monkeypox*. June 2003. Available from www.cdc.gov/ncidod/monkeypox/factsheet2.htm.
- Centers for Disease Control and Prevention. Office of Communications. Division of Media Relations. *Monkeypox: Report of Cases in the United States*. July 2003.

Version 3.1

REPRESENTATIVE JIMMY DIXON
N.C. HOUSE OF REPRESENTATIVES
4TH DISTRICT

1002 LEGISLATIVE BUILDING
16 W. JONES STREET
RALEIGH, NC 27601-1096
(919) 715-3021
JIMMY.DIXON@NCLEG.NET

DISTRICT ADDRESS
PO BOX 222
WARSAW, NC 28398
CELL: 910-590-1740
jimdixon222@att.net

INST 2-3



- Davis, Christopher J. "Nuclear Blindness: An Overview of the Biological Weapons Programs of the Former Soviet Union and Iraq." *Emerging Infectious Diseases*. 5(4). July–August 1999.
- Diamond, Jared. *Guns, Germs and Steel, The Fates of Human Societies*. New York: W. W. Norton & Company, 1999.
- Franz, David, Cheryl Parrott and Earnest T. Takafuji. "Chapter 19: The US Biological Warfare and Biodefense Programs." *Medical and Chemical Aspects of Chemical and Biological Warfare*. The Bordin Institute, Walter Reed Army Medical Center, Washington, D.C. 1997.
- Frischknecht, Friedrich. "The History of Biological Warfare." In *Decontamination of Warfare Agents*. Weinheim: WILEY-VCH Verlag GmbH & Co. KGaA, 2008.
- Henderson, D.A. "Smallpox as a Biological Weapon." *Journal of the American Medical Association* Vol 281. 1999.
- Inglesby T.V., O'Toole T., Henderson D.A., Bartlett J.G., Ascher M.S., Eitzen E. et al. "Anthrax as a Biological Weapon; Updated Recommendations for Management." *Journal of the American Medical Association*. 2002;287:2236–52. 2002.
- INTERPOL, *Bioterrorism Incident Pre-planning and response guide*, ICPO-INTERPOL, 2007.
- Iraq Survey Group (ISG). *Iraq Survey Group Final Report: Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*. September 2004. Available from www.globalsecurity.org/wmd/library/report/2004/isg-final-report/index.html.
- Jahrling, P.B. et al. "Preliminary report: isolation of Ebola virus from monkeys imported to USA." *Lancet*. 335:502-05.1990.
- Johnson, George. "Infectious Disease and Bioterrorism." *The Living World*, Ed. 3. New York: McGraw-Hill, 2009.
- Kolavic, S.A. et al. 1997 "An outbreak of Shigella dysenteriae type 2 among laboratory workers due to intentional food contamination." *Journal of the American Medical Association*. 278(5);396-398. August, 1997.
- Kortepeter, M.G. and G.W. Parker.1999. "Potential Bioweapons Threats." *Emerging Infectious Diseases*. 5(4).523-527. July-August 1999. Available from www.cdc.gov/ncidod/EID/vol5no4/kortepeter.htm.
- Lim, Matthew L. et al. "History of U. S. Military Contributions to the Study of Diarrheal Diseases." *Military Medicine*. Vol 170: April Supplement. 2005.
- May, Bill. Personal interview. Personal communication to Mr. William Patrick.



- Miller, Judith, Stephen Engleberg, and William J. Broad. *Germs: Biological Weapons and America's Secret War*. New York: Simon & Schuster, 2001.
- NATO *Handbook on the Medical Aspects of NBC Defensive Operations*, AMedP-6 (B), Part II-Biological, Departments of the Army, the Navy, and the Air Force, 1-1. 1996.
- Perl, Raphael. *Terrorism, the Future, and U.S. Foreign Policy*. Congressional Research Service. Issue Brief for Congress. Order Code IB95112. 6 March 2003.
- Peters, C.J. *Virus Hunter: Thirty Years of Battling Hot Viruses Around the World*. 1997.
- Sartis, Jeffrey S. "Infectious Diseases During the Civil War: The Triumph of the 'Third Army.'" *Clinical Infectious Diseases* 16: 580-584. 1993.
- Spencer, R. C. and M. H. Wilcox. "Agents of Biological Warfare." *Reviews in Medical Microbiology*. 1993.
- United States Army Medical Research Institute of Infectious Diseases. *Medical Management of Biological Casualties Handbook*. 6th ed. August 2008.
- United States Congress. House of Representatives. *Homeland Security Act of 2002*. 107 Cong., 2nd sess. H.R. 5005. 23 January 2002.
- University of Alabama-Birmingham. "Bioterrorism and Emerging Infections Education." *History of Development as a Weapon*. Category A Agents: Anthrax.
- World Health Organization, *Health Aspects of Chemical and Biological Weapons*. World Health Organization, pp. 95-99. Geneva. 1970.
- World Health Organization. *Avian influenza and food safety: statement by Dr LEE Jong-Wook, WHO Director-General*. February 2006.
- World Health Organization. *Avian influenza ("bird flu") and the significance of its transmission to humans*. Avian influenza – fact sheet. January 2004.
- World Health Organization. Epidemic and Pandemic Alert and Response (EPR). Disease Outbreak News. *Marburg haemorrhagic fever in Angola – update 25*. August 2005. Available from http://www.who.int/csr/don/2005_08_24/en/index.html.
- World Health Organization. *Unexpected Outbreaks: Examples of Emerging and Re-emerging Infectious Diseases, 1994-1999*. Graph 30. Removing Obstacles to Healthy Development. 1999. Available from www.who.int/infectious-disease-report/pages/graph30.html.





North Carolina Department of Environment and Natural Resources

Division of Waste Management

Dexter R. Matthews

Director

SOLID WASTE SECTION

May 7, 2013

Pat McCrory
Governor

John E. Skvarla, III
Secretary

Mr. Matthew Cheek
Hodges, Harbin, Newberry & Tribble, Inc.
3920 Arkwright Road, Suite 101
Macon, Georgia 31210

Subject: Leachate Evaporation – Demonstration
Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998
Caldwell County, DIN 18910

Dear Mr. Cheek;

When last we spoke on the subject of leachate evaporation at the Foothills Landfill I requested an operations plan be developed for the demonstrated process. Since that time the Solid Waste Section (Section) has received other similar requests and has developed the basics of an operations plan outline for application of leachate to landfill surfaces (below).

General

1. Facility must comply with all federal, state and local ordinances.
2. Leachate must be applied in a manner that does not threaten public health or the environment.
3. It is the Facility's responsibility to ensure leachate and its constituents do not contaminate groundwater, surface water, and off liner soils.

Operation

1. The Plan must contain a complete equipment list and detailed operator instructions.
2. The Plan must contain a map of areas to be sprayed.
3. Leachate must be applied on areas of the landfill that are lined.
4. There may be no runoff of leachate from sprayed areas.
5. Leachate must not be applied on standing water.
6. Leachate must be applied only on well-maintained areas with established vegetation. The only exception is the limited application on areas where vegetation is being established.
7. Leachate must not be applied at night or when vision is restricted (i.e. fog).
8. Leachate must not be applied in a manner that causes it to be applied on unlined areas of the facility. No over spray.
9. Leachate application is not allowed during or immediately after precipitation events.
10. Leachate must not be applied to closed portions of the landfill.
11. Soil on which leachate has been sprayed must remain in the landfill, it may not be removed from and/or stockpiled off the lined landfill.

Application on Side Slopes

12. During application an operator must attend the equipment at all times, and have communications with other onsite personnel, in case of spills or other emergencies.
13. The area being sprayed must be monitored constantly to prevent over application and runoff.
14. Leachate application is not allowed in areas where leachate seeps are evident.





Page 2
HHNT
May 7, 2013

15. An Application Log must be maintained for leachate application. At a minimum the following information must be maintained for each application – date, time, application duration, gallons applied, weather conditions.

Contingency

In the event leachate leaves the lined area of the landfill (spill, over spray, and/or runoff) or evidence of the contamination of ground water, surface waste or off liner soils is discovered; the facility will be expected to;

1. Cease application of leachate and report the issues to the Section immediately.
2. Perform soil sampling in affected areas, with prior Section approval. Soil type, soil infiltration rate, amount of organic matter, soil solution conductivity, Appendix I VOCs and metals, nitrogen, ammonia, chloride, and pH need to be determined. This will also determine any potential impacts to groundwater and surface water within a soil column.
3. Possibly remove contaminated soils.
4. Take all other steps necessary to contain and prevent further contamination.
5. Update the Monitoring Plans
 - a. Update its Water Quality Monitoring Plan, with prior Section approval, to include;
 - i. Increased sampling ground water monitoring wells and surface water monitoring sites, frequency.
 - ii. Additional monitoring for ammonia, nitrogen, chlorides, and metals.
 - iii. The possible addition of ground water of monitoring wells.
 - iv. The possible addition of surface water monitoring sites.
 - b. Increase in frequency landfill gas monitoring.
 - c. Add landfill gas monitoring wells.

Should you have any questions you may contact me at (828) 296-4704 or larry.frost@ncdenr.com.

Sincerely,

Larry Frost
Environmental Engineer

cc: Deb Aja –SWS/ARO
Christine Ritter – SWS/RCO
Jackie Drummond – SWS/RCO
Ed Mussler – SWS/RCO





North Carolina Department of Environment and Natural Resources

Division of Waste Management

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

SOLID WASTE SECTION

August 27, 2013

Mr. Ray Hoffman, PE
Republic Services of NC, LLC
1220 Commerce Street SW
Conover, North Carolina 28613

Subject: Leachate Evaporation (LES) – Standard Operating Procedures, Approval
Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998
Caldwell County, DIN 19601

Dear Mr. Hoffman:

On August 8, 2013 the Division of Waste Management, Solid Waste Section (Section) received Republic Services of NC, LLC's Request, entitled;

- Foothills Regional MSW Landfill, Leachate Evaporation (LES) – Standard Operating Procedures, Facility No. 14-03, Caldwell County, North Carolina, HHNT Project No. 6703-469-01. Prepared for Republic Services. Prepared by HHNT. August 2013. DIN 19480.

The Request concerns Foothills Environmental Landfill's Plan to implement a Leachate Evaporation System (LES) for the alternative disposal of leachate.

The Section has reviewed the request and hereby approves the immediate implementation of the Plan at Republic Services, Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998. Republic Services shall consider the referenced Request (DIN 19480) as an approved document. The Facility should operate in this manner until the current permit is either amended or modified. Therefore, the next time the Facility prepares either a Permit amendment or modification it is expected to submit an Operations Plan which includes revised language for the operation of the LES.

Should you have any questions regarding this matter contact me at (828) 296-4704 or larry.frost@ncdenr.gov.

Sincerely,

Larry Frost
Environmental Engineer

cc: Deb Aja – SWS/ARO
John Murray – SWS/MRO
Bill Hodges – HHNT



Municipalities, the Association of County Commissioners, the Local Government Commission, faculty from the School of Government at the University of North Carolina at Chapel Hill, as well as private waste management interests, at a minimum. The Division of Waste Management and the Division of Environmental Assistance and Customer Service of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

SECTION 14.21.(b) The Environmental Review Commission shall study the use of new technologies and strategies, including the use of integrated and mobile aerosolization systems, to dewater leachate and other forms of wastewater for the purpose of reducing the burden and cost of disposal at the site where it is generated. The Commission shall determine the efficiency, cost-effectiveness, and environmental impact of each studied technology and strategy. The Division of Waste Management and the Division of Water Resources of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

PRE-1983 LANDFILL CLEANUP PRIVATIZATION

SECTION 14.22.(a) Legislative Findings. – The General Assembly makes the following findings:

- (1) Section 5 of Article XIV of the North Carolina Constitution sets out the conservation and protection of State lands and waters as a policy of the State, and a more expeditious method for remediation and reuse of pre-1983 landfill sites and other State-identified contaminated sites is in furtherance of that policy.
- (2) Despite past legislative directives, a dedicated source of revenue, and a considerable fund balance, little progress has been made in active cleanup of these landfill sites.
- (3) Qualified private firms should be given the opportunity to remediate pre-1983 landfills and other State-identified contamination sites.
- (4) Implementation of a site assessment and remediation program based on requests for proposal from private firms for the 10 highest-priority pre-1983 landfill sites will result in multiple benefits to the State, including (i) reducing known environmental hazards that are associated with the many identified sites across the State, (ii) decreasing the State's economic liability for these sites, (iii) promoting economic growth through the job creation associated with returning these sites to beneficial and productive use, and (iv) establishing an efficient, cost-effective model for other State projects.

SECTION 14.22.(b) G.S. 130A-310.6 is amended by adding a new subsection to read:

"(h) The Department shall implement an ongoing program that provides for the expeditious assessment and, where indicated as necessary based on assessment and other data, the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983 landfill sites that have been identified by the Department as being among the 100 sites rated highest in priority under subsection (c) of this section. The program shall include the following activities to be undertaken by the Department:

- (1) Contract via issuance of a Request for Proposal with one or more qualified private entities who have prequalified under procedures established by the Department for (i) remaining assessment and contamination delineation activities necessary to identify those sites within the 100 highest-priority sites where completion of site remediation will yield maximum health, safety, and economic benefits based on an evaluation of potential beneficial and productive use of the site, impact of the unremediated site on uses of



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

****HB 557 and HB 632 to be heard for discussion only**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Yarborough
		Representative Howard
		Representative McElraft
		Representative McGrady
		Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Yarborough
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Dixon
		Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall
		Representative McElraft
		Representative B. Turner
		Representative Harrison



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:21 PM on Tuesday, April 18, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



Corrected #3: HB 557 and HB 632 to be heard for discussion only

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
		Representative Yarborough
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Howard
		Representative McElraft
		Representative McGrady
		Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft
		Representative Yarborough
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Boswell
		Representative Shepard
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall
		Representative McElraft
		Representative B. Turner
		Representative Harrison
<u>HB 825</u>	Protect NC Children From Lead Exposure.	Representative Warren
		Representative Faircloth
		Representative Horn



Representative Boswell

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:25 AM on Monday, April 17, 2017.

___ Principal Clerk
___ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



Corrected #2:

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017

TIME: 11:00 AM

LOCATION: HB 557 and HB 632 to be heard for discussion only

COMMENTS: Rep. Pat McElraft, presiding

**** **HB 557 and HB 632 to be heard for discussion only**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Yarborough Representative Howard Representative McElraft Representative McGrady Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Boswell Representative Shepard
<u>HB 748</u>	Underground Damage Prevention Act/Changes.	Representative Millis
<u>HB 770</u>	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner Representative Harrison
<u>HB 825</u>	Protect NC Children From Lead Exposure.	Representative Warren Representative Faircloth Representative Horn Representative Boswell



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:15 AM on Monday, April 17, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
		Representative Yarborough
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Howard
		Representative McElraft
		Representative McGrady
		Representative Setzer
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative McElraft
		Representative Yarborough
<u>HB 557</u>	Mitigation Services Amendments.	Representative Millis
		Representative McElraft
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Bradford
<u>HB 524</u>	Marine Aquaculture Development Act.	Representative Dixon
		Representative Boswell
		Representative Shepard



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 9:55 AM on Thursday, April 13, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Pat McElraft, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 56</u>	Amend Environmental Laws.	Representative McElraft
<u>HB 244</u>	Public Participation/Composting Facilities.	Representative Yarborough
		Representative Howard
		Representative McElraft
		Representative McGrady
<u>HB 271</u>	Repeal Plastic Bag Ban.	Representative Setzer
		Representative Boswell
		Representative J. Bell
<u>HB 402</u>	Limit Env. Liability for Certain Recyclers.	Representative Bradford
		Representative McElraft
<u>HB 557</u>	Mitigation Services Amendments.	Representative Yarborough
		Representative Millis
		Representative McElraft
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Bradford
		Representative Dixon

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:53 PM on Monday, April 10, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**House Committee on Environment
Thursday, April 20, 2017, 11:00 AM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 56	Amend Environmental Laws.	Representative McElraft Representative Yarborough
HB 244	Public Participation/Composting Facilities.	Representative Howard Representative McElraft Representative McGrady Representative Setzer
HB 402	Limit Env. Liability for Certain Recyclers.	Representative McElraft Representative Yarborough
HB 576	Allow Aerosolization of Leachate.	Representative Dixon
HB 748	Underground Damage Prevention Act/Changes.	Representative Millis
HB 770	Noncommercial USTs/Rule-Making Report.	Representative K. Hall Representative McElraft Representative B. Turner Representative Harrison
HB 557	Mitigation Services Amendments. For Discussion Only	Representative Millis Representative McElraft Representative Bradford
HB 632	Amend Mitigation Services Law. For Discussion Only	Representative Torbett Representative Lewis Representative McGrady

Presentations

Other Business

Adjournment



Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Thursday, April 20, 2017

TIME: **1:00 PM**

LOCATION: **1228/1327 LB**

COMMENTS: **Agenda TBD**

Respectfully,

Representative Pat McElraft, Co-Chair

Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:12 PM on Thursday, April 20, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)



VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Greg L. Island	UPPER COASTAL PLAIN COG WILSON, NC
Eva Rogers	LWVODC
Kelli Kulma	Duke Energy
Stephen Kouben	KMA
Robert Midgette	DEQ, DWR, Public Water Supply
Doug Lassiter	NCSTA
Caitlin Little	VNC SOG
Isabel Villa-Garcia	NC REACTORS
Dave Home	SA



VISITOR REGISTRATION SHEET

ENVIRONMENT

Name of Committee

4/20/17
DateVISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Carver Henry	MV4
J GOODWIN	CCC
Jay Stem	NCAA
Jason Hawkins	DEQ - Waste management
Alex Bannhimer	DEQ UST-DWM
Ellen Lorscheider	DEQ solid waste
Michael Seiff	DEQ - DWM
TRACY DAVIS	DEQ - DEMUR
GREG PERFETTI	DOT
Joy Hulls	DOT
Chris Brington	MWC
TJ Bugbee	NP



VISITOR REGISTRATION SHEET

ENVIRONMENT

Name of Committee

Date

4/20/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bonnie Rainey Pearson	SELC
Matthew Starr	Riverkeeper
Derek Wagner	Dept of Ag
Joe Hudynia	NCDARECS
Craig Saunders	NCDARECS
Joe Reardon	NCDARECS
Jeremy Tarr	Office of Gov.
Jennifer Mundt	DEQ
Mary Penny Kelley	DEQ
Tim Baumgartner	DEQ
Samuel	Kitties



VISITOR REGISTRATION SHEET

ENVIRONMENT

Name of Committee

4/20/17
DateVISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jamie Cole

NCCN

Don Hony

NCPcm

Peter M Gallings

GALLINS FAMILY FARM

202 Rocky Dale Lane, Mocksville, NC 27028

Rick Corbett

2nd Dir. of RAC VACC

Will Culpeper

MVA

Lori Ann Harris

LAHA

Seth Palmer

NCAR

Ben Mattheus

NCARI

Jeff Poupert

NC DEQ

Mike Abraczinskas

NC DEQ

Michael Pietraj

NC DEQ

Linda Culpeper

NC DEQ

Willie Mae Harrison - Waco, TX



VISITOR REGISTRATION SHEET

ENVIRONMENT

Name of Committee

4/20/17
DateVISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Eric Wallace	Wallace Farm, Inc.
Jim Lavier	Earth Farms Organics
STEVE COCKMAN	McGILL ENVIRONMENTAL SYSTEMS
Amy Brooks	Brooks Contractor
Chris Anderson	
Kelly Houston	
Travis Ward	RANC
Elizabeth Biser	Brook Pen
Andy Miller	DEP
Tracy Kimbrell	Parker POC
Ed Tuley	HP

Rick Zechin

Williams Miller

Corrected #2: Remove HB 667 Add HB 576

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Monday, April 24, 2017
TIME: 2:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Larry Yarborough, presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 576</u>	Allow Aerosolization of Leachate.	Representative Dixon

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 6:40 PM on Sunday, April 23, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)



**House Committee on Environment
Monday, April 24, 2017, 2:00 PM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 576	Allow Aerosolization of Leachate.	Representative Dixon

Presentations

Other Business

Adjournment



House Committee on Environment
Monday, April 24, at 2:00
Room 1228/1327

MINUTES

The House Committee on Environment met at 2:00 on April 24, 2017 in Room 1228/1327. Representatives Adams, Autry, Bradford, Collins, Dixon, Garrison, Harrison, Martin, McElraft, McGrady, Millis, Morey, Stone, Strickland, and Yarborough attended.

Rep. Larry Yarborough presided.

The following bill was considered:

HB 576 Allow Aerosolization of Leachate (Rep. Dixon)
Reported Favorable Com Sub No. 2, Unfavorable Com Sub No. 1

The meeting adjourned at 2:40.

Rep. Larry Yarborough
Presiding

Leslie Murray, Committee Clerk



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

HB 576 (CS#1)

Allow Aerosolization of Leachate.

Draft Number:	H576-PCS30377-RI-13
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes
Floor Manager:	Dixon

TOTAL REPORTED: 1



* C M R 2 9 6 - V - 1 *



House Environment Committee

[illegible]





HOUSE BILL 576: Allow Aerosolization of Leachate.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Rep. Dixon
Analysis of: PCS to Second Edition
H576-CSRI-13

Date: April 24, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 576 would: (i) require the Department of Environmental Quality (DEQ) to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill; and (iii) provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.*

The PCS makes the following changes to the 2nd Edition of the bill:

- Requires DEQ to approve aerosolization *for lined landfills only, with the process used within the lined landfill area only, except that aerosolization would not be allowed at municipal solid waste landfills permitted to receive waste from a swine lagoon for disposal* (in addition to the exception under the previous version of the bill that excepted landfills permitted to receive coal ash).
- It adds language to make it *permissive* for DEQ to approve aerosolization for *unlined landfills*.
- Newly requires an applicant to provide DEQ with data that characterizes contaminants of concern around the landfill emanating from aerosolization.
- Modifies the language that in the earlier versions provided that aerosolization of leachate that results in a zero-liquid discharge does not require an air or water quality permit (but would have still required a solid waste permit) to *add language requiring that the process must not be "a significant air contamination source" to obviate the need for an air or water quality permit.*

CURRENT LAW/ BACKGROUND: In February 2016, a working group of the Environmental Review Commission met to discuss a variety of issues related to waste management. During that process, the working group received information on aerosolization as a process for disposal of leachate at landfills, and a briefing on aerosolization projects operating within the State. According to information received by the working group¹, aerosolization of wastewater is a process by which larger particles (50-

¹ See additional information at [http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group \(S.L. 2015-241, Sec. 14.21\(a\)\(b\)\)\1 - February 10, 2016](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group (S.L. 2015-241, Sec. 14.21(a)(b))\1 - February 10, 2016)

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 576

Page 2

2,000 microns) are formed into droplets and then dispersed over a relatively small area (100' x 300'). Such projects require a permit from the Department's Division of Waste Management.

BILL ANALYSIS: The bill would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to: (i) require that DEQ approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; and (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill. Aerosolization would not be allowed, however, for landfills permitted to receive coal ash or swine waste. Applicants for permits for aerosolization would be required to provide DEQ with data that characterizes contaminants of concern around the landfill emanating from aerosolization. The PCS would also provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.

DEQ must gather information on approved aerosolization projects and report its findings, including any recommendations for legislative action, to the Environmental Review Commission by March 31, 2018.

EFFECTIVE DATE: The bill would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 576
Committee Substitute Favorable 4/20/17
PROPOSED COMMITTEE SUBSTITUTE H576-CSRI-13 [v.5]
04/22/2017 09:28:10 AM

Short Title: Allow Aerosolization of Leachate.

(Public)

Sponsors:

Referred to:

April 6, 2017

A BILL TO BE ENTITLED
AN ACT TO: (1) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO
APPROVE AEROSOLIZATION OF LEACHATE AND WASTEWATER FROM A
LINED SANITARY LANDFILL FOR THE DISPOSAL OF MUNICIPAL SOLID
WASTE LANDFILL, IN CERTAIN CIRCUMSTANCES; (2) ALLOW THE
DEPARTMENT TO APPROVE AEROSOLIZATION OF LEACHATE FROM UNLINED
LANDFILLS; AND (3) PROVIDE THAT AEROSOLIZATION OF LEACHATE OR
WASTEWATER THAT RESULTS IN A ZERO-LIQUID DISCHARGE AND IS NOT A
SIGNIFICANT AIR CONTAMINATION SOURCE DOES NOT CONSTITUTE A
SOURCE THAT REQUIRES CERTAIN PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-294(a) reads as rewritten:
"§ 130A-294. Solid waste management program.

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

- ...
- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications



* H 5 7 6 - C S R I - 1 3 *

are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.
4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.
5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.
6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.
8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income

community protected by Title VI of the federal Civil Rights Act of 1964. This subdivision shall apply only to the extent required by federal law.

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

e. For the purpose of the management and/or disposal of leachate and non-domestic wastewater collected from a lined sanitary landfill for the disposal of municipal solid waste, except those permitted for the disposal of coal combustion residuals and wastewater from a swine lagoon, the Department shall approve aerosolization of leachate and wastewater as an acceptable method of site management within the landfill lined area only. The Department may consider aerosolization of leachate as an acceptable method of site management for unlined landfills. An applicant shall provide the Department with data that characterizes contaminants of concern around the landfill emanating from aerosolization. Aerosolization of leachate that results in a zero-liquid discharge and is not a significant air contamination source does not constitute a source that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes.

..."

SECTION 1.(b) The Department of Environmental Quality shall gather information on aerosolization projects approved pursuant to section 1(a) of this act, and report its findings, including any recommendations for legislative action, to the Environmental Review Commission on or before March 31, 2018.

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



Reference List

- Alibek, Ken. *Biohazard*. New York: Dell Publishing/Random House, 1999.
- Artenstein, Andrew W. et al. "History of Military Contributions to the Study of Vaccines against Infectious Diseases." *Military Medicine* Vol 170: April Supplement. 2005.
- Bogarakos, William. *How Serious Should the U.S. Take the Non-State Threat of (Biological) WMD?* Submitted to the Faculty of the Naval War College. Newport, R.I. April 2010.
- Carus, W. Seth. *Bioterrorism and Biocrime. The Illicit Use of Biological Agents since 1900.* Center for Counterproliferation Research. The National Defense University. Washington D.C. February 2001.
- Centers for Disease Control and Prevention. "Update: Multistate Outbreak of Monkeypox—Illinois, Indiana, Kansas, Missouri, Ohio, and Wisconsin, 2003." *Morbidity and Mortality Weekly Report*. Vol. 52/No. 27. 11 July 2003.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Background. "Emerging Infectious Diseases: A Strategy for the 21st Century: A Strategic Plan. 1998.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases, Division of Vector-Borne Infectious Diseases. *West Nile Virus*. October 2005. Available from www.cdc.gov/ncidod/dvbid/westnile.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Division of Global Migration and Quarantine. *Update: Human Infection with Avian Influenza A (H5N1) Virus in Asia*. Outbreak Notice. 23. September, 2005. Available from www.cdc.gov/travel/other/avian_influenza_se_asia_2005.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. Special Pathogens Branch. *Known Cases and Outbreaks of Marburg Hemorrhagic Fever, in Chronological Order*. May 2005. Available from www.cdc.gov/ncidod/dvrd/spb/mnpages/dispages/marburg/marburgtable.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. *Fact Sheet: Basic information about SARS*. Severe Acute Respiratory Syndrome (SARS). May, 2005. Available from www.cdc.gov/ncidod/sars/factsheet.htm.
- Centers for Disease Control and Prevention. National Center for Infectious Diseases. *Fact Sheet: What You Should Know About Monkeypox*. June 2003. Available from www.cdc.gov/ncidod/monkeypox/factsheet2.htm.
- Centers for Disease Control and Prevention. Office of Communications. Division of Media Relations. *Monkeypox: Report of Cases in the United States*. July 2003.

Version 3.1

REPRESENTATIVE JIMMY DIXON
N.C. HOUSE OF REPRESENTATIVES
4TH DISTRICT

1002 LEGISLATIVE BUILDING
16 W. JONES STREET
RALEIGH, NC 27601-1096
(919) 715-3021
JIMMY.DIXON@NCLC.NET

DISTRICT ADDRESS
PO BOX 222
WARSAW, NC 28398
CELL: 910-590-1740
jimdxon222@att.net

INST 2-3



- Davis, Christopher J. "Nuclear Blindness: An Overview of the Biological Weapons Programs of the Former Soviet Union and Iraq." *Emerging Infectious Diseases*. 5(4). July–August 1999.
- Diamond, Jared. *Guns, Germs and Steel, The Fates of Human Societies*. New York: W. W. Norton & Company, 1999.
- Franz, David, Cheryl Parrott and Earnest T. Takafuji. "Chapter 19: The US Biological Warfare and Biodefense Programs." *Medical and Chemical Aspects of Chemical and Biological Warfare*. The Bordin Institute, Walter Reed Army Medical Center, Washington, D.C. 1997.
- Frischknecht, Friedrich. "The History of Biological Warfare." In *Decontamination of Warfare Agents*. Weinheim: WILEY-VCH Verlag GmbH & Co. KGaA, 2008.
- Henderson, D.A. "Smallpox as a Biological Weapon." *Journal of the American Medical Association* Vol 281. 1999.
- Inglesby T.V., O'Toole T., Henderson D.A., Bartlett J.G., Ascher M.S., Eitzen E. et al. "Anthrax as a Biological Weapon; Updated Recommendations for Management." *Journal of the American Medical Association*. 2002;287:2236–52. 2002.
- INTERPOL, *Bioterrorism Incident Pre-planning and response guide*, ICPO-INTERPOL, 2007.
- Iraq Survey Group (ISG). *Iraq Survey Group Final Report: Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*. September 2004. Available from www.globalsecurity.org/wmd/library/report/2004/isg-final-report/index.html.
- Jahrling, P.B. et al. "Preliminary report: isolation of Ebola virus from monkeys imported to USA." *Lancet*. 335:502-05.1990.
- Johnson, George. "Infectious Disease and Bioterrorism." *The Living World*, Ed. 3. New York: McGraw-Hill, 2009.
- Kolavic, S.A. et al. 1997 "An outbreak of *Shigella dysenteriae* type 2 among laboratory workers due to intentional food contamination." *Journal of the American Medical Association*. 278(5);396-398. August, 1997.
- Kortepeter, M.G. and G.W. Parker.1999. "Potential Bioweapons Threats." *Emerging Infectious Diseases*. 5(4).523-527. July-August 1999. Available from www.cdc.gov/ncidod/EID/vol5no4/kortepeter.htm.
- Lim, Matthew L. et al. "History of U. S. Military Contributions to the Study of Diarrheal Diseases." *Military Medicine*. Vol 170: April Supplement. 2005.
- May, Bill. Personal interview. Personal communication to Mr. William Patrick.



- Miller, Judith, Stephen Engleberg, and William J. Broad. *Germes: Biological Weapons and America's Secret War*. New York: Simon & Schuster, 2001.
- NATO *Handbook on the Medical Aspects of NBC Defensive Operations*, AMedP-6 (B), Part II-Biological, Departments of the Army, the Navy, and the Air Force, 1-1. 1996.
- Perl, Raphael. *Terrorism, the Future, and U.S. Foreign Policy*. Congressional Research Service. Issue Brief for Congress. Order Code IB95112. 6 March 2003.
- Peters, C.J. *Virus Hunter: Thirty Years of Battling Hot Viruses Around the World*. 1997.
- Sartis, Jeffrey S. "Infectious Diseases During the Civil War: The Triumph of the 'Third Army.'" *Clinical Infectious Diseases* 16: 580-584. 1993.
- Spencer, R. C. and M. H. Wilcox. "Agents of Biological Warfare." *Reviews in Medical Microbiology*. 1993.
- United States Army Medical Research Institute of Infectious Diseases. *Medical Management of Biological Casualties Handbook*. 6th ed. August 2008.
- United States Congress. House of Representatives. *Homeland Security Act of 2002*. 107 Cong., 2nd sess. H.R. 5005. 23 January 2002.
- University of Alabama-Birmingham. "Bioterrorism and Emerging Infections Education." *History of Development as a Weapon*. Category A Agents: Anthrax.
- World Health Organization. *Health Aspects of Chemical and Biological Weapons*. World Health Organization, pp. 95-99. Geneva. 1970.
- World Health Organization. *Avian influenza and food safety: statement by Dr LEE Jong-Wook, WHO Director-General*. February 2006.
- World Health Organization. *Avian influenza ("bird flu") and the significance of its transmission to humans*. Avian influenza – fact sheet. January 2004.
- World Health Organization. Epidemic and Pandemic Alert and Response (EPR). Disease Outbreak News. *Marburg haemorrhagic fever in Angola – update 25*. August 2005. Available from http://www.who.int/csr/don/2005_08_24/en/index.html.
- World Health Organization. *Unexpected Outbreaks: Examples of Emerging and Re-emerging Infectious Diseases, 1994-1999*. Graph 30. Removing Obstacles to Healthy Development. 1999. Available from www.who.int/infectious-disease-report/pages/graph30.html.





North Carolina Department of Environment and Natural Resources

Division of Waste Management

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

SOLID WASTE SECTION

May 7, 2013

Mr. Matthew Cheek
Hodges, Harbin, Newberry & Tribble, Inc.
3920 Arkwright Road, Suite 101
Macon, Georgia 31210

Subject: Leachate Evaporation – Demonstration
Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998
Caldwell County, DIN 18910

Dear Mr. Cheek;

When last we spoke on the subject of leachate evaporation at the Foothills Landfill I requested an operations plan be developed for the demonstrated process. Since that time the Solid Waste Section (Section) has received other similar requests and has developed the basics of an operations plan outline for application of leachate to landfill surfaces (below).

General

1. Facility must comply with all federal, state and local ordinances.
2. Leachate must be applied in a manner that does not threaten public health or the environment.
3. It is the Facility's responsibility to ensure leachate and its constituents do not contaminate groundwater, surface water, and off liner soils.

Operation

1. The Plan must contain a complete equipment list and detailed operator instructions.
2. The Plan must contain a map of areas to be sprayed.
3. Leachate must be applied on areas of the landfill that are lined.
4. There may be no runoff of leachate from sprayed areas.
5. Leachate must not be applied on standing water.
6. Leachate must be applied only on well-maintained areas with established vegetation. The only exception is the limited application on areas where vegetation is being established.
7. Leachate must not be applied at night or when vision is restricted (i.e. fog).
8. Leachate must not be applied in a manner that causes it to be applied on unlined areas of the facility. No over spray.
9. Leachate application is not allowed during or immediately after precipitation events.
10. Leachate must not be applied to closed portions of the landfill.
11. Soil on which leachate has been sprayed must remain in the landfill, it may not be removed from and/or stockpiled off the lined landfill.

Application on Side Slopes

12. During application an operator must attend the equipment at all times, and have communications with other onsite personnel, in case of spills or other emergencies.
13. The area being sprayed must be monitored constantly to prevent over application and runoff.
14. Leachate application is not allowed in areas where leachate seeps are evident.





Page 2
HHNT
May 7, 2013

15. An Application Log must be maintained for leachate application. At a minimum the following information must be maintained for each application – date, time, application duration, gallons applied, weather conditions.

Contingency

In the event leachate leaves the lined area of the landfill (spill, over spray, and/or runoff) or evidence of the contamination of ground water, surface waste or off liner soils is discovered; the facility will be expected to;

1. Cease application of leachate and report the issues to the Section immediately.
2. Perform soil sampling in affected areas, with prior Section approval. Soil type, soil infiltration rate, amount of organic matter, soil solution conductivity, Appendix I VOCs and metals, nitrogen, ammonia, chloride, and pH need to be determined. This will also determine any potential impacts to groundwater and surface water within a soil column.
3. Possibly remove contaminated soils.
4. Take all other steps necessary to contain and prevent further contamination.
5. Update the Monitoring Plans
 - a. Update its Water Quality Monitoring Plan, with prior Section approval, to include:
 - i. Increased sampling ground water monitoring wells and surface water monitoring sites, frequency.
 - ii. Additional monitoring for ammonia, nitrogen, chlorides, and metals.
 - iii. The possible addition of ground water of monitoring wells.
 - iv. The possible addition of surface water monitoring sites.
 - b. Increase in frequency landfill gas monitoring.
 - c. Add landfill gas monitoring wells.

Should you have any questions you may contact me at (828) 296-4704 or larry.frost@ncdenr.com.

Sincerely,

Larry Frost
Environmental Engineer

cc: Deb Aja –SWS/ARO
Christine Ritter – SWS/RCO
Jackie Drummond – SWS/RCO
Ed Mussler – SWS/RCO





North Carolina Department of Environment and Natural Resources

Division of Waste Management

Dexter R. Matthews

Director

SOLID WASTE SECTION

August 27, 2013

Pat McCrory
Governor

John E. Skvarla, III
Secretary

Mr. Ray Hoffman, PE
Republic Services of NC, LLC
1220 Commerce Street SW
Conover, North Carolina 28613

Subject: Leachate Evaporation (LES) – Standard Operating Procedures, Approval
Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998
Caldwell County, DIN 19601

Dear Mr. Hoffman:

On August 8, 2013 the Division of Waste Management, Solid Waste Section (Section) received Republic Services of NC, LLC's Request, entitled;

- Foothills Regional MSW Landfill, Leachate Evaporation (LES) – Standard Operating Procedures, Facility No. 14-03, Caldwell County, North Carolina, HHNT Project No. 6703-469-01. Prepared for Republic Services. Prepared by HHNT. August 2013. DIN 19480.

The Request concerns Foothills Environmental Landfill's Plan to implement a Leachate Evaporation System (LES) for the alternative disposal of leachate.

The Section has reviewed the request and hereby approves the immediate implementation of the Plan at Republic Services, Foothills Environmental Landfill, Permit No. 1403-MSWLF-1998. Republic Services shall consider the referenced Request (DIN 19480) as an approved document. The Facility should operate in this manner until the current permit is either amended or modified. Therefore, the next time the Facility prepares either a Permit amendment or modification it is expected to submit an Operations Plan which includes revised language for the operation of the LES.

Should you have any questions regarding this matter contact me at (828) 296-4704 or larry.frost@ncdenr.gov.

Sincerely,

Larry Frost
Environmental Engineer

cc: Deb Aja – SWS/ARO
John Murray – SWS/MRO
Bill Hodges – HHNT



Municipalities, the Association of County Commissioners, the Local Government Commission, faculty from the School of Government at the University of North Carolina at Chapel Hill, as well as private waste management interests, at a minimum. The Division of Waste Management and the Division of Environmental Assistance and Customer Service of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

SECTION 14.21.(b) The Environmental Review Commission shall study the use of new technologies and strategies, including the use of integrated and mobile aerosolization systems, to dewater leachate and other forms of wastewater for the purpose of reducing the burden and cost of disposal at the site where it is generated. The Commission shall determine the efficiency, cost-effectiveness, and environmental impact of each studied technology and strategy. The Division of Waste Management and the Division of Water Resources of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

PRE-1983 LANDFILL CLEANUP PRIVATIZATION

SECTION 14.22.(a) Legislative Findings. – The General Assembly makes the following findings:

- (1) Section 5 of Article XIV of the North Carolina Constitution sets out the conservation and protection of State lands and waters as a policy of the State, and a more expeditious method for remediation and reuse of pre-1983 landfill sites and other State-identified contaminated sites is in furtherance of that policy.
- (2) Despite past legislative directives, a dedicated source of revenue, and a considerable fund balance, little progress has been made in active cleanup of these landfill sites.
- (3) Qualified private firms should be given the opportunity to remediate pre-1983 landfills and other State-identified contamination sites.
- (4) Implementation of a site assessment and remediation program based on requests for proposal from private firms for the 10 highest-priority pre-1983 landfill sites will result in multiple benefits to the State, including (i) reducing known environmental hazards that are associated with the many identified sites across the State, (ii) decreasing the State's economic liability for these sites, (iii) promoting economic growth through the job creation associated with returning these sites to beneficial and productive use, and (iv) establishing an efficient, cost-effective model for other State projects.

SECTION 14.22.(b) G.S. 130A-310.6 is amended by adding a new subsection to read:

"(h) The Department shall implement an ongoing program that provides for the expeditious assessment and, where indicated as necessary based on assessment and other data, the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983 landfill sites that have been identified by the Department as being among the 100 sites rated highest in priority under subsection (c) of this section. The program shall include the following activities to be undertaken by the Department:

- (1) Contract via issuance of a Request for Proposal with one or more qualified private entities who have prequalified under procedures established by the Department for (i) remaining assessment and contamination delineation activities necessary to identify those sites within the 100 highest-priority sites where completion of site remediation will yield maximum health, safety, and economic benefits based on an evaluation of potential beneficial and productive use of the site, impact of the unremediated site on uses of



VISITOR REGISTRATION SHEET

House Committee on Environment

Name of Committee

Date

4/24/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Chris Sandness	Chris Sandness
David [unclear]	David [unclear]
Kim Colson	Kim Colson
IS Buyer	IS Buyer
Chris Houghton	Chris Houghton
JOHN GOODMAN	JOHN GOODMAN
Westford	Westford
Swann	Swann
Lisa Gay	Lisa Gay

NC DTP

NC DTP

NP

MW

CCC

NCMT

Duke E

NC Policy with



VISITOR REGISTRATION SHEET

House Committee on Environment

Name of Committee

4/24/2017

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Michael Scott	NC DEQ - OWM
Michael Petroj	NC DEQ
Brooks Reiney Pearson	SELC
Jamie Cole	NCCN
Nathan Starr	Rinecheper
Aidy Miller	DEQ
Kelli Kulkma	Duke Energy
DAVID SNEED	CCA NC



**House Committee on Environment
Wednesday, April 26, 2017 at 5:45pm
Session Room**

MINUTES

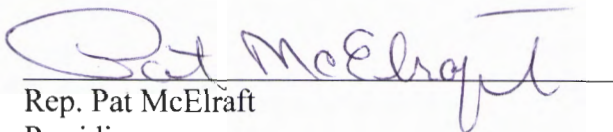
The House Committee on Environment met at 5:45 on April 26, 2017 in session room. Representatives Autry, Bradford, Collins, Dixon, Garrison, Harrison, McElraft, McGrady, Millis, Strickland, and Yarborough attended.

Rep. Pat McElraft presided.

The Chair called a meeting around Rep. McElraft's desk in the session room. A PCS for HB 557 was the topic, and Rep. Dixon made a motion that the PCS be adopted for discussion by the Environment Committee.

The Committee voted and the motion passed.

The meeting adjourned at 5:50 pm..


Rep. Pat McElraft
Presiding


Nancy Fox, Committee Clerk



House Environment Committee

4-26-2007

[illegible]



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 557
PROPOSED COMMITTEE SUBSTITUTE H557-CSSBf-15 [v.3]

04/25/2017 5:35:55 PM

Short Title: Mitigation Services Amendments.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED
AN ACT TO ENCOURAGE THE PROVISION OF MITIGATION SERVICES BY THE
PRIVATE SECTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.9 reads as rewritten:

"§ 143-214.9. Division of Mitigation Services: ~~purposes.~~purposes; powers.

(a) The purposes of the Division of Mitigation Services are as follows:

- (1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the Division of Mitigation Services.
- (2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.
- (3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.
- (4) To increase the ecological effectiveness of compensatory mitigation.
- (5) To achieve a net increase in wetland acres, functions, and values in each major river basin.
- (6) To prioritize cost-effective approaches to compliance with mitigation requirements that maximize the remaining productive uses of public and private lands consistent with the other purposes of this section.
- ~~(6)~~(7) To foster a comprehensive approach to environmental protection.

(b) The Division shall establish a fee to offset the costs of monitoring mitigation credit inventory."

SECTION 2. G.S. 143-214.11 reads as rewritten:

"§ 143-214.11. Division of Mitigation Services: compensatory mitigation.

...
(b) ~~Department to Coordinate Compensatory Mitigation.~~Mitigation Requirements. – All compensatory mitigation required by permits or authorizations issued by the Department or by the United States Army Corps of Engineers ~~shall be coordinated by the Department consistent with the basinwide restoration plans and rules developed by the Environmental Management Commission. All compensatory mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans. All compensatory~~



mitigation shall be consistent with rules adopted by the Commission for wetland and stream mitigation and for protection and maintenance of riparian ~~buffers~~, buffers and shall advance the functional improvement goals identified in any applicable basinwide restoration plan prepared by the Department as required by G.S. 143-214.10.

(b1) No Eminent Domain Power. – Nothing in this section shall allow the Division of Mitigation Services to acquire land by condemnation under the provisions of Chapter 40A of the General Statutes.

(c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of compensatory mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the Division of Mitigation Services.

(d) Compensatory Mitigation Options Available to ~~Government Entities~~. — A ~~government entity may~~ Permit Applicants. – Permit applicants shall satisfy compensatory mitigation requirements by participating in a private compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation. If the Department or the United States Army Corps of Engineers, as applicable, determines that it is not practicable for an applicant to satisfy compensatory mitigation requirements by requirements through a private compensatory mitigation bank, the applicant may also satisfy compensatory mitigation requirements through any of the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the Department or of the United States Army Corps of Engineers, as applicable:

- (1) Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12.
- (2) ~~Donation of land to the Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.~~
- (3) ~~Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation.~~
- (4) ~~Preparing and implementing a compensatory mitigation plan.~~ Permittee-responsible mitigation.

(d1) Compensatory Mitigation Options Available to Applicants Other than Government Entities. — An applicant other than a government entity may satisfy compensatory mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

- (1) ~~Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one compensatory mitigation bank that has been approved by the United States Army Corps of Engineers.~~
- (2) ~~Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12. This option is only available to an applicant who demonstrates that the option under subdivision (1) of this subsection is not available.~~
- (3) ~~Donation of land to the Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.~~
- (4) ~~Preparing and implementing a compensatory mitigation plan.~~

(e) ~~Payment Schedule. – A standardized~~ The Commission shall establish a schedule of compensatory mitigation ~~payment amounts shall be established by the Commission. fees for mitigation credits purchased by permit applicants from the Division of Mitigation Services. The schedule shall be based on the actual cost for the Division of Mitigation Services to generate the credits.~~ Compensatory mitigation payments shall be made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. ~~The monetary payment shall be based on the ecological functions and values of wetlands and streams permitted to be lost and on the cost of restoring or creating wetlands and streams capable of performing the same or similar functions, including directly related costs of wetland and stream restoration planning, long-term monitoring, and maintenance of restored areas.~~ Compensatory mitigation payments for wetlands shall be calculated on a per acre basis. Compensatory mitigation payments for streams shall be calculated on a per linear foot basis.

...
(j) The regulatory requirements for the establishment, operation, and monitoring of a compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract.

(k) All compensatory mitigation banks operating within the State shall register with the Division of Mitigation Services. Registration shall include the following information:

- (1) The bank name and cataloging unit number.
- (2) Types and amounts of approved credits and sponsor contact information for each mitigation bank, as documented by approved mitigation banking instruments.
- (3) Electronic files representing the property boundaries and approved service areas of the mitigation bank in a format prescribed by the Department.
- (4) Any other information requested by the Department.

The Department shall provide public access to the information required by this subsection on its Web site."

SECTION 3. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.16. Limit Division of Mitigation Services fee in lieu of mitigation acceptance in certain river basins.

The Department of Environmental Quality, Division of Mitigation Services, shall develop a program to increase the State's ability to utilize private mitigation banks to satisfy compensatory mitigation requirements of the State. The program shall include all of the following components:

- (1) Thirty-six months after the effective date of this act, the Division of Mitigation Services shall cease acceptance of fees from governmental and nongovernmental entities in lieu of mitigation for stream, wetland, riparian buffer, and nutrient impacts permitted to occur in the Neuse and Cape Fear River Basins.
- (2) The Department, with the concurrence of the Environmental Management Commission, may cease acceptance of fees in lieu of mitigation within additional river basins after June 30, 2020, provided the public is notified at least 24 months in advance of the cessation of service.
- (3) In the event of unforeseen, unique, or exigent circumstances and upon the request of the Secretary of Commerce or the Secretary of Transportation, the Department may direct the Division of Mitigation Services to accept fees in lieu of mitigation to support permits for projects owned or sponsored by the Departments of Commerce or Transportation."

SECTION 4. No later than October 1, 2017, the Commission shall adopt temporary rules that (i) implement G.S. 143-214.16, as enacted by Section 3 of this act, and (ii)

1 set a revised schedule of mitigation fees consistent with G.S. 143-214.11(e), as amended by
2 Section 2 of this act. The temporary rules shall remain in effect until permanent rules that
3 replace the temporary rules become effective.

4 **SECTION 5.** Section 4 of this act is effective when it becomes law. The remainder
5 of this act becomes effective October 1, 2017.

Leslie Murray (Rep. Larry Yarborough)

From: Leslie Murray (Rep. Larry Yarborough)
Sent: Tuesday, June 20, 2017 11:16 AM
To: Sen. Rick Gunn; Sen. Brent Jackson; Sen. Andy Wells; Sen. Norman Sanderson; Sen. Bill Cook; Sen. Harry Brown
Cc: Karen Johns (Sen. Rick Gunn); Ross Barnhardt (Sen. Brent Jackson); Alexander Fagg (Sen. Brent Jackson); Linda Wentte (Sen. Andy Wells); Linda Sanderson (Sen. Norman Sanderson); Kathy Voss (Sen. Norman Sanderson); Jordan Hennessy (Sen. Bill Cook); Kristi Huff (Sen. Harry Brown); Sally-Ann Gupta (Sen. Harry Brown); Lorie Byrd (Sen. Harry Brown)
Subject: <NCGA> House Environment Committee Meeting Notice for Thursday, June 22, 2017 at 11:00 AM
Attachments: Add Meeting to Calendar_LINC_ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Environment** will meet as follows:

DAY & DATE: Thursday, June 22, 2017
TIME: 11:00 AM
LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 107</u>	Streamline Dam Removal.	Senator Wells Senator Gunn Senator B. Jackson
<u>SJR 205</u>	Resolution to Allow SAV Oyster Leasing.	Senator Cook Senator Sanderson
<u>SB 469</u>	Preserve Municipal Solid Waste Capacity.	Senator Brown



Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:14 AM on Tuesday, June 20, 2017.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)



**House Committee on Environment
Thursday, June 22, 2017, 11:00 AM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 107	Streamline Dam Removal.	Senator Wells Senator Gunn Senator B. Jackson
SJR 205	Resolution to Allow SAV Oyster Leasing.	Senator Cook Senator Sanderson
SB 469	Preserve Municipal Solid Waste Capacity.	Senator Brown

Presentations

Other Business

Adjournment



House Committee on Environment
Thursday, June 22, at 11:00
Room 1228/1327

MINUTES

The House Committee on Environment met at 11:00 on June 22, 2017 in Room 1228/1327. Representatives Adams, Autry, Bradford, Brockman, Dixon, Garrison, Harrison, Iler, Martin, McElraft, McGrady, Millis, Morey, Steinburg, Stone, Strickland, Terry, and Yarborough attended.

Rep. Larry Yarborough presided.

The following bills were considered:

SB 107 Streamline Dam Removal (Senators Wells and Gunn)
Favorable House Com Sub, Unfavorable Senate Com Sub

SJR 205 Resolution To Allow SAV Oyster Leasing (Senators Cook and Sanderson)
Favorable

SB 469 Preserve Municipal Solid Waste Capacity (Senator Brown)
Favorable House Com Sub, Unfavorable Original Bill

The meeting adjourned at 11:20.

Rep. Larry Yarborough
Presiding

Leslie Murray, Committee Clerk



(Nancy Fox and Leslie Murray)

[illegible]



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ENVIRONMENT COMMITTEE REPORT
Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair**

FAVORABLE

SJR 205 Resolution to Allow SAV Oyster Leasing.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Boswell

FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL

SB 469 Preserve Municipal Solid Waste Capacity.
Draft Number: S469-PCS45463-SB-28
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: McElraft

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB

SB 107 (CS#1) Streamline Dam Removal.
Draft Number: S107-PCS45464-SB-30
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Ross

TOTAL REPORTED: 3







**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 469**

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

Page 1 of 1

S469-ARI-77 [v.1]

Amends Title [NO]
Second Edition

Date _____, 2017

Representative

McElvett

moves to amend the bill on page 6, line 32, through page 7, line 13, by deleting those lines; and by renumbering the remaining sections accordingly.

SIGNED

Pat McElroy
Amendment Sponsor

SIGNED

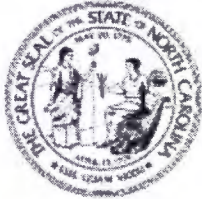
Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED





SENATE BILL 107: Streamline Dam Removal.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Sens. Wells, Gunn, B. Jackson
Analysis of: PCS to Second Edition
S107-CSSB-30

Date: June 22, 2017
Prepared by: Jeff Hudson
Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for Senate Bill 107(PCS) would amend State law on dam removal to expedite the removal process under certain circumstances.*

CURRENT LAW:

Under current State law, removal of a dam generally requires the approval of the Department of Environmental Quality (DEQ). An application to DEQ for dam removal must state the name and address of the applicant, describe the proposed removal process, and include maps, plans, specifications, and other such information as required by DEQ.

BILL ANALYSIS:

Section 1 would exempt professionally supervised dam removals from the requirement that a dam removal be approved by DEQ. A professionally supervised dam removal would be the removal of a low or intermediate hazard mill dam or run-of-river dam that is not operated primarily for flood control or hydroelectric power generation purposes and the removal of which is designed and supervised by an engineer licensed under North Carolina law, and complies with all of the following:

- The engineer determines that the removal of the dam can be accomplished safely and certifies that the dam is a low or intermediate hazard dam.
- The person proposing the removal of the dam notifies the director of the Division of Energy, Mineral, and Land Resources in DEQ no less than 60 days prior to removal.
- The person proposing the removal of the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety (DPS), the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the dam removal no less than 60 days prior to removal.

Section 1 would establish a fee for a professionally supervised dam removal of \$500.00 and make other conforming changes.

Section 2 would provide that, except as required by federal law, DEQ will not require mitigation for impacts associated with the removal of a dam that is done in compliance with State law. Section 2 would also direct DEQ to develop a water quality certification that would allow short term sediment releases associated with a professionally supervised dam removal if the sediment to be released has a similar or lower levels of contamination than the sediment downstream of the dam.

Section 3 would direct DEQ and DPS to jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce the regulatory barriers to the removal of

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate PCS 107

Page 2

obsolete and unwanted dams and consolidate duplicative permit processes. The Departments would jointly report the results of the study to the Environmental Review Commission no later than March 1, 2020.

EFFECTIVE DATE: The study provision in Section 3 would become effective when the bill becomes law. The remainder of the bill would become effective July 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 107

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/20/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S107-CSSB-30 [v.2]

06/21/2017 4:12:31 PM

Short Title: Streamline Dam Removal.

(Public)

Sponsors:

Referred to:

February 20, 2017

A BILL TO BE ENTITLED
AN ACT TO REMOVE SAFETY HAZARDS AND RESTORE NORTH CAROLINA'S
NATURAL RIVERINE RESOURCES BY FACILITATING THE REMOVAL OF
OBSOLETE AND UNWANTED DAMS.

The General Assembly of North Carolina enacts:

EXEMPT CERTAIN DAM REMOVALS FROM PERMITTING REQUIREMENTS

SECTION 1.(a) G.S. 143-215.25 reads as rewritten:

"§ 143-215.25. Definitions.

- (1) ~~"Dam" means a~~ Dam. – A structure and appurtenant works erected to impound or divert water.
- (1a) Mill dam. – A dam built across a stream to raise the level of water for the purpose of providing water to a mill for the operation of the mill.
- (2) ~~"Minimum stream flow" or "minimum flow" means a~~ Minimum stream flow or minimum flow. – A stream flow of a quantity and quality sufficient in the judgment of the Department to meet and maintain stream classifications and water quality standards established by the Department under G.S. 143-214.1 and applicable to the waters affected by the project under consideration, and to maintain aquatic habitat in the length of the stream that is affected.
- (3) Professionally supervised dam removal. – The voluntary removal of a low or intermediate hazard mill dam or run-of-river dam that (i) is not operated primarily for flood control or hydroelectric power generation purposes and (ii) the removal of which is designed and supervised by a qualified engineer.
- (4) Qualified engineer. – An engineer licensed as a professional engineer under Chapter 89C of the General Statutes.
- (5) Run-of-river dam. – A riverine or stream dam that is designed or operated to release water at approximately the same rate as the natural flow of the river or stream."

SECTION 1.(b) G.S. 143-215.27 reads as rewritten:

"§ 143-215.27. Repair, alteration, or removal of dam.

(a) Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the Department, except as otherwise provided by this Part. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the Department requires. The Department may waive any such



requirements. The application shall give such other information concerning the dam and reservoir required by the Department, such information concerning the safety of any change as it may require, and shall state the proposed time of commencement and completion of the work. When an application has been completed it may be referred by the Department for agency review and report, as provided by subsection (b) of G.S. 143-215.26 in the case of original construction. This subsection shall not apply to a professionally supervised dam removal.

...
(c) A professionally supervised dam removal is not subject to the procedures set forth in subsection (a) of this section, provided that the dam removal complies with all of the following:

- (1) A qualified engineer determines, based on good engineering practices, that the removal of the dam can be accomplished safely, certifies that the dam is a low or intermediate hazard dam, and the removal plan reflects (i) the geomorphology of the streambed upriver and downriver from the dam site and (ii) the most desirable longitudinal profile for the post-removal stream channel that will minimize physical impacts on riparian landowners.
- (2) The person who proposes to remove the dam notifies the director of the Division of Energy, Mineral, and Land Resources of the Department of the proposed removal no less than 60 days prior to removal. The notice shall include information identifying the dam, including the stream and county where the dam is located, the dam's height and impoundment capacity, a map showing the dam location and vicinity, the qualified engineer's name and North Carolina license number, and a notarized certification from the owner of the dam that the dam is a low or intermediate hazard dam not currently operated for the purposes of flood control or hydroelectric power generation. The notification and certification required by this subdivision may be provided electronically.
- (3) The person who proposes to remove the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety, the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the proposed removal no less than 60 days prior to removal. The notice shall include a qualified engineer's determination that (i) the removal plan for the dam is based on the criteria set forth in subdivision (1) of this subsection and (ii) the removal will lower or maintain water levels above the location of the dam and will not cause an increase in the risk of flood damage or impacts to downstream bridges or road crossings. For purposes of the notice required by this subdivision, an "impacted local government" shall mean any unit of local government that could experience changes to its base floodplain, as defined in G.S. 143-215.54, as a result of the dam removal."

SECTION 1.(c) G.S. 143-215.28A reads as rewritten:

"§ 143-215.28A. Application fees.

(a) In accordance with G.S. 143-215.3(a)(1a), the Commission may establish a fee schedule for processing applications for approvals of construction or removal of dams issued under this Part. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications and for related compliance activities. The total amount of fees collected in any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing the applications and for related compliance activities in the prior fiscal year. An approval fee may not exceed the larger of two hundred dollars (\$200.00) or two percent (2%)

of the actual cost of construction or removal of the applicable dam. The fee for notification of a professionally supervised dam removal under G.S. 143-215.27(c)(1) shall be five hundred dollars (\$500.00) and shall be paid to the Department. The provisions of G.S. 143-215.3(a)(1b) do not apply to these fees.

...."

SECTION 1.(d) G.S. 143-215.30 reads as rewritten:

"§ 143-215.30. Notice of completion; certification of final approval; notice of transfer.

(a) ~~Immediately~~ Except as set forth in subsection (d1) of this section, immediately upon completion, enlargement, repair, alteration or removal of a dam, notice of completion shall be given the Commission. As soon as possible thereafter supplementary drawings or descriptive matter showing or describing the dam as actually constructed shall be filed with the Department in such detail as the Commission may require.

...

(d1) The requirements of this section shall not apply to a professionally supervised dam removal under G.S. 143-215.27(c) if the person removing the dam provides confirmation of completion of dam removal to the Department within 10 days of completion of the removal.

(e) The owner of a dam shall provide written notice of transfer to the Department within 30 days after title to the dam has been legally transferred. The notice of transfer shall include the name and address of the new dam owner."

SECTION 1.(e) G.S. 143-215.56 is amended by adding a new subsection to read:

"§ 143-215.56. Delineation of flood hazard areas and 100-year floodplains; powers of Department; powers of local governments and of the Department.

...

(d) The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

- (1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.
- (2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.
- (3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

- (1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.
- (2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

(h) To the extent permitted by National Flood Insurance Program requirements, a professionally supervised dam removal, as defined in G.S. 143-215.25, that complies with the requirements of G.S. 143-215.27(c) shall not be required to submit a Letter of Map Revision to the Department."

STREAMLINE ENVIRONMENTAL PERMITTING OF DAM REMOVAL

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

"§ 143-214.7C. Prohibit the requirement of mitigation for ~~impacts to intermittent streams; certain impacts~~; establish threshold for mitigation of impacts to streams.

(a) Except as required by federal law, the Department of Environmental Quality shall not require mitigation for ~~impacts~~ any of the following:

(1) Impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1)a. It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2)b. The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3)c. It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

(2) Impacts associated with the removal of a dam when the removal complies with the requirements of Part 3 of this Article.

(b) Except as required by federal law, the Department of Environmental Quality shall not require mitigation for losses of 300 linear feet or less of stream bed."

SECTION 2.(b) The Division of Water Resources of the Department of Environmental Quality shall develop a water quality general certification under section 401 of the Clean Water Act for short-term sediment releases associated with the construction phase of a dam removal when all of the following occur:

(1) The removal meets the definition and requirements of a professionally supervised dam removal under G.S. 143-215.27, as amended by Section 1 of this act.

(2) The applicant for the water quality general certification demonstrates that the sediment to be released has similar or lower level of contamination than sediment sampled from downstream of the dam.

STUDY FURTHER STREAMLINING OF DAM REMOVAL

SECTION 3. The Department of Environmental Quality and the Department of Public Safety shall jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. As part of its study, the Departments shall review the dam removal permitting processes in New Hampshire, Massachusetts, and Pennsylvania and other states as the Department finds relevant. The Departments shall jointly submit its report to the Environmental Review Commission no later than March 1, 2020.

EFFECTIVE DATE

SECTION 4. Section 3 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2017.



SENATE JOINT RESOLUTION 205: Resolution to Allow SAV Oyster Leasing.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Sens. Cook, Sanderson
Analysis of: First Edition

Date: June 22, 2017
Prepared by: Mariah Matheson
Research Assistant

OVERVIEW: *Senate Joint Resolution 205 supports revisions to policies of the United States Army Corps of Engineers (Corps) to allow shellfish cultivation and aquaculture activities in North Carolina waters containing submerged aquatic vegetation (SAV).*

CURRENT LAW: Section 3.8 of the Corps' "2012 Regional Conditions for Nationwide Permits (NWP) in the Wilmington District"¹ prohibits **any** adverse impacts to submerged aquatic vegetation by any NWP within any of the twenty coastal counties defined by North Carolina's Coastal Area Management Act of 1974.

BILL ANALYSIS: SJR 205 would provide that the General Assembly supports the revision of section 3.8 of the proposed "2017 Regional Conditions for Nationwide Permits" under section 404 of the Clean Water Act for the Wilmington District of the Corps, to replace the current ban on adverse impacts to submerged aquatic vegetation with a requirement that adverse impacts are allowed if an essential fish habitat consultation under the federal Magnuson-Stevens Fisheries Conservation and Management Act has been completed.

The Secretary of State must transmit copies of this resolution to the Wilmington District, the South Atlantic Division, and the Chief of Engineers and Commanding General of the Corps.

EFFECTIVE DATE: This resolution would become effective upon ratification.

BACKGROUND: Under Section 404(e) of the Clean Water Act, the Corps can issue general permits to authorize activities that have minimal individual and cumulative adverse environmental effects. General permits can be issued for a period of no more than five years. A nationwide permit is a general permit that authorizes activities across the country, unless a district or division commander revokes the nationwide permit in a state or other geographic region. Nationwide permits authorize a wide variety of activities such as mooring buoys, residential developments, utility lines, road crossings, mining activities, wetland and stream restoration activities, and commercial shellfish aquaculture activities.

The Magnuson-Stevens Fishery Conservation and Management is the primary law governing marine fisheries management in U.S. federal waters. Passed in 1976, the Act fosters long-term biological and economic sustainability of the nation's marine fisheries out to 200 nautical miles from shore. Key objectives of the Magnuson-Stevens Act are to: prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood.

¹ http://www.saw.usace.army.mil/Portals/59/docs/regulatory/regdocs/NWP2012/SAW_RCs_Final_SAD_approved_2012-03-29.pdf

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE JOINT RESOLUTION 205

Sponsors: Senators Cook, Sanderson (Primary Sponsors); and Rabin.

Referred to: Rules and Operations of the Senate

March 8, 2017

1 A JOINT RESOLUTION OF SUPPORT FOR REVISIONS TO POLICIES OF THE U.S. ARMY
2 CORPS OF ENGINEERS TO ALLOW SHELLFISH CULTIVATION AND
3 AQUACULTURE ACTIVITIES IN NORTH CAROLINA WATERS CONTAINING
4 SUBMERGED AQUATIC VEGETATION.

5 Whereas, under current policies of the Wilmington District of the U.S. Army Corps of
6 Engineers, shellfish cultivation and aquaculture activities are banned in areas of North Carolina
7 sounds and estuaries containing submerged aquatic vegetation (SAV), a policy that is stricter than
8 policies used in other coastal states, including the Commonwealth of Virginia; and

9 Whereas, Section 11 of the 2015 Farm Act (S.L. 2015-263) allows the Marine
10 Fisheries Commission to issue shellfish cultivation leases in areas containing SAV to the extent
11 allowed by federal law; and

12 Whereas, the 2016 Stock Status Report of the Division of Marine Fisheries continues
13 to classify the eastern oyster as a species of concern, with juvenile abundance indices for 2015
14 well below the average for the prior 10 years; and

15 Whereas, the encouragement of oyster cultivation and aquaculture has the potential to
16 increase water quality due to the ability of adult oysters to filter between 13 and 50 gallons of
17 water a day; and

18 Whereas, oyster beds provide food and habitat for more than 300 other species,
19 including crabs, shrimp, and multiple juvenile and adult fish species; and

20 Whereas, portions of coastal waters with SAV in many cases were historically viable
21 oyster producing sites; and

22 Whereas, the amendment of the Regional Conditions for Nationwide Permits to allow
23 shellfish bottom leases in areas containing SAV under certain circumstances would encourage the
24 expansion of shellfish cultivation and aquaculture in these areas and provide a source of economic
25 development in coastal portions of the State; Now, therefore,

26 Be it resolved by the Senate, the House of Representatives concurring:

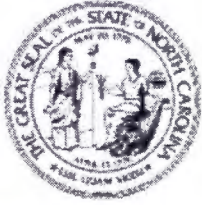
27 **SECTION 1.** The General Assembly supports the revision of section 3.8 of the
28 proposed 2017 Regional Conditions for Nationwide Permits under section 404 of the Clean Water
29 Act for the Wilmington District of the U.S. Army Corps of Engineers to replace the current ban on
30 adverse impacts to submerged aquatic vegetation with a requirement that adverse impacts are
31 allowed if an essential fish habitat consultation under the federal Magnuson-Stevens Fisheries
32 Conservation and Management Act has been completed.

33 **SECTION 2.** The Secretary of State shall transmit copies of this resolution to the
34 Wilmington District, the South Atlantic Division, and the Chief of Engineers and Commanding
35 General of the U.S. Army Corps of Engineers.

36 **SECTION 3.** This resolution is effective upon ratification.







SENATE BILL 469: Amend Environmental Laws - 4.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Sen. Brown
Analysis of: PCS to Second Edition
S469-CSSB-28

Date: June 22, 2017
Prepared by: Jeff Hudson
Jennifer McGinnis
Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 469 would amend various environmental and natural resources laws.*

CURRENT LAW, BACKGROUND, AND BILL ANALYSIS:

PRESERVE MUNICIPAL SOLID WASTE CAPACITY

Section 1 of the PCS would prohibit units of local government from enacting ordinances to prohibit the disposal of C&D debris in a C&D landfill.

C&D waste or debris is defined under the statutes to mean "solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, but does not include inert debris, land clearing debris or yard debris." Such debris may be disposed in C&D landfills, municipal solid waste landfills, and portions of the C&D waste stream, including clean wood and clean brick, block, etc., could be eligible for disposal in a land clearing and inert debris landfill. In addition, demolition debris from the decommissioning of manufacturing buildings may be disposed of on the same site as the decommissioned buildings if certain requirements are met.

The statutes currently authorize units of local government to, by ordinance, require that all solid waste generated within the geographic area and placed in the waste stream for disposal, be delivered to a permitted solid waste management facility or facilities serving the geographic area. Such ordinances are often called "flow control" ordinances, which are provisions that allow state and local governments to designate the places where solid waste must be taken for processing, treatment, or disposal. Flow controls ordinances are tools sometimes used by local governments to plan and fund solid waste management systems.

WASTEWATER MODIFICATIONS

Sections 2 through 2.2 would make various changes to the statutes governing wastewater systems, including:

- Changes to the definition of "repair" to exclude replacement of damaged distribution device by an onsite wastewater contractor, thereby omitting the potential need for a repair permit in some jurisdictions.
- Modification of language governing the issuance of operation permits for wastewater systems, by:

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

- Deleting a factor on which a local health department must base their determination as to whether to issue a permit, specifically, whether the system is capable of being operated in accordance with the conditions of the improvement permit, the rules, the Article, and any conditions to be imposed in the operation permit.
- Adding language that would require issuance of an operation permit upon the written release of an on-site wastewater contractor certifying that the system has been installed or repaired as per the conditions of the improvement permit and authorization for wastewater system construction (in addition to the language under existing law that requires a determination that the system is properly installed).
- Adding language that subsequent findings or interpretation by a local health department of rules adopted by a local board of health outside the initial site evaluation and conditions of the initial improvement permit and authorization for wastewater system construction shall not be used to deny issuance of the operation permit.
- Require permitting authorities to approve evaluations of soil conditions and site features by a licensed soil scientist or licensed geologist for the production, design, and construction features of a new proposed wastewater system or a repair project, if the evaluations meet the requirements of the governing Article, and the licensed soil scientist or licensed geologist maintains an errors and omissions liability insurance policy in an amount commensurate with the risk.
- Require local boards of health to use historical experience to establish modifications or additions to rules established by the Commission for Public Health (CPH).
- Strike language that requires that rules of local boards of health be at least as stringent as State rules, and strikes language requiring their rules to be necessary to safeguard public health.
- Prohibit rules of the CPH and a local board of health from: (i) establishing limitations on depths to suitable, provisionally suitable, or unsuitable soils or saprolite, or limitations based solely on gallons per day; or (ii) requiring sufficient available space for a replacement wastewater system of 480 gallons per day or less of domestic wastewater. The PCS also includes a provision requiring the CPH to modify its current rules governing these matters accordingly.

REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND STORAGE TANKS

Section 3 would direct the Environmental Management Commission (EMC) to adopt temporary rules implementing a provision in the 2015 Appropriations Act no later than October 1, 2017, and provide that the temporary rules will remain in effect until permanent rules are adopted, and have become effective. The provision would also require that the EMC report on the status of the rulemaking to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

The provision in the 2015 Appropriations Act directed the Department to amend several rules pertaining to risk-based assessment and corrective action for USTs to do the following:

- "(1) Not require a responsible party to take immediate action or initial abatement actions with respect to a discharge or release from a noncommercial underground storage tank until such time as the Department has classified the risk posed by the discharge or release, except for those actions determined by the Department to be necessary to protect public health, safety, and welfare and the environment, and to mitigate any fire, explosion, or vapor hazard.
- (2) Notify the responsible party that no cleanup, no further cleanup, or no further action will be required by the Department if the risk posed by a discharge or release from a

Senate PCS 469

Page 3

noncommercial underground storage tank is determined by the Department to be low risk, without requiring soil remediation pursuant to 15A NCAC 02L .0408. The Department may, however, reclassify the risk if it later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment."

SHELLFISH ENTERPRISE AREAS

Section 4 would authorize the Marine Fisheries Commission (MFC) to adopt rules to provide for advanced siting and preapprovals of shellfish aquaculture leases.

MARINE FISHERIES CLARIFYING CHANGES

Section 5 would make the following changes to State law on shellfish aquaculture:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the prohibited classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the prohibited, restricted, or conditionally approved classification unless the Secretary determines that it would present a risk to public health.
- It is lawful to sell fish reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

Current State law on shellfish aquaculture provides:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the restricted or conditionally approved classification to private beds as approved by the Secretary of Environmental Quality (Secretary).
- It is lawful to sell oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

RIVER HERRING FISHERIES MANAGEMENT

Section 6 would direct the Division of Marine Fisheries (DMF) to review its Fishery Management Plan (FMP) for River Herring regarding the validity and scientific basis for the status of the species as overfished. If DMF determines that it does not have an adequate scientific basis to review the status of the species, then DMF should develop costs estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

Section 7 would authorize the Division of Water Resources of the Department of Environmental Quality and the State Property Office to negotiate an agreement with appropriate agencies of the federal government for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal

Senate PCS 469

Page 4

easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund (Fund). Section 7 modifies the statutory permissible uses of the Fund for this purpose.

ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND

Section 8 would establish the Coastal Storm Damage Mitigation Fund that would consist of General Fund appropriations, gifts, grants, devises, monies from non-State entities, and any other revenues allocated to the Fund by the General Assembly. Revenue in the Fund could only be used for beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to ocean beaches and dune systems. The Fund could not be used for any project to construct, repair, or maintain a terminal groin or other permanent erosion control structure. Funding for projects in tier one areas would require a non-State match of one dollar for every three dollars from the Fund and funding for projects not located in tier one areas would require a non-State match of one dollar for every two dollars from the Fund. Non-State entities that contribute to the Fund may request the return of funds that haven't been spent or encumbered within two years of receipt by the Fund.

EFFECTIVE DATE

Except as otherwise provided, the bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 469
Second Edition Engrossed 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S469-CSSB-28 [v.3]
06/21/2017 3:49:02 PM

Short Title: Amend Environmental Laws - 4.

(Public)

Sponsors:

Referred to:

March 30, 2017

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

CONSERVE MUNICIPAL SOLID WASTE LANDFILL CAPACITY

SECTION 1. G.S. 130A-309.09B(a) reads as rewritten:

"(a) Each unit of local government shall establish and maintain a solid waste reduction program. The following requirements shall apply:

- (1) Demolition debris consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material may be used as fill and need not be disposed of in a permitted landfill or solid waste disposal facility, provided that demolition debris may not be placed in the waters of the State or at or below the seasonal high water table.
- (2) Repealed by Session Laws 1991, c. 621, s. 8.
- (3) Units of local government are encouraged to separate marketable plastics, glass, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses.
- (4) Notwithstanding G.S. 130A-291(b), units of local government shall not, by ordinance or otherwise, prohibit the disposal of construction and demolition debris in any sanitary landfill permitted for the disposal of construction and demolition debris, which landfill has a valid and operative franchise agreement and is otherwise properly permitted pursuant to G.S. 130A-294."

WASTEWATER/SEPTIC RULES AND PERMITTING MODIFICATIONS

SECTION 2.(a) G.S. 130A-334(9a) reads as rewritten:

"(9a) "Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system. Replacement of a damaged distribution device by an on-site wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes shall not constitute a repair to a permitted wastewater system."

SECTION 2.(b) G.S. 130A-337 reads as rewritten:

"§ 130A-337. Inspection; operation permit required.

(a) No system of wastewater collection, treatment and disposal shall be covered or placed into use by any person until an inspection by the local health department has determined



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that the system has been installed or repaired in accordance with any conditions of the improvement permit, the rules, and this Article.

(b) Upon determining that the system is properly installed or ~~repaired and that the system is capable of being operated in accordance with the conditions of the improvement permit, the rules, this Article and any conditions to be imposed in the operation permit, as applicable, repaired, and upon the written release of an on-site wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes that the system has been installed or repaired as per the conditions of the improvement permit and authorization for wastewater system construction,~~ the local health department shall issue an operation ~~permit-permit,~~ along with any conditions imposed in the operation permit, authorizing the residence, place of business or place of public assembly to be occupied and for the system to be placed into use or reuse. Subsequent findings or interpretation of rules of the local board of health by the local health department outside the initial site evaluation and conditions of the initial improvement permit and authorization for wastewater system construction shall not be used to deny issuance of the operation permit.

..."

SECTION 2.(c) G.S. 130A-335 reads as rewritten:

"§ 130A-335. Wastewater collection, treatment and disposal; rules.

"...

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

(a2) Evaluations for soil conditions and site features conducted by a licensed soil scientist or licensed geologist for special hydrologic conditions pursuant to this subsection (a1) of this section shall be approved by the applicable permitting authorities under G.S. 130A-336 and G.S. 130A-336.1 to produce the design and construction features of the new proposed wastewater system or the proposed repair project for an existing wastewater system, including to address any special hydrologic conditions that may be required under the applicable rules for an authorization to construct or for permitting, provided both of the following conditions are met:

- (1) The evaluation of soil conditions, site features, or special hydrologic conditions satisfies all requirements of this Article. The evaluation shall not cover areas outside the scope of the applicable license.
- (2) A licensed soil scientist or licensed geologist conducting such evaluation, maintains an errors and omissions liability insurance policy in an amount commensurate with the risk that is issued by a licensed insurer. Liability shall only attach for areas within the scope of work of the applicable license.

...

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

- (1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and
- (2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or

additions deemed necessary by the local board of health to protect the public health; health. Local boards of health shall use historical experience to establish modifications or additions to rules established by the Commission; and

- (3) The Department has found that the rules, including modifications or additions to the Commission's rules, ~~rules~~ of the local board of health ~~concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.~~

...

(e) The rules of the Commission and the rules of the local board of health shall address at least the following: Wastewater characteristics; Design unit; Design capacity; Design volume; Criteria for the design, installation, operation, maintenance and performance of wastewater collection, treatment and disposal systems; Soil morphology and drainage; Topography and landscape position; Depth to seasonally high water table, rock and water impeding formations; Proximity to water supply wells, shellfish waters, estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps and other bodies of surface or groundwaters; Density of wastewater collection, treatment and disposal systems in a geographical area; Requirements for issuance, suspension and revocation of permits; and Other factors which affect the effective operation and performance of wastewater collection, treatment and disposal systems. The rules regarding required design capacity and required design volume for wastewater systems shall provide that exceptions may be granted upon a showing that a system is adequate to meet actual daily water consumption. The rules of the Commission and the rules of a local board of health shall not: (i) establish limitations on depths to suitable, provisionally suitable, or unsuitable soils or saprolite, or limitations based solely on gallons per day; or (ii) require sufficient available space for a replacement wastewater system of 480 gallons per day or less of domestic wastewater.

..."

SECTION 2.(d) G.S. 130A-336.1 reads as rewritten:

"§ 130A-336.1. Alternative process for wastewater system approvals.

...

(e) Site Design, Construction, and Activities.

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

..."

SECTION 2.1(a) Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the

Commission and any local board of health shall implement 15A NCAC 18A .1945 (Available Space) as provided in subsection (b) of this section.

SECTION 2.1(b) Notwithstanding 15A NCAC 18A .1945, the Commission and the rules of a local board of health shall not require sufficient available space for a replacement wastewater system of 480 gallons per day or less of domestic wastewater.

SECTION 2.1(c) The Commission for Public Health shall adopt rules to amend 15A NCAC 18A .1945 consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.1(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

SECTION 2.2(a) Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the Commission and any local board of health shall implement 15A NCAC 18A .1943 (Soil Depth) as provided in subsection (b) of this section.

SECTION 2.2(b) Notwithstanding 15A NCAC 18A .1943, the Commission and the rules of a local board of health shall not establish limitations on depths to suitable, provisionally suitable, or unsuitable soils or saprolite, or limitations based solely on gallons per day.

SECTION 2.2(c) The Commission for Public Health shall adopt rules to amend 15A NCAC 18A .1943 consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.2(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND STORAGE TANKS

SECTION 3.(a) The Environmental Management Commission shall adopt temporary rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017. Notwithstanding G.S. 150B-21.1(d), the temporary rules shall remain in effect until the effective date of the permanent rule adopted to replace the temporary rule.

SECTION 3.(b) The Commission shall report regarding the status of the rule making required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

SHELLFISH ENTERPRISE AREAS

SECTION 4.(a) G.S. 113-201 is amended by adding a new subsection to read:

"(d) The Marine Fisheries Commission may adopt rules to establish Shellfish Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced

siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue nontransferrable leases within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to the State and be made available to other applicants."

SECTION 4.(b) G.S. 113-201.1 is amended by adding a new subdivision to read:

"(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

MARINE FISHERIES CLARIFYING CHANGES

SECTION 5.(a) G.S. 113-203 reads as rewritten:

"§ 113-203. Transplanting of oysters and clams.

...

(a2) It is unlawful to do any of the following:

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

SECTION 5.(b) G.S. 113-168.4(b) reads as rewritten:

"(b) Except as otherwise provided in this section, it is unlawful for any person licensed under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken from coastal fishing waters. A person licensed under this Article may sell fish taken outside the territorial waters of the State or sell fish taken from coastal fishing waters under any of the following circumstances:

- (1) The sale is to a fish dealer licensed under G.S. 113-169.3.
- (2) The sale is to the public and the seller is a licensed fish dealer under G.S. 113-169.3.
- (3) The sale is of ~~oysters or clams from~~ fish reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Under Dock Culture Permit, or a shellfish cultivation lease for further grow out."

RIVER HERRING FISHERIES MANAGEMENT

SECTION 6. The Division of Marine Fisheries shall review its Fishery Management Plan for river herring (blueback herring, *Alosa aestivalis*, and alewife, *Alosa pseudoharengus*) and report no later than December 15, 2017, to the Joint Legislative Oversight

Committee on Agriculture and Natural and Economic Resources regarding the continuing validity and scientific basis for the continued status of both species as "overfished." If the Division does not have an adequate scientific basis to review the status of both species, then the report should include cost estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

SECTION 7.(a) The Division of Water Resources of the Department of Environmental Quality and the State Property Office are authorized to negotiate with appropriate agencies of the federal government an agreement for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division of Coastal Management and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund established under Part 8B of Article 21 of Chapter 143 of the General Statutes for that purpose.

SECTION 7.(b) G.S. 143-215.73F(b) is amended by adding a new subdivision to read:

"(4) To provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway north of Beaufort Inlet and south of the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government."

ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND

SECTION 8. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8D. Coastal Storm Damage Mitigation Fund.

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

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

(b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the State. The Fund shall not be used for any project to construct, repair, or maintain a terminal groin or other permanent erosion control structure. For purposes of this subsection, "erosion control structure" shall have the definition set forth in G.S. 113A-115.1(a).

(c) Conditions on Funding. – Any project funded by revenue from the Fund must be cost-shared with non-State dollars as follows:

1 (1) The cost share for dredging projects located, in whole or part, in a
2 development tier one area, as defined in G.S. 143B-437.08, shall be at least
3 one non-State dollar for every three dollars from the Fund.

4 (2) The cost share for dredging projects not located, in whole or part, in a
5 development tier one area shall be at least one non-State dollar for every two
6 dollars from the Fund.

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

14
15 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

16 **SECTION 9.(a)** If any section or provision of this act is declared unconstitutional
17 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
18 than the part declared to be unconstitutional or invalid.

19 **SECTION 9.(b)** Except as otherwise provided, this act is effective when it
20 becomes law.
21
22



VISITOR REGISTRATION SHEET

House Committee on Environment

6/22/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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Kortney Smith	NCFB
J Goodman	CCC
TRACY DAVIS	DEA-DEML
Andy Miller	DEP
Cassie Gann	Sierra Club
Maggie Mayes	Sierra Club
T. Pugh	Leg Staff



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Shanice	Duke E.
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Hugh Johnson	NCLC
Spence Collins	NCLC
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FIRM OR AGENCY AND ADDRESS

DANCEAWAYS

ALCW

Chris Bronghton

MWC



The House Committee on Environment did not meet during the interim of 2018.

Please see the cancelled notice enclosed for January 10, 2018. This was the only meeting that was scheduled in 2018.

Rep. Pat McElraft — Co Chair

Pat McElraft

Nancy Fox, LA Clerk

Nancy Fox

Leslie Murray, Clerk

June 29, 2018



Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Environment** will **NOT** meet as follows:

DAY & DATE: Wednesday, January 10, 2018

TIME: 1:00 PM

LOCATION: 423 LOB

COMMENTS: Rep. Pat McElraft, Presiding

(PCS) HB189 will be considered during this meeting.

Respectfully,

Representative Pat McElraft, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:23 AM on Wednesday, January 10, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Nancy Fox (Committee Assistant)

