

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2012-200
SENATE BILL 229**

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REPORT ON THE INTEGRATION OF STORMWATER CAPTURE AND REUSE INTO STORMWATER REGULATORY PROGRAMS; (2) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE ADVISABILITY AND FEASIBILITY OF REALLOCATING WATER SUPPLY IN JOHN H. KERR RESERVOIR FROM HYDROPOWER STORAGE TO WATER SUPPLY STORAGE; (3) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY AND EVALUATE DEGRADABLE PLASTIC PRODUCTS AND THEIR POTENTIAL TO CONTAMINATE RECYCLED PLASTIC FEEDSTOCKS; (4) DIRECT THE DIVISION OF PUBLIC HEALTH IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR, AND PAINTING; (5) PROVIDE THAT TYPE 1 SOLID WASTE COMPOST FACILITIES ARE NOT REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR DISCHARGE OF PROCESS WASTEWATER BASED SOLELY ON THE DISCHARGE OF STORMWATER THAT HAS COME INTO CONTACT WITH FEEDSTOCK, INTERMEDIATE PRODUCT, OR FINAL PRODUCT AT THE FACILITY; (6) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT ALTERNATIVE MEASURES FOR STORMWATER CONTROL OTHER THAN PONDS THAT MEET CERTAIN CRITERIA AT AIRPORTS; (7) PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED PROGRAMS; (8) PROHIBIT TREATMENT OF LAND WITHIN RIPARIAN BUFFERS AS LAND OF THE STATE OR ITS SUBDIVISIONS; (8A) AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER CERTAIN CONDITIONS; (9) PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE WATER QUALITY MANAGEMENT PLANS FOR RIVER BASINS THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE AND DELAY THE IMPLEMENTATION DEADLINE FOR LOCAL STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT RULE; (10) AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM; (11) ESTABLISH A VARIANCE PROCESS FOR CERTAIN SETBACK REQUIREMENTS FOR EXISTING PRIVATE DRINKING WATER WELLS; (12) REPEAL THE AUTHORITY OF THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM; (13) ALLOW THE COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE NOT LEAKED BUT POSE AN IMMINENT HAZARD; (14) REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY SCRAP TIRE PROCESSOR; (15) REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE; (16) AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES; (17) PROVIDE THAT A SUPERMAJORITY OF THE MARINE

FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR REBUILDING OF FISH STOCKS; (18) PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT; (19) INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION; (20) PROVIDE THAT FUNDS RECEIVED IN SETTLEMENT OF THE LAWSUIT FILED BY THE STATE AGAINST THE TENNESSEE VALLEY AUTHORITY BE USED EXCLUSIVELY IN CERTAIN COUNTIES; (21) AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS; AND (22) MAKE TECHNICAL AND CONFORMING CHANGES TO ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. REPORT ON STORMWATER CAPTURE AND REUSE

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

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

PART II. STUDY REALLOCATION OF WATER SUPPLY IN KERR LAKE

SECTION 2.(a) The Department of Environment and Natural Resources shall study the advisability and feasibility of reallocating water supply in John H. Kerr Reservoir from hydropower storage to water supply storage. The study shall identify the projected future water supply needs that could be met by reallocation of the water supply and identify any potential impacts of a water supply reallocation. In conducting this study, the Department may:

- (1) In consultation with the Virginia Department of Environmental Quality, develop a Roanoke River Basin Water Supply plan that identifies future water supply needs in both the North Carolina and Virginia portions of the river basin. The water supply plan may provide the basis for determining water supply needs that could be met by reallocation of the water supply in John H. Kerr Reservoir.
- (2) Include a recommendation for an agreement between the State of North Carolina, the Commonwealth of Virginia, and the United States Army Corps of Engineers that will provide guidance for allocations and reallocations of water supply in John H. Kerr Reservoir to enhance the public health, safety, and welfare by fostering efficient and sustainable use of the water that meets economic, environmental, and other goals.
- (3) Identify and review any other issues the Department considers relevant to the topic.

SECTION 2.(b) In conducting this study, the Department shall consult with the Virginia Department of Environmental Quality, the United States Army Corps of Engineers, and any local government or other entity that receives an allocation from the John H. Kerr Reservoir for water supply or for other purposes as of the effective date of this section. The Department shall report its findings and recommendations to the Environmental Review Commission on or before June 1, 2014.

PART III. STUDY DEGRADABLE PLASTIC PRODUCTS

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

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

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

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

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

- (1) Historical expenditures, collection, and revenues, each by category.
- (2) The amount of the running balance carried forward each year.
- (3) Staff classifications, job descriptions, and dates of hire.
- (4) Workload activities and performance standards.
- (5) Number of site visits and inspections conducted annually.
- (6) Number and description of projects authorized under the Program.
- (7) Number of complaints received, methods by which complaints are responded to, and the turnaround time required to respond to complaints.
- (8) Number and description of revocations, suspensions, or denials of certification.
- (9) Description of the educational materials and training activities provided.
- (10) Description of outreach activities and the amount of staff time spent on outreach activities.
- (11) Description of compliance assistance provided.

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

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

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

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

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

"(c3) In accordance with the Federal Aviation Administration August 28, 2007, Advisory Circular No. 150/5200-33B (Hazardous Wildlife Attractants on or Near Airports), the Department shall not require the use of stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section at public airports that support commercial air carriers or general aviation services. Development projects located within five statute miles from the farthest edge of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section. Existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section located at public airports or that are within five statute miles from the farthest edge of an airport operations area may be replaced with alternative measures included in the Division of Water Quality's Best Management Practice Manual chapter on airports. In order to be approved by the Department, alternative measures or management designs that are not expressly included in the Division of Water Quality's Best Management Practice Manual shall provide for equal or better stormwater control based on the pre- and post-development hydrograph. Any replacement of existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water shall be considered a minor modification to the State general stormwater permit.

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

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

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

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

- (1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated buffers on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local

government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

(7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

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

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

SECTION 8.(a) G.S. 143-214.23 is amended by adding a new subsection to read:
"§ 143-214.23. **Riparian Buffer Protection Program: Delegation of riparian buffer protection requirements to local governments.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Each basinwide water quality management plan shall:

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

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

(d) The Commission and the Department shall each report on or before 1 October of each year on an annual basis to the Environmental Review Commission on the progress in developing and implementing basinwide water quality management plans and on increasing public involvement and public education in connection with basinwide water quality management planning. The report to the Environmental Review Commission by the Department shall include a written statement as to all concentrations of heavy metals and other pollutants in the surface waters of the State that are identified in the course of preparing or revising the basinwide water quality management plans.

(e) A basinwide water quality management plan is not a rule and Article 2A of Chapter 150B of the General Statutes does not apply to the development of basinwide water quality management plans. Any water quality standard or classification and any requirement or limitation of general applicability that implements a basinwide water quality management plan

is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General Statutes."

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

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

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

SECTION 9.(f) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace New Development Rule 15A NCAC 02B .0265. 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 (e) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. 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 9.(g) Sunset. – Subsection (e) of this section expires on the date that rules adopted pursuant to subsection (f) of this section become effective.

PART X. AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM

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

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

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

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

- a. "Community water system" means a public water system ~~that serves 15 or more service connections or that that serves at least 15 service connections used by year-round residents or~~ regularly serves at least 25 year-round residents.
- b. "Noncommunity water system" means a public water system that is not a community water system.

A connection to a system that delivers water by a constructed conveyance other than a pipe is not a connection within the meaning of this subdivision under any one of the following circumstances:

- a. The water is used exclusively for purposes other than residential uses. As used in this subdivision, "residential uses" mean drinking, bathing, cooking, or other similar uses.
- b. The Department determines that alternative water to achieve the equivalent level of public health protection pursuant to applicable drinking water rules is provided for residential uses.
- c. The Department determines that the water provided for residential uses is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable drinking water rules."

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

SECTION 11.(a) Variance from Setbacks for Existing Private Drinking Water

Wells. –

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

SECTION 11.(b) Rule Making. – The Commission for Public Health shall adopt rules that are substantively identical to the provisions of subsection (a) of this section. The Commission may reorganize or renumber any of the rules to which this section applies at its discretion. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. 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 11.(c) Effective Date. – Subsection (a) of this section expires when permanent rules to replace subsection (a) of this section have become effective, as provided by subsection (b) of this section.

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

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

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

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

- (1) Electronic inspection authorization. – An inspection authorization that is generated electronically through the electronic accounting system that creates a unique nonduplicating authorization number assigned to the vehicle's inspection receipt upon successful passage of an inspection. The term "electronic inspection authorization" shall include the term "inspection sticker" during the transition period to use of electronic inspection authorizations.
- (2) Emissions county. – A county listed in G.S. 143-215.107A(c) ~~or designated by the Environmental Management Commission pursuant to G.S. 143-215.107A(d)~~ and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.
- (3) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

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

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

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

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

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

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

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

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

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

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

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

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

(b) On or after July 1, 1990:

- (1) A person may not maintain a scrap tire collection site or a scrap tire disposal site unless the site is permitted.
- (2) It is unlawful for any person to dispose of scrap tires in the State unless the scrap tires are disposed of at a scrap tire collection site or at a tire disposal site, or disposed of for processing at a scrap tire processing facility.

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

- (1) Provide for the administration of scrap tire collector and collection center permits and scrap tire disposal site permits, which may not exceed two hundred fifty dollars (\$250.00) ~~annually;~~annually.
- (2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire ~~collectors; and~~collectors.
- (3) Authorize the final disposal of scrap tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal.
- (4) Provide that permitted scrap tire collectors may not contract with a scrap tire processing facility unless the processing facility documents that it has access to a facility permitted to receive scrap tires.

(d) A permit is not required for:

- (1) A tire retreading business where fewer than 1,000 scrap tires are kept on the business premises;
- (2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;
- or
- (3) A retail tire-selling business which is serving as a scrap tire collection center if fewer than 1,000 scrap tires are kept on the business premises.

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

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

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

SECTION 15. G.S. 130A-291.1 is amended by adding a new subsection to read:

"§ 130A-291.1. Septage management program; permit fees.

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

...."

PART XVI. AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES

SECTION 16.(a) G.S. 143B-289.57 reads as rewritten:

"§ 143B-289.57. Marine Fisheries Commission Advisory Committees established; members; selection; duties.

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

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

...
 (e) The Chair of the Commission shall appoint a ~~regional advisory committee for each of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional advisory committee for that part of the State that is not included in the three coastal regions.~~ Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the

Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented."

SECTION 16.(b) G.S. 113-200(e1) reads as rewritten:

"§ 113-200. **Fishery Resource Grant Program.**

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

- (1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.
- (2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.
- (3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.
- (4) ~~One member~~Two members of the ~~Northeast-Northern~~ Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Northeast-Northern~~ Regional Advisory Committee.
- (5) ~~One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Central Regional Advisory Committee.~~
- (6) ~~One member~~Two members of the ~~Southeast-Southern~~ Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Southeast-Southern~~ Regional Advisory Committee.
- (7) ~~One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional Advisory Committee.~~

...."

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

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

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

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

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

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

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

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

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial ~~use~~use.
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other

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

PART XIX. INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION

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

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

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

PART XX. USE OF TVA SETTLEMENT FUNDS

SECTION 20. Funds received by the State pursuant to the provisions of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee and allocated to the Department of Agriculture and Consumer Services by the Committee Report to House Bill 950 shall be used exclusively to award grants for "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent Decree in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham,

Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey.

PART XXI. AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

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

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

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

- (1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.
- (2) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.
- (3) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.
- (4) The number of mercury switches collected and a description of how the mercury switches were managed.
- (5) A statement that details the costs required to implement the mercury switch removal program, including a summary of receipts and disbursements from the Mercury Switch Removal Account."

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

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

...
(i) The Department shall report to the Fiscal Research Division of the General Assembly, the Senate Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Environmental Review Commission on or before January 1 of each year on the implementation and cost of the hazardous waste management program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous

waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

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

...."

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

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

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

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

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

"§ 130A-310.10. Annual reports.

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

- (1) The Inactive Hazardous Waste Sites Priority List.
- (2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund.
- (3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said plans.
- (4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement such plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of such plan.
- (5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval.
- (6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action

plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of said plans.

- (7) A list of sites that pose an imminent hazard.
- (8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund.
- (8a) The amounts and sources of funds collected by year received under G.S. 130A-310.76, the amounts and sources of those funds paid into the Inactive Hazardous Sites Cleanup Fund established pursuant to G.S. 130A-310.11, the number of acres of contamination for which funds have been received pursuant to G.S. 130A-310.76, and a detailed annual accounting of how the funds collected pursuant to G.S. 130A-310.76 have been utilized by the Department to advance the purposes of Part 8 of Article 9 of Chapter 130A of the General Statutes.
- (9) Any other information requested by the General Assembly or the Environmental Review Commission.

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

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

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

"§ 143-215.94M. Reports.

(a) The Secretary shall present an annual report to the Environmental Review ~~Commission~~ Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources which shall include at least the following:

- (1) A list of all discharges or releases of petroleum from underground storage ~~tanks;~~tanks.
- (2) A list of all cleanups requiring State funding through the Noncommercial Fund and a comprehensive budget to complete such ~~cleanups;~~cleanups.
- (3) A list of all cleanups undertaken by tank owners or operators and the status of these ~~cleanups;~~cleanups.
- (4) A statement of receipts and disbursements for both the Commercial Fund and the Noncommercial ~~Fund;~~Fund.
- (5) A statement of all claims against both the Commercial Fund and the Noncommercial Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other ~~obligations;~~obligations.
- (6) The adequacy of both the Commercial Fund and the Noncommercial Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Commercial Fund and the Noncommercial ~~Fund;~~ and Fund.
- ~~(7) A statement of the condition of the Loan Fund and a summary of all activity under the Loan Fund.~~

(b) The report required by this section shall be made by the Secretary on or before ~~1 September~~November 1 of each year."

SECTION 24. G.S. 113A-35.1(b) is repealed.

SECTION 25. G.S. 136-28.8(g) reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of Environmental Assistance and Outreach of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before ~~December 1~~ January 15 of each year, the Division of Environmental Assistance and Outreach shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 26. G.S. 159I-29(a) reads as rewritten:

"(a) ~~The~~ If the General Assembly appropriates funds for loans authorized by this Chapter in any fiscal year, the Office of State Budget and Management and the Division shall prepare and file on or before July 31 of ~~each~~ the following fiscal year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of loans authorized by this Chapter. No report shall be filed for fiscal years in which no funds are appropriated or otherwise available for loans authorized by this Chapter."

SECTION 27. G.S. 143B-279.5 reads as rewritten:

"§ 143B-279.5. **Biennial State of the Environment Report.**

(a) The Secretary of Environment and Natural Resources shall report on the state of the environment to the General ~~Assembly~~ Assembly, the Fiscal Research Division of the General Assembly, and the Environmental Review Commission no later than 15 February of each odd-numbered year. The report shall include:

- (1) An identification and analysis of current environmental protection issues and problems within or affecting the State and its people;
- (2) Trends in the quality and use of North Carolina's air and water resources;
- (3) An inventory of areas of the State where air or water pollution is in evidence or may occur during the upcoming biennium;
- (4) Current efforts and resources allocated by the Department to correct identified pollution problems and an estimate, if necessary, of additional resources needed to study, identify, and implement solutions to solve potential problems;
- (5) Departmental goals and strategies to protect the natural resources of the State;
- (6) Any information requested by the General Assembly or the Environmental Review Commission;
- (7) Suggested legislation, if necessary; and
- (8) Any other information on the state of the environment the Secretary considers appropriate.

(b) Other State agencies involved in protecting the State's natural resources and environment shall cooperate with the Department of Environment and Natural Resources in preparing this report."

PART XXII. TECHNICAL AND CONFORMING CHANGES

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

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

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

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

PART XXIII. EFFECTIVE DATE

SECTION 29. Section 21(b) of this act becomes effective December 31, 2017. Sections 16(a) and 16(b) of this act become effective July 1, 2012. Sections 18 and 19 of this act become effective October 1, 2012, and apply to violations and offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:42 a.m. this 1st day of August, 2012