

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 74
Committee Substitute Favorable 5/9/13
Senate Rules and Operations of the Senate Committee Substitute Adopted 7/18/13

Short Title: Regulatory Reform Act of 2013.

(Public)

Sponsors:

Referred to:

February 7, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AND STREAMLINE THE REGULATORY PROCESS IN ORDER
3 TO STIMULATE JOB CREATION, TO ELIMINATE UNNECESSARY REGULATION,
4 TO MAKE VARIOUS OTHER STATUTORY CHANGES, AND TO AMEND CERTAIN
5 ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. IMPROVE RULE-MAKING PROCESS**

9 **SECTION 1.** G.S. 150B-2 is amended by adding a new subdivision to read:

10 "(7a) "Policy" means any nonbinding interpretive statement within the delegated
11 authority of an agency that merely defines, interprets, or explains the
12 meaning of a statute or rule. The term includes any document issued by an
13 agency which is intended and used purely to assist a person to comply with
14 the law, such as a guidance document."

15 **SECTION 2.** G.S. 150B-21.4 reads as rewritten:

16 **"§ 150B-21.4. Fiscal notes on rules.**

17 (a) State Funds. – Before an agency ~~publishes in the North Carolina Register the~~
18 ~~proposed text of~~ adopts a permanent rule change that would require the expenditure or
19 distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it
20 must ~~submit the text of the proposed rule change, an analysis of the proposed rule change, and~~
21 ~~a fiscal note on the proposed rule change to the Office of State Budget and Management and~~
22 obtain certification from the Office of State Budget and Management that the funds that would
23 be required by the proposed rule change are available. The agency shall submit the text of the
24 proposed rule change, an analysis of the proposed rule change, and a fiscal note on the
25 proposed rule change to the Office at the same time as the agency submits the notice of text for
26 publication pursuant to G.S. 150B-21.2. The fiscal note must state the amount of funds that
27 would be expended or distributed as a result of the proposed rule change and explain how the
28 amount was computed. The Office of State Budget and Management must certify a proposed
29 rule change if funds are available to cover the expenditure or distribution required by the
30 proposed rule change.

31 (a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section,
32 any agency that adopts a rule affecting environmental permitting of Department of
33 Transportation projects shall conduct an analysis to determine if the rule will result in an
34 increased cost to the Department of Transportation. The analysis shall be conducted and
35 submitted to the Board of Transportation ~~before when~~ the agency ~~publishes the proposed text of~~



1 ~~the rule change in the North Carolina Register~~ submits the notice of text for publication. The
2 agency shall consider any recommendations offered by the Board of Transportation prior to
3 adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation
4 may submit any objection to the rule it may have to the Rules Review Commission. If the Rules
5 Review Commission receives an objection to a rule from the Board of Transportation no later
6 than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule
7 shall only become effective as provided in G.S. 150B-21.3(b1).

8 (b) Local Funds. – Before an agency ~~publishes in the North Carolina Register the~~
9 ~~proposed text of~~adopts a permanent rule change that would affect the expenditures or revenues
10 of a unit of local government, it must submit the text of the proposed rule change and a fiscal
11 note on the proposed rule change to the Office of State Budget and Management as provided by
12 G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina
13 Association of County Commissioners, and the North Carolina League of Municipalities. The
14 fiscal note must state the amount by which the proposed rule change would increase or
15 decrease expenditures or revenues of a unit of local government and must explain how the
16 amount was computed.

17 (b1) Substantial Economic Impact. – Before an agency ~~publishes in the North Carolina~~
18 ~~Register the proposed text of~~adopts a permanent rule change that would have a substantial
19 economic impact and that is not identical to a federal regulation that the agency is required to
20 adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note
21 approved by the Office of State Budget and Management. The agency may request the Office
22 of State Budget and Management to prepare the fiscal note only after, working with the Office,
23 it has exhausted all resources, internal and external, to otherwise prepare the required fiscal
24 note. If an agency requests the Office of State Budget and Management to prepare a fiscal note
25 for a proposed rule change, that Office must prepare the note within 90 days after receiving a
26 written request for the note. If the Office of State Budget and Management fails to prepare a
27 fiscal note within this time period, the agency proposing the rule change shall prepare a fiscal
28 note. A fiscal note prepared in this circumstance does not require approval of the Office of
29 State Budget and Management.

30 If an agency prepares the required fiscal note, the agency must submit the note to the Office
31 of State Budget and Management for review. The Office of State Budget and Management
32 shall review the fiscal note within 14 days after it is submitted and either approve the note or
33 inform the agency in writing of the reasons why it does not approve the fiscal note. After
34 addressing these reasons, the agency may submit the revised fiscal note to that Office for its
35 review. If an agency is not sure whether a proposed rule change would have a substantial
36 economic impact, the agency shall ask the Office of State Budget and Management to
37 determine whether the proposed rule change has a substantial economic impact. Failure to
38 prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for
39 objection to the rule under G.S. 150B-21.9(a)(4).

40 As used in this subsection, the term "substantial economic impact" means an aggregate
41 financial impact on all persons affected of at least ~~five hundred thousand dollars (\$500,000)~~
42 one million dollars (\$1,000,000) in a 12-month period. In analyzing substantial economic
43 impact, an agency shall do the following:

- 44 (1) Determine and identify the appropriate time frame of the analysis.
- 45 (2) Assess the baseline conditions against which the proposed rule is to be
46 measured.
- 47 (3) Describe the persons who would be subject to the proposed rule and the type
48 of expenditures these persons would be required to make.
- 49 (4) Estimate any additional costs that would be created by implementation of the
50 proposed rule by measuring the incremental difference between the baseline
51 and the future condition expected after implementation of the rule. The

- 1 analysis should include direct costs as well as opportunity costs. Cost
 2 estimates must be monetized to the greatest extent possible. Where costs are
 3 not monetized, they must be listed and described.
- 4 (5) For costs that occur in the future, the agency shall determine the net present
 5 value of the costs by using a discount factor of seven percent (7%).
- 6 (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the
 7 following:
- 8 (1) A description of the persons who would be affected by the proposed rule
 9 change.
- 10 (2) A description of the types of expenditures that persons affected by the
 11 proposed rule change would have to make to comply with the rule and an
 12 estimate of these expenditures.
- 13 (3) A description of the purpose and benefits of the proposed rule change.
- 14 (4) An explanation of how the estimate of expenditures was computed.
- 15 (5) A description of at least two alternatives to the proposed rule that were
 16 considered by the agency and the reason the alternatives were rejected. The
 17 alternatives may have been identified by the agency or by members of the
 18 public.
- 19 (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity
 20 of a rule."

21 **SECTION 3.(a)** G.S. 150B-21.2(c) reads as rewritten:

- 22 "(c) Notice of Text. – A notice of the proposed text of a rule must include all of the
 23 following:
- 24 (1) The text of the proposed ~~rule~~ rule, unless the rule is a readoption without
 25 substantive changes to the existing rule proposed in accordance with
 26 G.S. 150B-21.3A.
- 27 (2) A short explanation of the reason for the proposed rule and a link to the
 28 agency's Web site containing the information required by G.S. 150B-19.1(c).
- 29 (3) A citation to the law that gives the agency the authority to adopt the rule.
- 30 (4) The proposed effective date of the rule.
- 31 (5) The date, time, and place of any public hearing scheduled on the rule.
- 32 (6) Instructions on how a person may demand a public hearing on a proposed
 33 rule if the notice does not schedule a public hearing on the proposed rule and
 34 subsection (e) of this section requires the agency to hold a public hearing on
 35 the proposed rule when requested to do so.
- 36 (7) The period of time during which and the person to whom written comments
 37 may be submitted on the proposed rule.
- 38 (8) If a fiscal note has been prepared for the rule, a statement that a copy of the
 39 fiscal note can be obtained from the agency.
- 40 (9) The procedure by which a person can object to a proposed rule and the
 41 requirements for subjecting a proposed rule to the legislative review
 42 process."

43 **SECTION 3.(b)** Part 2 of Article 2A of Chapter 150B of the General Statutes is
 44 amended by adding a new section to read:

45 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

46 (a) Definitions. – For purposes of this section, the following definitions apply:

- 47 (1) Commission. – Means the Rules Review Commission.
- 48 (2) Committee. – Means the Joint Legislative Administrative Procedure
 49 Oversight Committee.
- 50 (3) Necessary with substantive public interest. – Means any rule for which the
 51 agency has received public comments within the past two years. A rule is

1 also "necessary with substantive public interest" if the rule affects the
2 property interest of the regulated public and the agency knows or suspects
3 that any person may object to the rule.

4 (4) Necessary without substantive public interest. – Means a rule for which the
5 agency has not received a public comment concerning the rule within the
6 past two years. A "necessary without substantive public interest" rule
7 includes a rule that merely identifies information that is readily available to
8 the public, such as an address or a telephone number.

9 (5) Public comment. – Means written comments objecting to the rule, in whole
10 or in part, received by an agency from any member of the public, including
11 an association or other organization representing the regulated community or
12 other members of the public.

13 (6) Unnecessary rule. – Means a rule that the agency determines to be obsolete,
14 redundant, or otherwise not needed.

15 (b) Automatic Expiration. – Except as provided in subsection (d1) of this section, any
16 rule for which the agency that adopted the rule has not conducted a review in accordance with
17 this section shall expire on the date set in the schedule established by the Commission pursuant
18 to subsection (d) of this section.

19 (c) Review Process. – Each agency subject to this Article shall conduct a review of the
20 agency's existing rules at least once every 10 years in accordance with the following process:

21 (1) Step 1: The agency shall conduct an analysis of each existing rule and make
22 an initial determination as to whether the rule is (i) necessary with
23 substantive public interest, (ii) necessary without substantive public interest,
24 or (iii) unnecessary. The agency shall then post the results of the initial
25 determination on its Web site and invite the public to comment on the rules
26 and the agency's initial determination. The agency shall also submit the
27 results of the initial determination to the Office of Administrative Hearings
28 for posting on its Web site. The agency shall accept public comment for no
29 less than 60 days following the posting. The agency shall review the public
30 comments and prepare a brief response addressing the merits of each
31 comment. After completing this process, the agency shall submit a report to
32 the Commission. The report shall include the following items:

33 a. The agency's initial determination.

34 b. All public comments received in response to the agency's initial
35 determination.

36 c. The agency's response to the public comments.

37 (2) Step 2: The Commission shall review the reports received from the agencies
38 pursuant to subdivision (1) of this subsection. If a public comment relates to
39 a rule that the agency determined to be necessary and without substantive
40 public interest or unnecessary, the Commission shall determine whether the
41 public comment has merit and, if so, designate the rule as necessary with
42 substantive public interest. For purposes of this subsection, a public
43 comment has merit if it addresses the specific substance of the rule and
44 relates to any of the standards for review by the Commission set forth in
45 G.S. 150B-21.9(a). The Commission shall prepare a final determination
46 report and submit the report to the Committee for consultation in accordance
47 with subdivision (3) of this subsection. The report shall include the
48 following items:

49 a. The agency's initial determination.

50 b. All public comments received in response to the agency's initial
51 determination.

- 1 c. The agency's response to the public comments.
2 d. A summary of the Commission's determinations regarding public
3 comments.
4 e. A determination that all rules that the agency determined to be
5 necessary and without substantive public interest and for which no
6 public comment was received or for which the Commission
7 determined that the public comment was without merit be allowed to
8 remain in effect without further action.
9 f. A determination that all rules that the agency determined to be
10 unnecessary and for which no public comment was received or for
11 which the Commission determined that the public comment was
12 without merit shall expire on the first day of the month following the
13 date the report becomes effective in accordance with this section.
14 g. A determination that all rules that the agency determined to be
15 necessary with substantive public interest or that the Commission
16 designated as necessary with public interest as provided in this
17 subdivision shall be readopted as though the rules were new rules in
18 accordance with this Article.

19 (3) Step 3: The final determination report shall not become effective until the
20 agency has consulted with the Committee. The determinations contained in
21 the report pursuant to sub-subdivisions e., f., and g. of subdivision (2) of this
22 subsection shall become effective on the date the report is reviewed by the
23 Committee. If the Committee does not hold a meeting to hear the
24 consultation required by this subdivision within 60 days of receipt of the
25 final determination report, the consultation requirement is deemed satisfied,
26 and the determinations contained in the report become effective on the 61st
27 day following the date the Committee received the report. If the Committee
28 disagrees with a determination regarding a specific rule contained in the
29 report, the Committee may recommend that the General Assembly direct the
30 agency conduct a review of the specific rule in accordance with this section
31 in the next year following the consultation.

32 (d) Timetable. – The Commission shall establish a schedule for the review of existing
33 rules in accordance with this section on a decennial basis by assigning each Title of the
34 Administrative Code a date by which the review required by this section must be completed. In
35 establishing the schedule, the Commission shall consider the scope and complexity of rules
36 subject to this section and the resources required to conduct the review required by this section.
37 The Commission shall have broad authority to modify the schedule and extend the time for
38 review in appropriate circumstances. Except as provided in subsection (d1) of this section, if
39 the agency fails to conduct the review by the date set by the Commission, the rules contained in
40 that Title which have not been reviewed will expire. The Commission may exempt rules that
41 have been adopted or amended within the previous 10 years from the review required by this
42 section. However, any rule exempted on this basis must be reviewed in accordance with this
43 section no more than 10 years following the last time the rule was amended.

44 (d1) Rules to Conform to or Implement Federal Law. – Rules adopted to conform to or
45 implement federal law shall not expire as provided by this section. The Commission shall
46 report annually to the Committee on any rules that do not expire pursuant to this subsection.

47 (e) Other Reviews. – Notwithstanding any provision of this section, an agency may
48 subject a rule that it determines to be unnecessary to review under this section at any time by
49 notifying the Commission that it wishes to be placed on the schedule for the current year. The
50 Commission may also subject a rule to review under this section at any time by notifying the
51 agency that the rule has been placed on the schedule for the current year."

1 **SECTION 3.(c)** G.S. 150B-19.2 is repealed.

2 **SECTION 3.(d)** If G.S. 150B-21.3A, as enacted by subsection (b) of this section,
3 becomes law, the Rules Review Commission shall subject rules adopted by the Environmental
4 Management Commission related to surface water quality and wetlands to review in the first
5 year that the Rules Review Commission establishes for the review of existing rules in
6 accordance with G.S. 150B-21.3A.

7 **SECTION 4.** The Joint Legislative Administrative Procedure Oversight Committee
8 shall undertake a study of the exemptions from rule making contained in G.S. 150B-1(d) and
9 elsewhere in the General Statutes. For each exemption, the Committee shall evaluate the
10 continued need for the exemption and the potential consequences of repeal of the exemption.
11 The Committee shall report to the 2014 Session of the 2013 General Assembly on its findings
12 and recommendations, including any legislative recommendations for the repeal of exemptions.
13

14 **PART II. STATE AND LOCAL GOVERNMENT REGULATIONS**

15 **PROHIBIT CERTAIN CONTRACT REQUIREMENTS BY LOCAL GOVERNMENTS**

16 **SECTION 5.(a)** G.S. 153A-449 reads as rewritten:

17 "**§ 153A-449. Contracts with private entities.**

18 A county may contract with and appropriate money to any person, association, or
19 corporation, in order to carry out any public purpose that the county is authorized by law to
20 engage in. A county may not require a private contractor under this section to abide by any
21 restriction that the county could not impose on all employers in the county, such as paying
22 minimum wage or providing paid sick leave to its employees, as a condition of bidding on a
23 contract."
24

25 **SECTION 5.(b)** G.S. 160A-20.1 reads as rewritten:

26 "**§ 160A-20.1. Contracts with private entities.**

27 A city may contract with and appropriate money to any person, association, or corporation,
28 in order to carry out any public purpose that the city is authorized by law to engage in. A city
29 may not require a private contractor under this section to abide by any restriction that the city
30 could not impose on all employers in the city, such as paying minimum wage or providing paid
31 sick leave to its employees, as a condition of bidding on a contract."

32 **SECTION 5.(c)** This section is effective when it becomes law and applies to
33 contracts entered on or after that date.
34

35 **EQUAL TREATMENT FOR FRATERNITIES AND SORORITIES BY LOCAL** 36 **GOVERNMENT**

37 **SECTION 6.(a)** G.S. 153A-340 is amended by adding a new subsection to read:

38 "**(k)** A zoning or unified development ordinance may not differentiate in terms of the
39 regulations applicable to fraternities or sororities between those fraternities or sororities that are
40 approved or recognized by a college or university and those that are not."

41 **SECTION 6.(b)** G.S. 160A-381 is amended by adding a new subsection to read:

42 "**(g)** A zoning or unified development ordinance may not differentiate in terms of the
43 regulations applicable to fraternities or sororities between those fraternities or sororities that are
44 approved or recognized by a college or university and those that are not."
45

46 **AMEND PRIVATE CLUB DEFINITION**

47 **SECTION 7.** G.S. 130A-247 reads as rewritten:

48 "**§ 130A-247. Definitions.**

49 The following definitions shall apply throughout this Part:

50 ...

(2) "Private club" means an organization that (i) maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in ~~G.S. 105-130.2(1)~~ G.S. 105-130.2(1) or (ii) meets the definition of a private club set forth in G.S. 18B-1000(5).

...."

OUTDOOR ADVERTISING AMENDMENTS

SECTION 8.(a) G.S. 136-133.1 reads as rewritten:

"§ 136-133.1. Outdoor advertising vegetation cutting or removal.

(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of a selective vegetation removal permittee, may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this section along acceleration or deceleration ramps so long as the view to the outdoor advertising sign will be improved and the total aggregate area of cutting or removal does not exceed the maximum allowed in subsection (a) of this section.

(f) Tree branches within a highway right-of-way that encroach into the zone created by points A, ~~C, and DB~~, D, and E may be cut or pruned. Except as provided in subsection (g) of this section, no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut, trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising and within the limits of the highway right-of-way for the purpose of enhancing the visibility of outdoor advertising unless permitted to do so by the Department in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4.

SECTION 8.(b) Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-131.2. Modernization of outdoor advertising devices.

No municipality, county, local or regional zoning authority, or other political subdivision shall, without the payment of just compensation as provided for in G.S. 136-131.1, regulate or prohibit the repair or reconstruction of any outdoor advertising for which there is in effect a valid permit issued by the Department of Transportation so long as the square footage of its advertising surface area is not increased. As used in this section, reconstruction includes the changing of an existing multipole outdoor advertising structure to a new monopole structure."

DISPOSITION OF DMH/DD/SAS RECORDS

SECTION 9. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall amend its Records Retention and Disposition Schedule Manual to provide that if a Medicaid service has been eliminated by the State, the provider must retain records for three years after the last date of the service, unless a longer period is required by federal law. At the termination of that time period, records may be destroyed or transferred to a State agency or contractor identified by the Department of Health and Human Services.

STUDY OCCUPATIONAL LICENSING BOARD AGENCY

SECTION 10.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2013-2014 Work Plan for the Program Evaluation Division of the General Assembly a study to evaluate the structure, organization, and operation of the various

1 independent occupational licensing boards. For purposes of this act, the term "occupational
2 licensing board" has the same meaning as defined in G.S. 93B-1. The Program Evaluation
3 Division shall include the following within this study:

- 4 (1) Consideration of the feasibility of establishing a single State agency to
5 oversee the administration of all or some of the occupational licensing
6 boards.
- 7 (2) Whether greater efficiency and cost-effectiveness can be realized by
8 combining the administrative functions of the boards while allowing the
9 boards to continue performing the regulatory functions.
- 10 (3) Whether the total number of boards should be reduced by combining and/or
11 eliminating some boards.

12 **SECTION 10.(b)** The Program Evaluation Division shall submit its findings and
13 recommendations from Section 10(a) of this act to the Joint Legislative Program Evaluation
14 Oversight Committee and the Joint Legislative Administrative Procedure Oversight Committee
15 at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.
16

17 **PROHIBIT TRANSPORTATION IMPACT MITIGATION ORDINANCES**

18 **SECTION 10.1.(a)** Article 8 of Chapter 160A of the General Statutes is amended
19 by adding a new section to read as follows:

20 **"§ 160A-204. Transportation impact mitigation ordinances prohibited.**

21 No city may enact or enforce an ordinance, rule, or regulation that requires an employer to
22 assume financial, legal, or other responsibility for the mitigation of the impact of his or her
23 employees' commute or transportation to or from the employer's workplace, which may result
24 in the employer being subject to a fine, fee, or other monetary, legal, or negative
25 consequences."

26 **SECTION 10.1.(b)** Article 6 of Chapter 153A of the General Statutes is amended
27 by adding a new section to read as follows:

28 **"§ 153A-145.1. Transportation impact mitigation ordinances prohibited.**

29 No county may enact or enforce an ordinance, rule, or regulation that requires an employer
30 to assume financial, legal, or other responsibility for the mitigation of the impact of his or her
31 employees' commute or transportation to or from the employer's workplace, which may result
32 in the employer being subject to a fine, fee, or other monetary, legal, or negative
33 consequences."

34 **PART III. BUSINESS AND LABOR REGULATIONS**

35 **LET BED & BREAKFASTS OFFER THREE MEALS/DAY**

36 **SECTION 11.(a)** G.S. 130A-247 is amended by adding a new subdivision to read:

37 **"(5a)** "Bed and breakfast home" means a business in a private home of not more
38 than eight guest rooms that offers bed and breakfast accommodations for a
39 period of less than one week and that meets all of the following criteria:

- 40 a. Does not serve food or drink to the general public for pay.
- 41 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a
42 combination of all or some of these three meals, only to overnight
43 guests of the home.
- 44 c. Includes the price of any meals served in the room rate.
- 45 d. Is the permanent residence of the owner or the manager of the
46 business."

47 **SECTION 11.(b)** G.S. 130A-248(a2) reads as rewritten:

48 **"(a2)** For the protection of the public health, the Commission shall adopt rules governing
49 the sanitation of ~~private homes offering bed and breakfast accommodations to eight or fewer~~
50
51

1 ~~persons per night, bed and breakfast homes, as defined in G.S. 130A-247, and rules governing~~
2 ~~the sanitation of bed and breakfast ~~inns-inns,~~ as defined in G.S. 130A-247. In carrying out this~~
3 ~~function, the Commission shall adopt requirements that are the least restrictive so as to protect~~
4 ~~the public health and not unreasonably interfere with the operation of bed and breakfast homes~~
5 ~~and bed and breakfast inns."~~

6 **SECTION 11.(c)** This section becomes effective October 1, 2013.

8 **CHILD CARE PROVIDERS' CRIMINAL HISTORY CHECKS**

9 **SECTION 12.** G.S. 110-90.2 is amended by adding a new subsection to read:

10 "(h) The check of the State and National Repositories for the criminal history of a person
11 required to be conducted by this section and directed to the State Bureau of Investigation shall
12 be completed within 15 calendar days of the receipt of the request from the Department of
13 Health and Human Services. The criminal history check of a person required to be conducted
14 by the Department of Health and Human Services by this section shall be completed within 15
15 calendar days of the receipt of the application from the child care provider."

17 **WC INSURANCE CANCELLATION/ELECTRONIC COMMUNICATIONS**

18 **SECTION 13.(a)** G.S. 58-36-105(b) reads as rewritten:

19 "(b) Any cancellation permitted by subsection (a) of this section is not effective unless
20 written notice of cancellation has been given ~~by registered or certified mail, return receipt~~
21 ~~requested,~~ to the insured not less than 15 days before the proposed effective date of
22 cancellation. The notice ~~shall~~ may be given by registered or certified mail, return receipt
23 requested, to the insured and any other person designated in the policy to receive notice of
24 cancellation at their addresses shown in the policy or, if not indicated in the policy, at their last
25 known addresses. The notice shall state the precise reason for cancellation. Whenever notice of
26 intention to cancel is ~~required to be~~ given by registered or certified mail, no cancellation by the
27 insurer shall be effective unless and until such method is employed and completed. Notice of
28 cancellation, termination, or nonrenewal may also be given by any method permitted for
29 service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure. Failure to
30 send this notice, as provided in this section, to any other person designated in the policy to
31 receive notice of cancellation invalidates the cancellation only as to that other person's
32 interest."

33 **SECTION 13.(b)** Article 2 of Chapter 58 of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 58-2-255. Electronic insurance communications and records.**

36 (a) Definitions. – As used in this section:

37 (1) "Communications" means notices, offers, disclosures, documents, forms,
38 information, and correspondence required or permitted to be provided to a
39 party in writing under the insurance laws of this State or that are otherwise
40 provided by an insurer, including, but not limited to, notices pertaining to the
41 cancellation, termination, or nonrenewal of insurance.

42 (2) "Delivered by electronic means" includes any of the following:

- 43 a. Delivery to an electronic mail address or an electronic account at
44 which a party has consented to receive electronic communications.
45 b. Displaying information, or a link to information, as an essential step
46 to completing the transaction to which such information relates.
47 c. Providing notice to a party at the electronic mail address or an
48 electronic account at which the party has consented to receive notice
49 of the posting of a communication on an electronic network or site.

50 (3) "Insurer" has the same meaning as in G.S. 58-1-5(3).

1 (4) "Party" means a recipient of any communications defined in this section.
2 "Party" includes an applicant, policyholder, insured, claimant, member,
3 provider, or beneficiary.

4 (b) When any insurance law of this State, except for cancellation, termination, or
5 nonrenewal of workers' compensation policies pursuant to G.S. 58-36-105(b), requires a
6 communication to be provided to a party in writing, signed by a party, provided by means of a
7 specific delivery method, or retained by an insurer, those requirements are satisfied if the
8 insurer complies with Article 40 of Chapter 66 of the General Statutes.

9 (c) Verification of communications delivered by electronic means shall constitute proof
10 of mailing in civil and administrative proceedings and under the insurance laws of this State.

11 (d) Nothing in this section affects requirements related to the content or timing of any
12 communication required under the insurance laws of this State.

13 (e) A recording of an oral communication between an insurer and a party that is reliably
14 stored and reproduced by an insurer shall constitute an electronic communication or record.
15 When a communication is required under the insurance laws of this State to be provided in
16 writing, the communication provided in accordance with this subsection shall satisfy the
17 requirement that the communication be in writing. When a communication is required under
18 the insurance laws of this State to be signed, a recorded oral communication in which a party
19 agrees to the terms stated in the oral communication shall satisfy the requirement."

20 **SECTION 13.(c)** G.S. 97-19 reads as rewritten:

21 **"§ 97-19. Liability of principal contractors; certificate that subcontractor has complied**
22 **with law; right to recover compensation of those who would have been liable;**
23 **order of liability.**

24 Any principal contractor, intermediate contractor, or subcontractor who shall sublet any
25 contract for the performance of any work without ~~requiring~~ obtaining from such subcontractor
26 or obtaining from the Industrial Commission a certificate, issued by a workers' compensation
27 insurance carrier, or a certificate of compliance issued by the Department of Insurance to a
28 self-insured subcontractor, stating that such subcontractor has complied with G.S. 97-93
29 ~~hereof,~~ for a specified term, shall be liable, irrespective of whether such subcontractor has
30 regularly in service fewer than three employees in the same business within this State, to the
31 same extent as such subcontractor would be if he were subject to the provisions of this Article
32 for the payment of compensation and other benefits under this Article on account of the injury
33 or death of any employee of such subcontractor due to an accident arising out of and in the
34 course of the performance of the work covered by such subcontract. If the principal contractor,
35 intermediate contractor or subcontractor shall obtain such certificate at ~~the any time of before~~
36 subletting such contract to the subcontractor, he shall not thereafter be held liable to any
37 employee of such subcontractor for compensation or other benefits under this ~~Article.~~ Article
38 and within the term specified by the certificate.

39 Notwithstanding the provisions of this section, any principal contractor, intermediate
40 contractor, or subcontractor who shall sublet any contract for the performance of work shall not
41 be held liable to any employee of such subcontractor if either (i) the subcontractor has a
42 workers' compensation insurance policy in compliance with G.S. 97-93 in effect on the date of
43 injury regardless of whether the principal contractor, intermediate contractor, or subcontractor
44 failed to timely obtain a certificate from the subcontractor; or (ii) the policy expired or was
45 cancelled prior to the date of injury provided the principal contractor, intermediate contractor,
46 or subcontractor obtained a certificate at any time before subletting such contract to the
47 subcontractor and was unaware of the expiration or cancellation.

48 Any principal contractor, intermediate contractor, or subcontractor paying compensation or
49 other benefits under this Article, under the foregoing provisions of this section, may recover the
50 amount so paid from any person, persons, or corporation who independently of such provision,
51 would have been liable for the payment thereof.

1 Every claim filed with the Industrial Commission under this section shall be instituted
2 against all parties liable for payment, and said Commission, in its award, shall fix the order in
3 which said parties shall be exhausted, beginning with the immediate employer.

4 The principal or owner may insure any or all of his contractors and their employees in a
5 blanket policy, and when so insured such contractor's employees will be entitled to
6 compensation benefits regardless of whether the relationship of employer and employee exists
7 between the principal and the contractor."

8 **SECTION 13.(d)** This section is effective when it becomes law and applies to
9 insurance policies and certificates of insurance in effect on or after that date.

10 **VETERANS PREFERENCE FOR PRIVATE EMPLOYERS**

11 **SECTION 14.** Article 3 of Chapter 95 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 95-28.4. Veterans preference.**

14 A private, nonpublic employer in the State may provide a preference to a veteran for
15 employment. Spouses of honorably discharged veterans who have a service-connected
16 permanent and total disability also may be preferred for employment. Granting of this
17 preference is not a violation of any State or local equal employment opportunity law."
18

19 **AGRICULTURAL RIGHT TO WORK**

20 **SECTION 15.** G.S. 95-79 reads as rewritten:

21 **"§ 95-79. Certain agreements declared illegal.**

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

29 (b) Any provision that directly or indirectly conditions the purchase of agricultural
30 products or the terms of an agreement for the purchase of agricultural products upon an
31 agricultural producer's status as a union or nonunion employer or entry into or refusal to enter
32 into an agreement with a labor union or labor organization is invalid and unenforceable as
33 against public policy in restraint of trade or commerce in the State of North Carolina. For
34 purposes of this subsection, the term "agricultural producer" means any producer engaged in
35 any service or activity included within the provisions of section 3(f) of the Fair Labor
36 Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of
37 1986, 26 U.S.C. § 3121."
38

39 **W/C/TAXI DRIVER/INDEPENDENT CONTRACTOR**

40 **SECTION 17.(a)** Article 1 of Chapter 97 of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 97-5.1. Presumption that taxicab drivers are independent contractors.**

43 (a) It shall be a rebuttable presumption under this Chapter that any person who
44 operates, and who has an ownership or leasehold interest in, a passenger motor vehicle that is
45 operated as a taxicab is an independent contractor for the purposes of this Chapter and not an
46 employee as defined in G.S. 97-2. The presumption is not rebutted solely (i) because the
47 operator is required to comply with rules and regulations imposed on taxicabs by the local
48 governmental unit that licenses companies, taxicabs, or operators or (ii) because a taxicab
49 accepts a trip request to be at a specific place at a specific time, but the presumption may be
50 rebutted by application of the common law test for determining employment status.
51

(b) The following definitions apply in this section:

(1) Lease. – A contract under which the lessor provides a vehicle to a lessee for consideration.

(2) Leasehold. – Includes, but is not limited to, a lease for a shift or a longer period.

(3) Passenger motor vehicle that is operated as a taxicab. – Any vehicle that:

a. Has a passenger seating capacity that does not exceed seven persons and

b. Is transporting persons, property, or both on a route that begins or ends in this State and either:

1. Carries passengers for hire when the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled, or waiting time; or

2. Is in use under a contract between the operator and a third party to provide specific service to transport designated passengers or to provide errand services to locations selected by the third party."

SECTION 17.(b) This section is effective when it becomes law and applies to causes of action arising on or after that date.

PART IV. ENVIRONMENTAL AND PUBLIC HEALTH REGULATIONS

SCRAP TIRE DISPOSAL

SECTION 18. 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) 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.

(2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire 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 (1) A tire retreading business where fewer than 1,000 scrap tires are kept on the
2 business premises;
- 3 (2) A business that, in the ordinary course of business, removes tires from motor
4 vehicles if fewer than 1,000 of these tires are kept on the business premises;
5 or
- 6 (3) A retail tire-selling business which is serving as a scrap tire collection center
7 if fewer than 1,000 scrap tires are kept on the business premises.

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

13 (f) Permitted scrap tire collectors may not contract with a scrap tire processing facility
14 unless the processing facility documents that it has access to a facility permitted to receive the
15 scrap tires."

17 CARBON MONOXIDE DETECTORS

18 SECTION 19.(a) G.S. 143-138 reads as rewritten:

19 "§ 143-138. North Carolina State Building Code.

20 ...

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

28 (1) For dwelling units, carbon-Carbon monoxide detectors shall be those listed
29 by a nationally recognized testing laboratory that is OSHA-approved to test
30 and certify to American National Standards Institute/Underwriters
31 Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be
32 installed in accordance with either the standard of the National Fire
33 Protection Association or the minimum protection designated in the
34 manufacturer's instructions, which the property owner shall retain or provide
35 as proof of compliance. A carbon monoxide detector may be combined with
36 smoke detectors if the combined detector does both of the following: (i)
37 complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms
38 and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner
39 that clearly differentiates between detecting the presence of carbon
40 monoxide and the presence of smoke.

41 (2) For lodging establishments, carbon monoxide detectors shall be installed in
42 every enclosed space having a fossil fuel burning heater, appliance, or
43 fireplace and in any enclosed space, including a sleeping room, that shares a
44 common wall, floor, or ceiling with an enclosed space having a fossil fuel
45 burning heater, appliance, or fireplace. Carbon monoxide detectors shall be
46 (i) listed by a nationally recognized testing laboratory that is
47 OSHA-approved to test and certify to American National Standards
48 Institute/Underwriters Laboratories Standards ANSI/UL2034 or
49 ANSI/UL2075, (ii) installed in accordance with either the standard of the
50 National Fire Protection Association or the minimum protection designated
51 in the manufacturer's instructions, which the lodging establishment shall

1 retain or provide as proof of compliance, (iii) receive primary power from
 2 the building's wiring, where such wiring is served from a commercial source,
 3 and (iv) receive power from a battery when primary power is interrupted. A
 4 carbon monoxide detector may be combined with smoke detectors if the
 5 combined detector complies with the requirements of this subdivision for
 6 carbon monoxide alarms and ANSI/UL217 for smoke detectors. For
 7 purposes of this subsection, "lodging establishment" means any hotel, motel,
 8 tourist home, or other establishment permitted under authority of
 9 G.S. 130A-248 to provide lodging accommodations for pay to the public.

10 "

11 **SECTION 19.(b)** G.S. 130A-248 reads as rewritten:

12 "**§ 130A-248. Regulation of food and lodging establishments.**

13 ...

14 (b) No establishment shall commence or continue operation without a permit or
 15 transitional permit issued by the Department. The permit or transitional permit shall be issued
 16 to the owner or operator of the establishment and shall not be transferable. If the establishment
 17 is leased, the permit or transitional permit shall be issued to the lessee and shall not be
 18 transferable. If the location of an establishment changes, a new permit shall be obtained for the
 19 establishment. A permit shall be issued only when the establishment satisfies all of the
 20 requirements of the ~~rules~~-rules and the requirements of subsection (g) of this section. The
 21 Commission shall adopt rules establishing the requirements that must be met before a
 22 transitional permit may be issued, and the period for which a transitional permit may be issued.
 23 The Department may also impose conditions on the issuance of a permit or transitional permit
 24 in accordance with rules adopted by the Commission. A permit or transitional permit shall be
 25 immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to
 26 maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or
 27 revoked in accordance with G.S. 130A-23.

28 ...

29 (g) All hotels, motels, tourist homes, and other establishments that provide lodging for
 30 pay shall have carbon monoxide detectors installed in every enclosed space having a fossil fuel
 31 burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room,
 32 that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning
 33 heater, appliance, or fireplace. Carbon monoxide detectors shall be (i) listed by a nationally
 34 recognized testing laboratory that is OSHA-approved to test and certify to American National
 35 Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, (ii)
 36 installed in accordance with either the standard of the National Fire Protection Association or
 37 the minimum protection designated in the manufacturer's instructions, which the establishment
 38 shall retain or provide as proof of compliance, (iii) receive primary power from the building's
 39 wiring, where such wiring is served from a commercial source, and (iv) receive power from a
 40 battery when primary power is interrupted. A carbon monoxide detector may be combined with
 41 smoke detectors if the combined detector complies with the requirements of this subdivision for
 42 carbon monoxide alarms and ANSI/UL217 for smoke detectors."

43 **SECTION 19.(c)** Subsection (b) of this section becomes effective October 1, 2013.

44
 45 **LAGOON CLOSURE RULE**

46 **SECTION 20.(a)** The definitions set out in G.S. 143-212, 15A NCAC 02T .0103
 47 (Definitions) and 15A NCAC 02T .1302 (Definitions) apply to this section.

48 **SECTION 20.(b)** 15A NCAC 02T .1306 (Closure Requirements). – Until the
 49 effective date of the revised permanent rule that the Commission is required to adopt pursuant
 50 to Section 20(d) of this act, the Commission and the Department shall implement 15A NCAC
 51 02T .1306 (Closure Requirements) as provided in Section 20(c) of this act.

1 **SECTION 20.(c)** Implementation. – Notwithstanding 15A NCAC 02T .1306
2 (Closure Requirements), any containment basin, such as a lagoon or a waste storage structure,
3 permitted at a cattle facility under the Section 1300 Rules, shall continue to be subject to the
4 conditions and requirements of the facility's permit until that permit is rescinded by the
5 Division. Upon request of the permittee, the permit may be rescinded by the Division prior to
6 closure of the containment basin if the average size of the confined cattle herd at the cattle
7 facility, calculated on an annual basis during the three years prior to the request for rescission,
8 is less than one hundred confined cattle. Upon permit rescission, all of the following
9 requirements shall apply:

- 10 (1) The cattle facility shall be subject to the requirements of 15A NCAC 02T
11 .1303 (Permitting By Regulation) and 15A NCAC 02T .0113 (Permitting By
12 Regulation) until the containment area is closed in accordance with
13 standards adopted by the NRCS.
- 14 (2) The farm owner shall maintain records of land application and weekly
15 records of containment basin waste levels on forms provided by or approved
16 by the Division.
- 17 (3) Closure shall include prenotification to the Division and, within 15 days of
18 completion of closure, submittal of a closure form supplied by the Division
19 or closure forms approved by the Division that provide the same information
20 required by the forms supplied by the Division.

21 The Division shall have the authority to deny a request for permit rescission based on the
22 factors set out in subsection (e) of 15A NCAC 02T .0113 (Permitting By Regulation).

23 **SECTION 20.(d)** Additional Rule-Making Authority. – The Commission shall
24 adopt a rule to amend 15A NCAC 02T .1306 (Closure Requirements) consistent with Section
25 20(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission
26 pursuant to this section shall be substantively identical to the provisions of Section 20(c) of this
27 act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter
28 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as
29 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
30 provided by G.S. 150B-21.3(b2).

31 **SECTION 20.(e)** Sunset. – Section 20(c) of this act expires on the date that rules
32 adopted pursuant to Section 20(d) of this act become effective.
33

34 **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"**

35 **SECTION 21.(a)** 15A NCAC 02T .1302 (Definitions). – Until the effective date of
36 the revised permanent rule that the Environmental Management Commission is required to
37 adopt pursuant to Section 21(c) of this act, the Commission and the Department of
38 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) as
39 provided in Section 21(b) of this act.

40 **SECTION 21.(b)** Implementation. – Notwithstanding 15A NCAC 02T .1302
41 (Definitions), "new animal waste management system" means animal waste management
42 systems which are constructed and operated at a site where no feedlot existed previously, where
43 a system serving a feedlot has been abandoned or unused for a period of four years or more and
44 is then put back into service, or where a permit for a system has been rescinded, and is then
45 reissued when the permittee confines animals in excess of the thresholds established in
46 G.S. 143-215.10B.

47 **SECTION 21.(c)** Additional Rule-Making Authority. – The Environmental
48 Management Commission shall adopt a rule to amend 15A NCAC 02T .1302 (Definitions)
49 consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
50 the Commission pursuant to this section shall be substantively identical to the provisions of
51 Section 21(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of

1 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall
2 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
3 had been received as provided by G.S. 150B-21.3(b2).

4 **SECTION 21.(d)** Sunset. – Section 21(b) of this act expires on the date that rules
5 adopted pursuant to Section 21(c) of this act become effective.

6 7 **RECLAIMED WATER IRRIGATION SETBACK RULE**

8 **SECTION 22.(a)** The definitions set out in G.S. 143-212 and 15A NCAC 02U
9 .0103 (Definitions) apply to this section.

10 **SECTION 22.(b)** 15A NCAC 02U .0701 (Setbacks). – Until the effective date of
11 the revised permanent rule that the Commission is required to adopt pursuant to Section 22(d)
12 of this act, the Commission and the Department shall implement 15A NCAC 02U .0701
13 (Setbacks) as provided in Section 22(c) of this act.

14 **SECTION 22.(c)** Implementation. – Notwithstanding 15A NCAC 02U .0701
15 (Setbacks), the rule shall be implemented as provided in this section.

- 16 (1) Setbacks in subsection (c) of the rule for surface waters not classified as SA
17 shall not apply provided that the reclaimed water to be utilized contains no
18 more than 10 mg/l of Total Nitrogen and no more than 2 mg/l of Total
19 Phosphorus. The elimination of setbacks to surface waters does not exempt
20 any discharge of reclaimed water to waters of the State from meeting permit
21 requirements established in 15A NCAC 02U .0101 (Purpose).
- 22 (2) Notwithstanding subsections (a) and (b) of the rule, no setback shall be
23 required between final reclaimed water effluent storage facilities and
24 property lines provided that the proposed final effluent storage facility was
25 constructed prior to June 18, 2011.
- 26 (3) Setbacks between reclaimed water storage ponds and property lines or wells
27 under separate ownership may be waived by the adjoining property owner. A
28 copy of the signed waiver shall be provided to the Department.
- 29 (4) Setbacks between reclaimed water storage ponds and wells under the same
30 ownership as the reclaimed water storage pond may be waived by the
31 property owner.

32 **SECTION 22.(d)** Additional Rule-Making Authority. – The Environmental
33 Management Commission shall adopt a rule to amend 15A NCAC 02U .0701 (Setbacks)
34 consistent with Section 22(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
35 the Commission pursuant to this section shall be substantively identical to the provisions of
36 Section 22(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of
37 Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall
38 become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
39 had been received as provided by G.S. 150B-21.3(b2).

40 **SECTION 22.(e)** Sunset. – Section 22(c) of this act expires on the date that rules
41 adopted pursuant to Section 22(d) of this act become effective.

42 43 **SMOKING BAN RULES**

44 **SECTION 23.** No later than January 1, 2014, the Commission for Public Health
45 shall amend and clarify its rules adopted pursuant to G.S. 130A-497 for the implementation of
46 the prohibition on smoking in restaurants and bars. The rules shall ensure the consistent
47 interpretation and enforcement of Part 1C of Article 23 of Chapter 130A of the General
48 Statutes and shall specifically clarify the definition of enclosed areas for purposes of
49 implementation of the Part. Rules adopted pursuant to this section (i) shall be exempt from the
50 requirements of G.S. 150B-21.4, (ii) are not subject to Part 3 of Article 2A of Chapter 150B of
51 the General Statutes, and (iii) shall become effective as provided in G.S. 150B-21.3(b1) as

1 though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). No
2 later than November 1, 2013, the Commission shall report to the Joint Legislative Oversight
3 Committee on Health and Human Services on its progress in amending and clarifying the rules.
4

5 **ERC WATER AND SEWER STUDY**

6 **SECTION 24.(a)** The Environmental Review Commission shall study the statutory
7 models for establishing, operating, and financing certain organizations that provide water and
8 sewer services in the State. The Commission shall specifically consider the statutory models for
9 the following:

- 10 (1) Sanitary Districts (Part 2 of Article 2 of Chapter 130A of the General
11 Statutes).
- 12 (2) Water and Sewer Authorities (Article 1 of Chapter 162A of the General
13 Statutes).
- 14 (3) Metropolitan Water Districts (Article 4 of Chapter 162A of the General
15 Statutes).
- 16 (4) Metropolitan Sewerage Districts (Article 5 of Chapter 162A of the General
17 Statutes).
- 18 (5) County Water and Sewer Districts (Article 6 of Chapter 162A of the General
19 Statutes).
- 20 (6) Any other similar organizations that provide water or sewer service in the
21 State.

22 **SECTION 24.(b)** The Commission shall determine whether, how, and to what
23 extent the number of statutory models should be reduced and consolidated. In making these
24 determinations, the Commission shall consider and address any impacts such reduction and
25 consolidation would have on the ongoing operations and financing of existing organizations for
26 the provision of water and sewer services.

27 **SECTION 24.(c)** The Commission shall report its findings and recommendations,
28 if any, to the 2014 Regular Session of the 2013 General Assembly upon its convening.
29

30 **PART V. AMEND ENVIRONMENTAL LAWS**

31 **REPEAL 2008 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY DIESEL** 32 **VEHICLE REQUIREMENTS**

33 **SECTION 25.** The Environmental Management Commission shall repeal 15A
34 NCAC 02D .1009 (Model Year 2008 and Subsequent Model Year Heavy-Duty Vehicle
35 Requirements) on or before December 1, 2013. Until the effective date of the repeal of the rule
36 required pursuant to this section, the Environmental Management Commission, the Department
37 of Environment and Natural Resources, or any other political subdivision of the State shall not
38 implement or enforce 15A NCAC 02D .1009 (Model Year 2008 and Subsequent Model Year
39 Heavy-Duty Vehicle Requirements).
40

41 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE** 42 **CONTINUED NEED TO CONDUCT VEHICLE EMISSIONS INSPECTIONS**

43 **SECTION 26.** The Department of Environment and Natural Resources shall
44 conduct a study to examine whether all of the counties covered under the emissions testing and
45 maintenance program pursuant to G.S. 143-215.107A are needed to meet and maintain the
46 current and proposed federal ozone standards in North Carolina. The Department shall report
47 its interim findings to the Environmental Review Commission on or before April 1, 2015, and
48 shall submit its final report, including any findings and legislative recommendations, to the
49 Environmental Review Commission on or before April 1, 2016.
50
51

1 **PROVIDE THE ENVIRONMENTAL MANAGEMENT COMMISSION WITH**
2 **FLEXIBILITY TO DETERMINE WHETHER RULES ARE NECESSARY FOR**
3 **CONTROLLING THE EFFECTS OF COMPLEX SOURCES ON AIR QUALITY**

4 **SECTION 27.** G.S. 143-215.109(a) reads as rewritten:

5 "(a) The Commission ~~shall~~may by rule establish criteria for controlling the effects of
6 complex sources on air quality. The rules shall set forth such basic minimum criteria or
7 standards under which the Commission shall approve or disapprove any such construction or
8 modification. The rules shall further provide for the submission of plans, specifications and
9 such other information as may be necessary for the review and evaluation of proposed or
10 modified complex sources."

11
12 **AMEND THE RULES THAT PERTAIN TO OPEN BURNING FOR LAND CLEARING**
13 **OR RIGHT-OF-WAY MAINTENANCE**

14 **SECTION 28.(a)** 15A NCAC 02D .1903 (Open Burning Without an Air Quality
15 Permit). – Until the effective date of the revised permanent rule that the Commission is
16 required to adopt pursuant to Section 28(c) of this act, the Commission, the Department, and
17 any other political subdivision of the State that implements 15A NCAC 02D .1903 (Open
18 Burning Without an Air Quality Permit) shall implement the rule, as provided in Section 28(b)
19 of this act.

20 **SECTION 28.(b)** Implementation. – Notwithstanding 15A NCAC 02D
21 .1093(b)(2)(F) (Open Burning Without an Air Quality Permit), open burning for land clearing
22 or right-of-way maintenance is permissible without an air quality permit if materials are not
23 carried off site or transported over public roads for open burning unless the materials are
24 carried or transported to:

- 25 (1) Facilities permitted in accordance with 15A NCAC 02D .1904 (Air Curtain
26 Burners) for the operation of an air curtain burner at a permanent site; or
27 (2) A location, where the material is burned not more than four times per year,
28 that meets all of the following criteria:
29 a. At least 500 feet from any dwelling, group of dwellings, or
30 commercial or institutional establishment, or other occupied structure
31 not located on the property on which the burning is conducted.
32 b. There are no more than two piles, each 20 feet in diameter, being
33 burned at one time.
34 c. The location is not a permitted solid waste management facility.

35 **SECTION 28.(c)** Additional Rule-Making Authority. – The Commission shall
36 adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit)
37 consistent with Section 28(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
38 the Commission pursuant to this section shall be substantively identical to the provisions of
39 Section 28(b) of this act. Rules adopted pursuant to this section are not subject to
40 G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become
41 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
42 received as provided by G.S. 150B-21.3(b2).

43 **SECTION 28.(d)** Sunset. – Section 28(b) of this act expires on the date that rules
44 adopted pursuant to Section 28(c) of this act become effective.

45 **SECTION 28.(e)** G.S. 130A-294(a)(4) is amended by adding a new
46 sub-subdivision to read:

47 "d. Management of land clearing debris burned in accordance with 15A
48 NCAC 02D .1903 shall not require a permit pursuant to this section."
49

50 **CLARIFY THAT AN AIR QUALITY PERMIT SHALL BE ISSUED FOR A TERM OF**
51 **EIGHT YEARS AND PROVIDE THAT A THIRD PARTY WHO IS DISSATISFIED**

1 **WITH A DECISION OF THE ENVIRONMENTAL MANAGEMENT COMMISSION**
2 **REGARDING AN AIR QUALITY PERMIT MAY FILE A CONTESTED CASE**
3 **UNDER THE ADMINISTRATIVE PROCEDURE ACT WITHIN 30 DAYS**

4 **SECTION 29.** G.S. 143-215.108 reads as rewritten:

5 **"§ 143-215.108. Control of sources of air pollution; permits required.**

6 ...

7 (d1) No Title V permit issued pursuant to this section shall be issued or renewed for a
8 term exceeding five years. All other permits issued pursuant to this section shall be issued for a
9 term ~~not to exceed~~of eight years.

10 (e) A permit ~~applicant or permittee~~applicant, a permittee, or a third party who is
11 dissatisfied with a decision of the Commission may commence a contested case by filing a
12 petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or
13 permittee of its decision. If the permit applicant or permittee does not file a petition within the
14 required time, the Commission's decision on the application is final and is not subject to
15 review.

16"

17
18 **AMEND CAMA MINOR PERMIT NOTICE REQUIREMENTS**

19 **SECTION 30.** G.S. 113A-119 reads as rewritten:

20 **"§ 113A-119. Permit applications generally.**

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

27 (b) Upon receipt of any application, a significant modification to an application for a
28 major permit, or an application to modify substantially a previously issued major permit, the
29 Secretary shall issue public notice of the proposed development (i) by mailing a copy of the
30 application or modification, or a brief description thereof together with a statement indicating
31 where a detailed copy of the proposed development may be inspected, to any citizen or group
32 which has filed a request to be notified of the proposed development, and to any interested
33 State agency; (ii) by posting or causing to be posted a notice at the location of the proposed
34 development stating that an application, a modification of an application for a major permit, or
35 an application to modify a previously issued major permit for development has been made,
36 where the application or modification may be inspected, and the time period for comments; and
37 (iii) with the exception of minor permit applications, by publishing notice of the application or
38 modification at least once in one newspaper of general circulation in the county or counties
39 wherein the development would be located at least 20 days before final action on a major
40 permit ~~and at least seven days before final action on a permit under G.S. 113A-121 or before~~
41 ~~the beginning of the hearing on a permit under G.S. 113A-122.~~ The notice shall set out that any
42 comments on the development should be submitted to the Secretary by a specified date, not less
43 than 15 days from the date of the newspaper publication of the notice or 15 days after mailing
44 of the mailed notice, whichever is later. ~~Public notice under this subsection is mandatory,~~
45 ~~except for a proposed modification to an application for a minor permit or proposed~~
46 ~~modification of a previously issued minor permit that does not substantially alter the original~~
47 ~~project.~~

48 (c) Within the meaning of this Part, the "designated local official" is the official who
49 has been designated by the local governing body to receive and consider permit applications
50 under this Part."
51

1 **AMEND DIRECTION TO THE MINING AND ENERGY COMMISSION**
2 **CONCERNING ADOPTION OF RULES GOVERNING DISCLOSURE OF**
3 **INFORMATION PERTAINING TO HYDRAULIC FRACTURING FLUID**
4 **CHEMICALS AND CONSTITUENTS**

5 SECTION 31.(a) G.S. 113-391(a)(5)h. reads as rewritten:

6 "**§ 113-391. Jurisdiction and authority; rules and orders.**

7 ...

- 8 h. Disclosure of chemicals and constituents used in oil and gas
9 exploration, drilling, and production, including hydraulic fracturing
10 fluids, to State regulatory agencies and to local government
11 emergency response officials, and, with the exception of those items
12 constituting trade secrets, as defined in G.S. 66-152(3), and that are
13 designated as confidential or as a trade secret under G.S. 132-1.2,
14 requirements for disclosure of those chemicals and constituents to the
15 public. The rules shall provide that the Commission and the
16 Department may review, but shall not possess or take ownership of,
17 data and information related to chemicals and constituents used in
18 hydraulic fracturing fluids that is designated as a trade secret. In
19 addition, for that information related to chemicals and constituents
20 used in hydraulic fracturing fluids that is designated as a trade secret,
21 the Commission shall also develop rules that require public
22 disclosure through an online chemical registry such as FracFOCUS
23 of the applicable chemical families or other similar description of
24 those chemicals and constituents, provided that such disclosure does
25 not violate federal or State law. For purposes of this subsection,
26 "chemical family" means a group of chemicals that share similar
27 chemical properties and have a common general name."

28 SECTION 31.(b) Notwithstanding subsection (m) of Section 2 of S.L. 2012-143,
29 the Mining and Energy Commission shall adopt the rule as required by subsection (a) of this
30 section no later than December 1, 2013. Rules adopted pursuant to subsection (a) of this section
31 shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
32 objections had been received as provided by G.S. 150B-21.3(b2).

33
34 **EXEMPT THE MINING AND ENERGY COMMISSION, THE ENVIRONMENTAL**
35 **MANAGEMENT COMMISSION, AND THE COMMISSION FOR PUBLIC HEALTH**
36 **FROM PREPARING FISCAL NOTES FOR RULES THAT PERTAIN TO THE**
37 **MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT**

38 SECTION 32. The Mining and Energy Commission, the Environmental
39 Management Commission, and the Commission for Public Health are exempt from the
40 provisions of G.S. 150B of the General Statutes that require the preparation of fiscal notes for
41 any rule proposed for the creation of a modern regulatory program for the management of oil
42 and gas exploration and development activities in the State, including the use of horizontal
43 drilling and hydraulic fracturing for that purpose.

44
45 **CLARIFY LOCAL GOVERNMENT AUTHORITY UNDER THE SEDIMENTATION**
46 **AND POLLUTION CONTROL ACT**

47 SECTION 33. G.S. 113A-64 reads as rewritten:

48 "**§ 113A-64. Penalties.**

49 (a) Civil Penalties. –

- 50 (1) Any person who violates any of the provisions of this Article or any
51 ordinance, rule, or order adopted or issued pursuant to this Article by the

1 Commission or by a local government, or who initiates or continues a
2 land-disturbing activity for which an erosion and sedimentation control plan
3 is required except in accordance with the terms, conditions, and provisions
4 of an approved plan, is subject to a civil penalty. The maximum civil penalty
5 for a violation is five thousand dollars (\$5,000). A civil penalty may be
6 assessed from the date of the violation. Each day of a continuing violation
7 shall constitute a separate violation.

8 (2) The Secretary or a local government that administers an erosion and
9 sedimentation control program approved under G.S. 113A-60 shall
10 determine the amount of the civil penalty and shall notify the person who is
11 assessed the civil penalty of the amount of the penalty and the reason for
12 assessing the penalty. The notice of assessment shall be served by any means
13 authorized under ~~G.S. 1A-1, Rule 4, and G.S. 1A-1. A notice of assessment~~
14 by the Secretary shall direct the violator to either pay the assessment or
15 contest the assessment within 30 days by filing a petition for a contested
16 case under Article 3 of Chapter 150B of the General Statutes. If a violator
17 does not pay a civil penalty assessed by the Secretary within 30 days after it
18 is due, the Department shall request the Attorney General to institute a civil
19 action to recover the amount of the assessment. A notice of assessment by a
20 local government shall direct the violator to either pay the assessment or
21 contest the assessment within 30 days by filing a petition for hearing with
22 the local government as directed by procedures within the local ordinances
23 or regulations adopted to establish and enforce the erosion and sedimentation
24 control program. If a violator does not pay a civil penalty assessed by a local
25 government within 30 days after it is due, the local government may institute
26 a civil action to recover the amount of the assessment. The civil action may
27 be brought in the superior court of any county where the violation occurred
28 or the violator's residence or principal place of business is located. A civil
29 action must be filed within three years of the date the assessment was due.
30 An assessment that is not contested is due when the violator is served with a
31 notice of assessment. An assessment that is contested is due at the
32 conclusion of the administrative and judicial review of the assessment.

33 (3) In determining the amount of the penalty, the Secretary or a local
34 government shall consider the degree and extent of harm caused by the
35 violation, the cost of rectifying the damage, the amount of money the
36 violator saved by noncompliance, whether the violation was committed
37 willfully and the prior record of the violator in complying or failing to
38 comply with this ~~Article~~.Article, or any ordinance, rule, or order adopted or
39 issued pursuant to this Article by the Commission or by a local government.

40 (4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

41 (5) The clear proceeds of civil penalties collected by the Department or other
42 State agency or a local government under this subsection shall be remitted to
43 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
44 ~~Civil penalties collected by a local government under this subsection shall be~~
45 ~~credited to the general fund of the local government as nontax revenue.~~

46 (b) Criminal Penalties. – Any person who knowingly or willfully violates any provision
47 of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the
48 Commission or a local government, or who knowingly or willfully initiates or continues a
49 land-disturbing activity for which an erosion and sedimentation control plan is required, except
50 in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of
51 a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000)."

1
2 **PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR WASTEWATER**
3 **SYSTEMS**

4 **SECTION 34.(a)** 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design
5 Units). – Until the effective date of the revised permanent rule that the Commission is required
6 to adopt pursuant to Section 34(c) of this act, the Commission, the Department, and any other
7 political subdivision of the State shall implement 15A NCAC 18A .1949(b) (Sewage Flow
8 Rates for Design Units) as provided in Section 34(b) of this act.

9 **SECTION 34.(b)** Implementation. – Notwithstanding the Daily Flow for Design
10 rates listed in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units),
11 a wastewater system shall be exempt from the Daily Flow for Design, and any other design
12 flow standards that are established by the Department of Health and Human Services or the
13 Commission for Public Health provided flow rates that are less than those listed in Table No. 1
14 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units) can be achieved through
15 engineering design that utilizes low-flow fixtures and low-flow technologies and the design is
16 prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the
17 General Statutes. The Department and Commission may establish lower limits on reduced flow
18 rates as necessary to ensure wastewater system integrity and protect public health, safety, and
19 welfare. Proposed daily design flows for wastewater systems that are calculated to be less than
20 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e).

21 **SECTION 34.(c)** Additional Rule-Making Authority. – The Commission shall
22 adopt a rule to amend 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units)
23 consistent with Section 34(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by
24 the Commission pursuant to this section shall be substantively identical to the provisions of
25 Section 34(b) of this act. Rules adopted pursuant to this section are not subject to
26 G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become
27 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
28 received as provided by G.S. 150B-21.3(b2).

29 **SECTION 34.(d)** Sunset. – Section 34(b) of this act expires on the date that rules
30 adopted pursuant to Section 34(c) of this act become effective.

31
32 **DIRECT THE COMMISSION FOR PUBLIC HEALTH TO ADOPT RULES TO**
33 **PROVIDE FOR NOTICE OF KNOWN CONTAMINATION TO APPLICANTS WHO**
34 **SEEK TO CONSTRUCT NEW PRIVATE DRINKING WATER WELLS AND TO**
35 **DIRECT LOCAL HEALTH DEPARTMENTS TO EITHER ISSUE A PERMIT OR**
36 **DENY AN APPLICATION FOR THE CONSTRUCTION, REPAIR, OR OPERATION**
37 **OF A WELL WITHIN 30 DAYS OF RECEIPT OF AN APPLICATION**

38 **SECTION 35.(a)** G.S. 87-97 reads as rewritten:

39 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

40 (a) **Mandatory Local Well Programs.** – Each county, through the local health
41 department that serves the county, shall implement a private drinking water well permitting,
42 inspection, and testing program. Local health departments shall administer the program and
43 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
44 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay
45 or refuse to permit a well that can be constructed or repaired and operated in compliance with
46 the requirements set out in this Article and rules adopted pursuant to this Article.

47 (b) **Permit Required.** – Except for those wells required to be permitted by the
48 Environmental Management Commission pursuant to G.S. 87-88, no person shall:

49 (1) Construct or assist in the construction of a private drinking water well unless
50 a construction permit has been obtained from the local health department.

1 (2) Repair or assist in the repair of a private drinking water well unless a repair
2 permit has been obtained from the local health department, except that a
3 permit shall not be required for the repair or replacement of a pump or tank.

4 (c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair
5 permit shall not be required for any private drinking water well maintenance work that does not
6 involve breaking or opening the well seal. A repair permit shall not be required for any private
7 drinking water well repair work that involves only the repair or replacement of a pump or tank.

8 (d) Well Site Evaluation. – The local health department shall conduct a field
9 investigation to evaluate the site on which a private drinking water well is proposed to be
10 located before issuing a permit pursuant to this section. The field investigation shall determine
11 whether there is any abandoned well located on the site, and if so, the construction permit shall
12 be conditioned upon the proper closure of all abandoned wells located on the site in accordance
13 with the requirements of this Article and rules adopted pursuant to this Article. If a private
14 drinking water well is proposed to be located on a site on which a wastewater system subject to
15 the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed
16 to be located, the application for a construction permit shall be accompanied by a plat or site
17 plan, as defined in G.S. 130A-334.

18 (e) Issuance of Permit. – ~~The local health department shall issue a construction permit~~
19 ~~or repair permit if it determines that a private drinking water well can be constructed or~~
20 ~~repaired and operated in compliance with this Article and rules adopted pursuant to this Article.~~
21 Within 30 days of receipt of an application to construct or repair a well, a local health
22 department shall make a determination whether the proposed private drinking water well can be
23 constructed or repaired and operated in compliance with this Article and rules adopted pursuant
24 to this Article and shall issue a permit or denial accordingly. If a local health department fails to
25 act within 30 days, the applicant may treat the failure to act as a denial of the permit and may
26 challenge the denial as provided in Chapter 150B of the General Statutes. The local health
27 department may impose any conditions on the issuance of a construction permit or repair
28 permit that it determines to be necessary to ensure compliance with this Article and rules
29 adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a
30 well that is in compliance with this Article and the rules adopted pursuant to this Article shall
31 be denied on the basis of a local government policy that discourages or prohibits the drilling of
32 new wells.

33 (e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules
34 governing permits issued for private drinking water wells for circumstances in which the local
35 health department has determined that the proposed site for a private drinking water well is
36 located within 1,000 feet of a known source of release of contamination. Rules adopted
37 pursuant to this subsection shall provide for notice and information of the known source of
38 release of contamination and any known risk of issuing a permit for the construction and use of
39 a private drinking water well on such a site.

40"

41 **SECTION 35.(b)** This section is effective when it becomes law, and G.S. 87-97(e),
42 as amended by subsection (a) of this section, applies to applications to construct or repair a
43 private drinking water well that are received by a local health department on or after that date.

44
45 **CLARIFY THOSE UNDERGROUND STORAGE TANKS THAT ARE NOT**
46 **REQUIRED TO PROVIDE SECONDARY CONTAINMENT UNTIL JANUARY 1, 2020**

47 **SECTION 36.** Section 11.6(a) of S.L. 2011-394 reads as rewritten:

48 "SECTION 11.6.(a) Notwithstanding 15A NCAC 02N .0304(a)(5) (Implementation
49 Schedule for Performance Standards for New UST Systems and Upgrading Requirements for
50 Existing UST Systems Located in Areas Defined in Rule .0301(d)), all UST systems installed

1 after January 1, 1991, and prior to April 1, 2001, shall not be required to provide secondary
2 containment until January 1, 2020."
3

4 **TECHNICAL AND CONFORMING CHANGES TO PROTECTED SPECIES AND** 5 **MARINE/WILDLIFE RESOURCES STATUTES**

6 **SECTION 37.(a)** G.S. 113-129 reads as rewritten:

7 "**§ 113-129. Definitions relating to resources.**

8 The following definitions and their cognates apply in the description of the various marine
9 and estuarine and wildlife resources:

10 ...

11 (7) Fish; Fishes. – All ~~marine mammals; finfish;~~ all shellfish; and all
12 ~~crustaceans; and all other fishes.~~crustaceans.

13"

14 **SECTION 37.(b)** G.S. 113-189 reads as rewritten:

15 "**§ 113-189. Protection of sea ~~turtles and porpoises.~~turtles, marine mammals, migratory**
16 **birds, and finfish.**

17 (a) It is unlawful to willfully take, harm, disturb or destroy any sea turtles protected
18 under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be
19 subsequently amended, including green, hawksbill, loggerhead, Kemp's ridley and leatherback
20 turtles, or their nests or eggs.

21 (b) It shall be unlawful willfully to take, ~~harm~~ harm, disturb, or destroy
22 ~~porpoises.~~marine mammals protected under the federal Marine Mammal Protection Act of 1972
23 (Public Law 92-522), as it may be subsequently amended.

24 (c) It shall be unlawful willfully to take, harm, disturb, or destroy migratory birds
25 protected under the federal Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703 through 712),
26 as it may be subsequently amended, unless such action is permitted by regulations.

27 (d) It shall be unlawful willfully to take, harm, disturb, or destroy finfish protected
28 under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be
29 subsequently amended."

30 31 **CLARIFYING AND CONFORMING CHANGES TO STATUTES PERTAINING TO** 32 **THE MANAGEMENT OF SNAKES AND OTHER REPTILES**

33 **SECTION 38.(a)** G.S. 14-417 reads as rewritten:

34 "**§ 14-417. Regulation of ownership or use of venomous reptiles.**

35 (a) It shall be unlawful for any person to own, possess, use, transport, or traffic in any
36 venomous reptile that is not housed in a sturdy and secure enclosure. Permanent enclosures
37 shall be designed to be escape-proof, bite-proof, and have an operable lock. Transport
38 containers shall be designed to be escape-proof and bite-proof.

39 (b) Each enclosure shall be clearly and visibly labeled "Venomous Reptile Inside" with
40 scientific name, common name, appropriate ~~antivenom,~~antivenin, and owner's identifying
41 information noted on the container. A written bite protocol that includes emergency contact
42 information, local animal control office, the name and location of suitable ~~antivenom,~~antivenin,
43 first aid procedures, and treatment guidelines, as well as an escape recovery plan must be
44 within sight of permanent housing, and a copy must accompany the transport of any venomous
45 reptile.

46 (c) In the event of an escape of a venomous reptile, the owner or possessor of the
47 venomous reptile shall immediately notify local law enforcement."

48 **SECTION 38.(b)** G.S. 14-419 reads as rewritten:

49 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;**
50 **disposition of reptiles.**

1 (a) In any case in which any law-enforcement officer or animal control officer has
 2 probable cause to believe that any of the provisions of this Article have been or are about to be
 3 violated, it shall be the duty of the officer and the officer is authorized, empowered, and
 4 directed to immediately investigate the violation or impending violation and to consult with
 5 representatives of the North Carolina Museum of Natural Sciences or the North Carolina
 6 Zoological Park or a designated representative of either the Museum or Zoological Park to
 7 identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the
 8 reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile
 9 believed to be venomous to the North Carolina State Museum of Natural Sciences or to its
 10 designated representative for examination for the purpose of ascertaining whether the reptile is
 11 regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or
 12 crocodilian to the North Carolina Zoological Park for the purpose of ascertaining whether the
 13 reptile is regulated under this Article. In any case in which a law enforcement officer or animal
 14 control officer determines that there is an immediate risk to public safety, the officer shall not
 15 be required to consult with representatives of the North Carolina Museum of Natural Sciences
 16 or the North Carolina Zoological Park as provided by this subsection.

17 (b) If the Museum or the Zoological Park or their designated representatives find that a
 18 seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this
 19 Article, the Museum or the Zoological Park or their designated representative shall determine
 20 final disposition of the reptile in a manner consistent with the safety of the ~~public~~-public, which
 21 in the case of a venomous reptile for which antivenin is not readily available, may include
 22 euthanasia.

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

31 **AMEND THE ADMINISTRATIVE PROCEDURE ACT TO PROVIDE THE**
 32 **WILDLIFE RESOURCES COMMISSION WITH TEMPORARY RULE-MAKING**
 33 **AUTHORITY FOR MANNER OF TAKE**

34 **SECTION 39.** G.S. 150B-21.1 reads as rewritten:

35 **"§ 150B-21.1. Procedure for adopting a temporary rule.**

36 (a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to
 37 the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest
 38 and that the immediate adoption of the rule is required by one or more of the following:

- 39 ...
- 40 (7) The need for the Wildlife Resources Commission to establish any of the
 41 following:
- 42 a. No wake zones.
 - 43 b. Hunting or fishing seasons-seasons, including provisions for manner
 44 of take or any other conditions required for the implementation of
 45 such season.
 - 46 c. Hunting or fishing bag limits.
 - 47 d. Management of public game lands as defined in G.S. 113-129(8a).

48"
 49

1 **PROHIBIT PUBLIC ENTITIES FROM PURCHASING OR ACQUIRING PROPERTY**
2 **WITH KNOWN CONTAMINATION WITHOUT APPROVAL OF THE GOVERNOR**
3 **AND COUNCIL OF STATE**

4 **SECTION 40.(a)** Chapter 133 of the General Statutes is amended by adding a new
5 Article to read:

6 "Article 4.

7 "Purchase of Contaminated Property by Public Entities.

8 **"§ 133-40. Purchase of contaminated property by public entities.**

9 (a) For purposes of this Article, the term "public entity" means the State and the
10 Community College System.

11 (b) No public entity, as defined in subsection (a) of this section, shall purchase or
12 otherwise acquire an ownership interest in any real property with known contamination, as that
13 term is defined in G.S. 130A-310.65(5), without approval of the Governor and the Council of
14 State. A public entity seeking to purchase or otherwise acquire an ownership interest in such
15 property shall petition the Governor and Council of State for approval of the transaction, with
16 sufficient information to identify the property, the nature and extent of the contamination
17 present, and a plan of paying for the project and for remediation of any contamination without
18 the use of General Fund appropriations. The approval of such a transaction by the Governor
19 and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the
20 meeting of the Governor and Council of State, attested by the private secretary to the Governor
21 or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and
22 said certificate may be recorded as a part thereof, and the same shall be conclusive evidence of
23 review and approval of the subject transaction by the Governor and Council of State. The
24 Governor, acting with the approval of the Council of State, may delegate the review and
25 approval of such transactions as the Governor deems advisable.

26 (c) This Article shall not apply to situations in which a public entity acquires ownership
27 or control of real property involuntarily, including having obtained the property through
28 bankruptcy, tax delinquency, abandonment, or other circumstances in which the public entity
29 involuntarily acquires title by virtue of its function as a sovereign."

30 **SECTION 40.(b)** This section becomes effective September 1, 2013, and applies
31 to a purchase or acquisition of interest in real property occurring on or after that date.

32
33 **CLARIFY THAT NO BUILDING PERMIT IS REQUIRED FOR ROUTINE**
34 **MAINTENANCE ON FUEL DISPENSERS**

35 **SECTION 41.** G.S. 143-138 is amended by adding a new subsection to read:

36 "...

37 (b13) No building permit shall be required under the Code for routine maintenance on fuel
38 dispensing pumps and other dispensing devices. For purposes of this subsection, "routine
39 maintenance" includes repair or replacement of hoses, O-rings, nozzles, or emergency
40 breakaways."

41
42 **CLARIFY THE FEES THAT THE SECRETARY OF ENVIRONMENT AND**
43 **NATURAL RESOURCES MAY ADOPT FOR THE NORTH CAROLINA**
44 **AQUARIUMS**

45 **SECTION 42.(a)** G.S. 143B-289.44 reads as rewritten:

46 **"§ 143B-289.44. North Carolina Aquariums; fees; fund.**

47 (a) Fees. – The Secretary of Environment and Natural Resources may adopt a schedule
48 of ~~uniform entrance~~ fees for the aquariums and piers operated by the North Carolina
49 Aquariums. Aquariums, including:

50 (1) Gate admission fees.

51 (2) Facility rental fees.

1 (3) Educational programs.

2"

3 **SECTION 42.(b)** This section is effective when it becomes law.

4
5 **REPEAL THE MOUNTAIN RESOURCES PLANNING ACT**

6 **SECTION 43.** Chapter 153B of the General Statutes is repealed.

7
8 **PROVIDE AN EXEMPTION FROM LOCAL GOVERNMENT REQUIREMENTS**
9 **REGARDING THE NUMBER OF ACRES FOR PROPERTY DEVELOPMENT FOR**
10 **BROWNFIELDS DEVELOPMENTS**

11 **SECTION 44.(a)** G.S. 153A-349.4 reads as rewritten:

12 **"§ 153A-349.4. Developed property must contain certain number of acres; permissible**
13 **durations of agreements.**

14 (a) A local government may enter into a development agreement with a developer for
15 the development of property as provided in this Part, provided the property contains 25 acres or
16 more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,
17 and other portions of the property which may be precluded from development at the time of
18 application). Development agreements shall be of a term specified in the agreement, provided
19 they may not be for a term exceeding 20 years.

20 (b) Notwithstanding the acreage requirements of subsection (a) of this section, a local
21 government may enter into a development agreement with a developer for the development of
22 property as provided in this Part for developable property of any size (exclusive of wetlands,
23 mandatory buffers, unbuildable slopes, and other portions of the property which may be
24 precluded from development at the time of application), if the developable property that would
25 be subject to the development agreement is subject to an executed brownfields agreement
26 pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development
27 agreements shall be of a term specified in the agreement, provided they may not be for a term
28 exceeding 20 years."

29 **SECTION 44.(b)** G.S. 160A-400.23 reads as rewritten:

30 **"§ 160A-400.23. Developed property must contain certain number of acres; permissible**
31 **durations of agreements.**

32 (a) A local government may enter into a development agreement with a developer for
33 the development of property as provided in this Part, provided the property contains 25 acres or
34 more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,
35 and other portions of the property which may be precluded from development at the time of
36 application). Development agreements shall be of a term specified in the agreement, provided
37 they may not be for a term exceeding 20 years.

38 (b) Notwithstanding the acreage requirements of subsection (a) of this section, a local
39 government may enter into a development agreement with a developer for the development of
40 property as provided in this Part for developable property of any size (exclusive of wetlands,
41 mandatory buffers, unbuildable slopes, and other portions of the property which may be
42 precluded from development at the time of application), if the developable property that would
43 be subject to the development agreement is subject to an executed brownfields agreement
44 pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development
45 agreements shall be of a term specified in the agreement, provided they may not be for a term
46 exceeding 20 years."

47
48 **DIRECT THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES FOR**
49 **SELECTIVE PRUNING WITHIN HIGHWAY RIGHTS-OF-WAY**

50 **SECTION 45.** The Department of Transportation shall adopt rules to authorize
51 selective pruning within highway rights-of-way for vegetation that obstructs motorists' views of

1 properties on which agritourism activities, as that term is defined in G.S. 99E-30, occur. The
2 Department of Transportation is exempt from the provisions of G.S. 150B that require the
3 preparation of fiscal notes for any rule proposed pursuant to this section.
4

5 **CLARIFY REQUIREMENTS FOR COMPLIANCE BOUNDARIES WITH RESPECT** 6 **TO GROUNDWATER QUALITY STANDARDS**

7 **SECTION 46.(a)** G.S. 143-215.1 is amended by adding three new subsections to
8 read:

9 **"§ 143-215.1. Control of sources of water pollution; permits required.**

10 ...

11 (i) Any person subject to the requirements of this section who is required to obtain an
12 individual permit from the Commission for a disposal system under the authority of
13 G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as
14 may be established by rule or permit for various categories of disposal systems and beyond
15 which groundwater quality standards may not be exceeded. The location of the compliance
16 boundary shall be established at the property boundary, except as otherwise established by the
17 Commission. Multiple contiguous properties under common ownership and permitted for use
18 as a disposal system shall be treated as a single property with regard to determination of a
19 compliance boundary under this subsection. Nothing in this subsection shall be interpreted to
20 require a revision to an existing compliance boundary previously approved by rule or permit.

21 (j) When operation of a disposal system permitted under this section results in an
22 exceedance of the groundwater quality standards adopted in accordance with G.S. 143-214.1,
23 the Commission shall require that the exceedances within the compliance boundary be
24 remedied through cleanup, recovery, containment, or other response only when any of the
25 following conditions occur:

26 (1) A violation of any water quality standard in adjoining classified waters of
27 the State occurs or can be reasonably predicted to occur considering
28 hydrogeological conditions, modeling, or any other available evidence.

29 (2) An imminent hazard or threat to the environment, public health, or safety
30 exists.

31 (3) A violation of any standard in groundwater occurring in the bedrock other
32 than limestones found in the Coastal Plain sediments, unless it can be
33 demonstrated that the violation will not adversely affect, or have the
34 potential to adversely affect, a water supply well.

35 (k) Where operation of a disposal system permitted under this section results in
36 exceedances of the groundwater quality standards at or beyond the compliance boundary
37 established under subsection (i) of this section, exceedances shall be remedied through cleanup,
38 recovery, containment, or other response as directed by the Commission."

39 **SECTION 46.(b)** With respect to exceedances of groundwater quality standards
40 within a compliance boundary and related remedy requirements, G.S. 143-215.1(j), as set forth
41 in Section 46(a) of this act, shall apply in lieu of the restricted designation directives found in
42 15A NCAC 2L .0104(d) and (e) until the Department of Environment and Natural Resources
43 has adopted revisions to those rules to comply with this act.
44

45 **EXEMPT CERTAIN RADIO TOWERS FROM APPLICABILITY WITH THE** 46 **MILITARY LANDS PROTECTION ACT OF 2013**

47 **SECTION 47.** G.S. 143-151.74, as enacted by Section 1 of S.L. 2013-206, reads as
48 rewritten:

49 **"§ 143-151.74. Exemptions from applicability.**

50 (a) Wind energy facilities and wind energy facility expansions, as those terms are
51 defined in Chapter 143 of the General Statutes, that are subject to the applicable permit

1 requirements of that Chapter shall be exempt from obtaining the endorsement required by this
2 Article.

3 (b) ~~Cellular~~ Cellular, radio, and television towers erected to temporarily replace ~~cellular~~
4 cellular, radio, and television towers that are damaged or destroyed due to a natural disaster
5 shall be exempt from obtaining the endorsement required by this Article provided all of the
6 following conditions are met:

7 (1) The height of the ~~cellular~~ cellular, radio, or television tower that is erected to
8 temporarily replace the ~~cellular~~ cellular, radio, or television tower that is
9 damaged or destroyed does not exceed the height of the original ~~cellular~~
10 cellular, radio, or television tower.

11 (2) A disaster has been declared pursuant to Chapter 166A of the General
12 Statutes for the area in which the damaged or destroyed ~~cellular~~ cellular,
13 radio, or television tower is located.

14 (3) The temporary ~~cellular~~ cellular, radio, or television tower shall only remain
15 in place until the expiration of the declared disaster.

16 (c) The modification, replacement, removal, or addition of antennas on ~~cellular~~ cellular,
17 radio, or television towers in an area surrounding a major military installation shall be exempt
18 from obtaining the endorsement required by this Article provided the modification,
19 replacement, removal, or addition does not increase the vertical height of the structure."
20

21 **CLARIFY THAT EXTENDED-DURATION PERMITS FOR SANITARY LANDFILLS**
22 **AND TRANSFER STATIONS AUTHORIZED BY S.L. 2012-187 ARE PERMITS FOR**
23 **OPERATION AS WELL AS CONSTRUCTION**

24 **SECTION 48.(a)** Section 15.1 of S.L. 2012-187 reads as rewritten:

25 "SECTION 15.1. No later than July 1, 2013, the Commission for Public Health shall adopt
26 rules to allow applicants for sanitary landfills the option to (i) apply for a permit to construct
27 and operate a five-year phase of landfill development and apply to amend the permit to
28 construct and operate subsequent five-year phases of landfill development; or (ii) apply for a
29 permit to construct and operate a 10-year phase of landfill development and apply to amend the
30 permit to construct and operate subsequent 10-year phases of landfill development, with a
31 limited review of the permit five years after issuance of the initial permit and five years after
32 issuance of each amendment for subsequent phases of development. No later than July 1, 2013,
33 the Commission shall also adopt rules to allow applicants for permits for transfer stations the
34 option to (i) apply for a permit with a five-year duration to construct and operate a transfer
35 station; or (ii) apply for a permit with a 10-year duration to construct and operate a transfer
36 station, with a limited review of the permit five years after issuance of the initial permit and
37 five years after issuance of any amendment to the permit. In developing these rules, the
38 Department of Environment and Natural Resources shall examine the current fee schedule for
39 permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8 and
40 formulate recommendations for adjustments to the current fee schedule sufficient to address
41 any additional demands associated with review of permits issued for 10-year phases of landfill
42 development and the issuance permits with a duration of up to 10 years for transfer stations.
43 The Department shall report its findings and recommendations, including any legislative
44 proposals, to the Environmental Review Commission on or before December 1, 2012. The rules
45 required by this section shall not become effective until the fee schedule set forth under
46 G.S. 130A-295.8 is amended as necessary to address any additional demands associated with
47 review of permits issued for 10-year phases of landfill development and the issuance of permits
48 with a duration of up to 10 years to construct and operate transfer stations."

49 **SECTION 48.(b)** If Senate Bill 328, 2013 Regular Session, becomes law, then
50 Section 48(a) of this act is repealed.
51

1 **ADD A FACTOR FOR CONSIDERATION IN ASSESSING SOLID WASTE**
 2 **PENALTIES**

3 **SECTION 49.** G.S. 130A-22 reads as rewritten:

4 "**§ 130A-22. Administrative penalties.**

5 ...

6 (d) In determining the amount of the penalty in subsections (a), (b) and (c), the
 7 Secretary and the Secretary of Environment and Natural Resources shall consider ~~the degree~~
 8 ~~and extent of the harm caused by the violation and the cost of rectifying the damage.~~ all of the
 9 following factors:

10 (1) Type of violation.

11 (2) Type of waste involved.

12 (3) Duration of the violation.

13 (4) Cause (whether resulting from a negligent, reckless, or intentional act or
 14 omission).

15 (5) Potential effect on public health and the environment.

16 (6) Effectiveness of responsive measures taken by the violator.

17 (7) Damage to private property.

18 (8) The degree and extent of harm caused by the violation.

19 (9) Cost of rectifying any damage.

20 (10) The amount of money the violator saved by noncompliance.

21 (11) The violator's previous record in complying or not complying with the
 22 provisions of Article 9 of this Chapter, Article 11 of this Chapter, or
 23 G.S. 130A-325, and any regulations adopted thereunder, as applicable to the
 24 violation in question.

25"

26
 27 **LIMIT LOCAL GOVERNMENT REGULATION OF STORAGE, RETENTION, OR**
 28 **USE OF NONHAZARDOUS RECYCLED MATERIALS**

29 **SECTION 50.** G.S. 130A-309.09A is amended by adding a new subsection to
 30 read:

31 "(h) The storage, retention, and use of nonhazardous recycled materials, including
 32 asphalt pavement, rap, or roofing shingles, shall be encouraged by units of local government. A
 33 unit of local government shall not impede the storage, retention, or use of nonhazardous
 34 recycled products in properly zoned storage facilities through the regulation of the height of
 35 recycled material stockpiles, except when such facilities are located on lots within 200 yards of
 36 residential districts."

37
 38 **AMEND THE DEFINITION OF "BUILT-UPON AREA" FOR PURPOSES OF**
 39 **IMPLEMENTING STORMWATER PROGRAMS**

40 **SECTION 51.(a)** G.S. 143-214.7 is amended by adding a new subsection to read:

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

45 **SECTION 51.(b)** Subdivision (7) of Section 2 of S.L. 2006-246 is repealed.

46 **SECTION 51.(c)** Subdivision (3) of subsection (a) of Section 2 of S.L. 2008-211 is
 47 repealed.

48 **SECTION 51.(d)** The Environmental Management Commission shall amend its
 49 rules to be consistent with the definition of "built-upon area" set out in subsection (b2) of
 50 G.S. 143-214.7, as enacted by Section 51(a) of this act.

1 **SECTION 51.(e)** This section is effective when it becomes law, and subsection
2 (b2) of G.S. 143-214.7, as enacted by subsection (a) of this section, applies to projects for
3 which permit applications are received on or after that date.
4

5 **EXEMPT PONDS THAT ARE CONSTRUCTED AND USED FOR AGRICULTURAL**
6 **PURPOSES FROM RIPARIAN BUFFER RULES**

7 **SECTION 52.(a)** Except as required by federal law or in an imminent threat to
8 public health or safety, (i) the temporary rules adopted July 22, 1997, January 22, 1998, April
9 22, 1998, and June 22, 1999, and the permanent rule adopted and effective August 1, 2000, as
10 15A NCAC 02B .0233 regarding the protection and maintenance of existing riparian buffers in
11 the Neuse River Basin; (ii) the temporary rule adopted January 1, 2000, and the permanent rule
12 adopted and effective August 1, 2000, as 15A NCAC 02B .0259 regarding the protection and
13 maintenance of existing riparian buffers in the Tar-Pamlico River Basin; (iii) the permanent
14 rule adopted and effective August 11, 2009, Session Law 2009-216, Session Law 2009-484,
15 and the permanent rule, as amended, effective September 1, 2011, as 15A NCAC 02B .0267
16 regarding the protection and maintenance of existing riparian buffers in the Jordan Water
17 Supply Watershed; (iv) the permanent rule adopted effective April 1, 1999, and the permanent
18 rule, as amended, effective June 1, 2010, as 15A NCAC 02B .0250 regarding the protection and
19 maintenance of existing riparian buffers in the Randleman Lake Water Supply Watershed; (v)
20 the temporary rule effective June 30, 2001, and the permanent rule effective August 1, 2004, as
21 15A NCAC 02B .0243 regarding the protection and maintenance of existing riparian buffers in
22 the Catawba River Basin; (vi) the permanent rule adopted and effective February 1, 2009, as
23 15A NCAC 02B .0605 and the permanent rule adopted and effective February 1, 2009, as 15A
24 NCAC 02B .0607 regarding the protection and maintenance of existing riparian buffers in the
25 Goose Creek Watershed (Yadkin Pee-Dee River Basin); and (vii) any similar rule adopted for
26 the protection and maintenance of riparian buffers, collectively referred to as "Riparian Buffer
27 Rules" for the purposes of this section, shall not apply to a freshwater pond to which Riparian
28 Buffer Rules would otherwise apply if all of the following conditions are met:

- 29 (1) The property on which the pond is located is used for agriculture as that term
30 is defined in G.S. 106-581.1.
31 (2) Except for the Riparian Buffer Rules and any similar rule adopted for the
32 protection and maintenance of riparian buffers, the use of the property is in
33 compliance with all other water quality and water quantity statutes and rules
34 applicable to the property before the adoption of the Riparian Buffer Rules
35 for the river basin or watershed in which the property is located.
36 (3) The pond is not a component of an animal waste management system as
37 defined in G.S. 143-215.10B(3).

38 **SECTION 52.(b)** If the use of property on which a pond is located changes such
39 that the use no longer meets the criteria in subdivision (1) of subsection (a) of this section, the
40 Riparian Buffer Rules for the river basin or watershed in which the property is located shall
41 apply.

42 **SECTION 52.(c)** The Commission shall not adopt rules for the protection or
43 maintenance of riparian buffers that apply to ponds provided the ponds are constructed or used
44 for agriculture as that term is defined in G.S. 106-581.1.

45 **SECTION 52.(d)** Units of local government shall not adopt ordinances,
46 resolutions, plans, or policies for the protection or maintenance of riparian buffers that apply to
47 ponds provided the ponds are constructed or used for agriculture as that term is defined in
48 G.S. 106-581.1.

49 **SECTION 52.(e)** The Environmental Management Commission shall adopt rules
50 to amend the Neuse River Basin Riparian Buffer Rule, the Tar-Pamlico River Basin Riparian
51 Buffer Rule, the Jordan Water Supply Riparian Buffer Rule, the Randleman Lake Water

1 Supply Watershed Riparian Buffer Rule, the Catawba River Basin Riparian Buffer Rule, the
2 Goose Creek Watershed (Yadkin Pee-Dee River Basin) Riparian Buffer Rule, and any other
3 similar riparian buffer rules in accordance with subsections (a), (b), and (c) of this section.
4 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section
5 shall be substantively identical to the provisions of subsections (a), (b), and (c) of this section.
6 Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through
7 G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in
8 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
9 G.S. 150B-21.3(b2).

10 **SECTION 52.(f)** This section is effective when it becomes law and applies to
11 ponds used for agriculture that were either in existence on or constructed after July 22, 1997.
12 Section 52(a) of this act expires on the date that rules adopted pursuant to Section 52(e) of this
13 act become effective.

14
15 **PROVIDE THAT A THIRD PARTY WHO IS DISSATISFIED WITH A DECISION OF**
16 **THE ENVIRONMENTAL MANAGEMENT COMMISSION REGARDING A WATER**
17 **QUALITY PERMIT MAY FILE A CONTESTED CASE UNDER THE**
18 **ADMINISTRATIVE PROCEDURE ACT WITHIN 30 DAYS**

19 **SECTION 53.** G.S. 143-215.1 reads as rewritten:

20 "**§ 143-215.1. Control of sources of water pollution; permits required.**

21 ...

22 (e) Administrative Review. – A permit ~~applicant or permittee~~ applicant, a permittee, or
23 a third party who is dissatisfied with a decision of the Commission may commence a contested
24 case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the
25 applicant or permittee of its decision. If the permit applicant or permittee does not file a petition
26 within the required time, the Commission's decision is final and is not subject to review.

27"

28
29 **REPEAL REQUIREMENTS FOR INCREASES IN VEHICULAR SURFACE AREAS**

30 **SECTION 54.** Article 4A of Chapter 113A of the General Statutes is repealed.

31
32 **AMEND DREDGE AND FILL PERMIT APPLICANT PROCEDURE FOR NOTICE**
33 **TO ADJOINING PROPERTY OWNERS**

34 **SECTION 55.** G.S. 113-229 reads as rewritten:

35 "**§ 113-229. Permits to dredge or fill in or about estuarine waters or State-owned lakes.**

36 ...

37 (d) An applicant for a permit, other than an emergency permit, shall ~~send a copy of his~~
38 ~~application to notify the owner of each tract of riparian property that adjoins that of the~~
39 ~~applicant. The copy shall be served.~~ An applicant may satisfy the required notification of
40 adjoining riparian property owners by either (i) obtaining from each adjoining riparian property
41 owner a signed statement that the adjoining riparian property owner has no objection to the
42 proposed project or (ii) providing a copy of the applicant's permit application to each adjoining
43 riparian property owner by certified mail-mail, or, if the owner's address is unknown and
44 cannot be ascertained with due diligence or if a diligent but unsuccessful effort has been made
45 to serve the copy by certified mail, by publication in accordance with the rules of the
46 Commission. ~~Commission shall serve to satisfy the notification requirement.~~ An owner may file
47 written objections to the permit with the Department for 30 days after ~~hethe owner~~ is served
48 with a copy of the ~~application.~~ application by certified mail. In the case of a special emergency
49 dredge or fill permit the applicant must certify that ~~hethe applicant~~ took all reasonable steps to
50 notify adjacent riparian owners of the application for a special emergency dredge and fill
51 permit prior to submission of the application. Upon receipt of this certification, the Secretary

1 shall issue or deny the permit within the time period specified in subsection (e) of this section,
2 upon the express understanding from the applicant that ~~he~~ the applicant will be entirely liable
3 and hold the State harmless for all damage to adjacent riparian landowners directly and
4 proximately caused by the dredging or filling for which approval may be given.

5"
6

7 **PROVIDE THAT CERTAIN WATER TREATMENT SYSTEMS WITH EXPIRED**
8 **AUTHORIZATIONS MAY OBTAIN NEW AUTHORIZATIONS THAT ALLOW THE**
9 **SYSTEMS TO WITHDRAW SURFACE WATER FROM THE SAME WATER BODY**
10 **AT THE SAME RATE AS WAS APPROVED IN THE EXPIRED AUTHORIZATION**

11 **SECTION 56.(a)** Public water systems with expired authorizations for water
12 treatment plants that have been deactivated may obtain new water treatment plant
13 authorizations that allow the system to withdraw surface water from the same water body and
14 at the same rate as approved in the expired authorization, and such new authorizations shall not
15 be required to prepare an environmental document pursuant to Article 1 of Chapter 113A of the
16 General Statutes.

17 **SECTION 56.(b)** This section applies only to those public water systems for which
18 the authorization for the water treatment plant expired within the last 10 calendar years of the
19 effective date of this act.

20
21 **COMBINE THE DIVISION OF WATER QUALITY AND THE DIVISION OF WATER**
22 **RESOURCES TO CREATE A NEW DIVISION OF WATER RESOURCES IN THE**
23 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND MAKE**
24 **CONFORMING CHANGES**

25 **SECTION 57.(a)** The Department of Environment and Natural Resources shall
26 combine the Division of Water Quality and the Division of Water Resources to create a new
27 Division of Water Resources.

28 **SECTION 57.(b)** G.S. 74-50(b3) reads as rewritten:

29 "(b3) When the Department receives an application for a new mining permit or for a
30 modification of a mining permit to add land to the permitted area, the Department shall send a
31 notice of the application to each of the following agencies with a request that each agency
32 review and provide written comment on the application within 30 days of the date on which the
33 request is made:

- 34 (1) Division of Air Quality, Department of Environment and Natural Resources.
- 35 (2) Division of Parks and Recreation, Department of Environment and Natural
36 Resources.
- 37 (3) ~~Division of Water Quality, Department of Environment and Natural~~
38 ~~Resources.~~
- 39 (4) Division of Water Resources, Department of Environment and Natural
40 Resources.
- 41 (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land
42 Resources, Department of Environment and Natural Resources.
- 43 (6) Wildlife Resources Commission, Department of Environment and Natural
44 Resources.
- 45 (7) Office of Archives and History, Department of Cultural Resources.
- 46 (8) United States Fish and Wildlife Service, United States Department of the
47 Interior.
- 48 (9) Any other federal or State agency that the Department determines to be
49 appropriate, including the Division of Coastal Management, Department of
50 Environment and Natural Resources; the Division of Marine Fisheries,
51 Department of Environment and Natural Resources; the Division of Waste

1 Management, Department of Environment and Natural Resources; and the
2 Department of Transportation."

3 **SECTION 57.(c)** G.S. 90A-47.3 reads as rewritten:

4 **"§ 90A-47.3. Qualifications for certification; training; examination.**

5 (a) The Commission shall develop and administer a certification program for animal
6 waste management system operators in charge that provides for receipt of applications, training
7 and examination of applicants, and investigation of the qualifications of applicants.

8 (b) The Commission, in cooperation with the Division of Water ~~Quality-Resources~~
9 of the Department of Environment and Natural Resources, and the Cooperative Extension Service,
10 shall develop and administer a training program for animal waste management system
11 operators in charge. An applicant for initial certification shall complete 10 hours of classroom
12 instruction prior to taking the examination. In order to remain certified, an animal waste
13 management system operator in charge shall complete six hours of approved additional training
14 during each three-year period following initial certification. A certified animal waste
15 management system operator in charge who fails to complete approved additional training
16 within 30 days of the end of the three-year period shall take and pass the examination for
17 certification in order to renew the certificate."

18 **SECTION 57.(d)** G.S. 106-805 reads as rewritten:

19 **"§ 106-805. Written notice of swine farms.**

20 Any person who intends to construct a swine farm whose animal waste management system
21 is subject to a permit under Part 1 or 1A of Article 21 of Chapter 143 of the General Statutes
22 shall, after completing a site evaluation and before the farm site is modified, notify all
23 adjoining property owners; all property owners who own property located across a public road,
24 street, or highway from the swine farm; the county or counties in which the farm site is located;
25 and the local health department or departments having jurisdiction over the farm site of that
26 person's intent to construct the swine farm. This notice shall be by certified mail sent to the
27 address on record at the property tax office in the county in which the land is located. Notice to
28 a county shall be sent to the county manager or, if there is no county manager, to the chair of
29 the board of county commissioners. Notice to a local health department shall be sent to the
30 local health director. The written notice shall include all of the following:

- 31 (1) The name and address of the person intending to construct a swine farm.
- 32 (2) The type of swine farm and the design capacity of the animal waste
33 management system.
- 34 (3) The name and address of the technical specialist preparing the waste
35 management plan.
- 36 (4) The address of the local Soil and Water Conservation District office.
- 37 (5) Information informing the adjoining property owners and the property
38 owners who own property located across a public road, street, or highway
39 from the swine farm that they may submit written comments to the Division
40 of Water ~~Quality-Resources~~, Department of Environment and Natural
41 Resources."

42 **SECTION 57.(e)** G.S. 106-860(d) reads as rewritten:

43 "(d) Advisory Committee. – The Program shall be reviewed, prior to implementation, by
44 the Community Conservation Assistance Program Advisory Committee. The Advisory
45 Committee shall meet quarterly to review the progress of the Program. The Advisory
46 Committee shall consist of the following members:

- 47 (1) The Director of the Division of Soil and Water Conservation of the
48 Department of Agriculture and Consumer Services or the Director's
49 designee, who shall serve as the Chair of the Advisory Committee.
- 50 (2) The President of the North Carolina Association of Soil and Water
51 Conservation Districts or the President's designee.

- 1 (3) The Director of the Cooperative Extension Service at North Carolina State
2 University or the Director's designee.
- 3 (4) The Executive Director of the North Carolina Association of County
4 Commissioners or the Executive Director's designee.
- 5 (5) The Executive Director of the North Carolina League of Municipalities or
6 the Executive Director's designee.
- 7 (6) The State Conservationist of the Natural Resources Conservation Service of
8 the United States Department of Agriculture or the State Conservationist's
9 designee.
- 10 (7) The Executive Director of the Wildlife Resources Commission or the
11 Executive Director's designee.
- 12 (8) The President of the North Carolina Conservation District Employees
13 Association or the President's designee.
- 14 (9) The President of the North Carolina Association of Resource Conservation
15 and Development Councils or the President's designee.
- 16 ~~(10) The Director of the Division of Water Quality of the Department of~~
17 ~~Environment and Natural Resources or the Director's designee.~~
- 18 (11) The Director of the Division of Forest Resources of the Department of
19 Agriculture and Consumer Services or the Director's designee.
- 20 (12) The Director of the Division of Energy, Mineral, and Land Resources of the
21 Department of Environment and Natural Resources or the Director's
22 designee.
- 23 (13) The Director of the Division of Coastal Management of the Department of
24 Environment and Natural Resources or the Director's designee.
- 25 (14) The Director of the Division of Water Resources of the Department of
26 Environment and Natural Resources or the Director's designee.
- 27 (15) The President of the Carolinas Land Improvement Contractors Association
28 or the President's designee."

29 **SECTION 57.(f)** G.S. 113A-57 reads as rewritten:

30 **"§ 113A-57. Mandatory standards for land-disturbing activity.**

31 No land-disturbing activity subject to this Article shall be undertaken except in accordance
32 with the following mandatory requirements:

- 33 (1) No land-disturbing activity during periods of construction or improvement to
34 land shall be permitted in proximity to a lake or natural watercourse unless a
35 buffer zone is provided along the margin of the watercourse of sufficient
36 width to confine visible siltation within the twenty-five percent (25%) of the
37 buffer zone nearest the land-disturbing activity. Waters that have been
38 classified as trout waters by the Environmental Management Commission
39 shall have an undisturbed buffer zone 25 feet wide or of sufficient width to
40 confine visible siltation within the twenty-five percent (25%) of the buffer
41 zone nearest the land-disturbing activity, whichever is greater. Provided,
42 however, that the Sedimentation Control Commission may approve plans
43 which include land-disturbing activity along trout waters when the duration
44 of said disturbance would be temporary and the extent of said disturbance
45 would be minimal. This subdivision shall not apply to a land-disturbing
46 activity in connection with the construction of facilities to be located on,
47 over, or under a lake or natural watercourse.
- 48 (2) The angle for graded slopes and fills shall be no greater than the angle that
49 can be retained by vegetative cover or other adequate erosion-control
50 devices or structures. In any event, slopes left exposed will, within 21
51 calendar days of completion of any phase of grading, be planted or otherwise

- 1 provided with temporary or permanent ground cover, devices, or structures
2 sufficient to restrain erosion.
- 3 (3) Whenever land-disturbing activity that will disturb more than one acre is
4 undertaken on a tract, the person conducting the land-disturbing activity
5 shall install erosion and sedimentation control devices and practices that are
6 sufficient to retain the sediment generated by the land-disturbing activity
7 within the boundaries of the tract during construction upon and development
8 of the tract, and shall plant or otherwise provide a permanent ground cover
9 sufficient to restrain erosion after completion of construction or development
10 within a time period to be specified by rule of the Commission.
- 11 (4) No person shall initiate any land-disturbing activity that will disturb more
12 than one acre on a tract unless, 30 or more days prior to initiating the
13 activity, an erosion and sedimentation control plan for the activity is filed
14 with the agency having jurisdiction and approved by the agency. An erosion
15 and sedimentation control plan may be filed less than 30 days prior to
16 initiation of a land-disturbing activity if the plan is submitted under an
17 approved express permit program, and the land-disturbing activity may be
18 initiated and conducted in accordance with the plan once the plan has been
19 approved. The agency having jurisdiction shall forward to the Director of the
20 Division of Water ~~Quality-Resources~~ a copy of each erosion and
21 sedimentation control plan for a land-disturbing activity that involves the
22 utilization of ditches for the purpose of de-watering or lowering the water
23 table of the tract.
- 24 (5) The land-disturbing activity shall be conducted in accordance with the
25 approved erosion and sedimentation control plan."

26 **SECTION 57.(g)** G.S. 136-44.7D reads as rewritten:

27 **"§ 136-44.7D. Bridge construction guidelines.**

28 A bridge crossing rivers and streams in watersheds shall be constructed to accommodate the
29 hydraulics of a flood water level equal to the water level projected for a 100-year flood for the
30 region in which the bridge is built. The bridge shall be built without regard for the riparian
31 buffer zones as designated by the Department of Environment and Natural Resources, Division
32 of Water ~~Quality-Resources~~. No Memorandums of Agreement may be made between
33 Departments to bypass this construction mandate. No agency rules shall be enacted contrary to
34 this section."

35 **SECTION 57.(h)** G.S. 143-214.7(c3) reads as rewritten:

36 "(c3) In accordance with the Federal Aviation Administration August 28, 2007, Advisory
37 Circular No. 150/5200-33B (Hazardous Wildlife Attractants on or Near Airports), the
38 Department shall not require the use of stormwater retention ponds, stormwater detention
39 ponds, or any other stormwater control measure that promotes standing water in order to
40 comply with this section at public airports that support commercial air carriers or general
41 aviation services. Development projects located within five statute miles from the farthest edge
42 of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011
43 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds,
44 or any other stormwater control measure that promotes standing water in order to comply with
45 this section. Existing stormwater retention ponds, stormwater detention ponds, or any other
46 stormwater control measure that promotes standing water in order to comply with this section
47 located at public airports or that are within five statute miles from the farthest edge of an airport
48 operations area may be replaced with alternative measures included in the Division of Water
49 ~~Quality's-Resources'~~ Best Management Practice Manual chapter on airports. In order to be
50 approved by the Department, alternative measures or management designs that are not
51 expressly included in the Division of Water ~~Quality's-Resources'~~ Best Management Practice

1 Manual shall provide for equal or better stormwater control based on the pre- and
2 post-development hydrograph. Any replacement of existing stormwater retention ponds,
3 stormwater detention ponds, or any other stormwater control measure that promotes standing
4 water shall be considered a minor modification to the State general stormwater permit."

5 **SECTION 57.(i)** G.S. 143-214.7A reads as rewritten:

6 "**§ 143-214.7A. Stormwater control best management practices.**

7 (a) The Department of Environment and Natural Resources shall establish standard
8 stormwater control best management practices and standard process water treatment processes
9 or equivalent performance standards for composting operations that are required to be
10 permitted by the Division of Water ~~Quality Resources~~ in the Department and the Division of
11 Waste Management in the Department. These practices, processes, and standards shall be
12 developed for the purpose of protecting water quality by controlling and containing stormwater
13 that is associated with composting operations, by reducing the pollutant levels of process water
14 from composting operations, and by reducing the opportunities for generation of such waters.

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

33 (c) The Department shall establish revised water quality permitting procedures for the
34 composting industry. The revised permitting procedures shall identify the various
35 circumstances that determine which water quality permit is required for various composting
36 activities. The Department shall determine whether selected low-risk subsets of the composting
37 industry may be suitable for expedited or reduced water quality permitting procedures. The
38 determination shall include consideration of the economic impact of regulatory decisions.

39 (d) In developing the practices, processes, and standards and the revised water quality
40 permitting procedures required by this section, the Department shall review practices,
41 processes, and standards and permitting procedures adopted by other states and similar federal
42 programs.

43 (e) The Department shall form a Compost Operation Stakeholder Advisory Group
44 composed of representatives from the North Carolina Chapter of the United States Composting
45 Council, the North Carolina Association of County Commissioners, the North Carolina League
46 of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina
47 Chapter of the American Water Works Association-Water Environment Federation, the North
48 Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North
49 America, the North Carolina Septic Tank Association, and any individual or group commenting
50 to the Department on issues related to water quality at composting operations. The Compost

1 Operation Stakeholder Advisory Group shall be convened periodically to provide input and
2 assistance to the Department.

3 (f) The practices, processes, and standards and the revised permitting procedures shall
4 address the site size of an operation, the nature of the feedstocks composted, the type of
5 compost production method employed, the quantity and water quality of the stormwater or
6 process water associated with composting facilities, the water quality of the receiving waters,
7 as well as operation and maintenance requirements for the resulting standard stormwater
8 control best management practices and standard process water treatment processes."

9 **SECTION 57.(j)** G.S. 143-214.10 reads as rewritten:

10 **"§ 143-214.10. Ecosystem Enhancement Program: development and implementation of**
11 **basinwide restoration plans.**

12 Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for
13 wetlands and riparian area restoration with the goal of protecting and enhancing water quality,
14 flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17
15 major river basins in the State. The Department shall develop and implement a basinwide
16 restoration plan for each of the 17 river basins in the State in accordance with the basinwide
17 schedule currently established by the Division of Water ~~Quality-Resources~~."

18 **SECTION 57.(k)** G.S. 143-214.25A, as amended by Section 22 of S.L. 2013-155,
19 reads as rewritten:

20 **"§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification**
21 **Training and Certification Program.**

22 (a) The Division of Water ~~Quality-Resources~~ of the Department shall develop a
23 program to train and certify individuals to determine the presence of surface waters that would
24 require the application of rules adopted by the Commission for the protection of riparian
25 buffers. The Division may train and certify employees of the Division as determined by the
26 Director of the Division of Water ~~Quality-Resources~~; employees of units of local government
27 to whom responsibility for the implementation and enforcement of the riparian buffer
28 protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under
29 Chapter 89B of the General Statutes who are employees of the North Carolina Forest Service of
30 the Department of Agriculture and Consumer Services as determined by the Assistant
31 Commissioner of the North Carolina Forest Service. The Director of the Division of Water
32 ~~Quality-Resources~~ may review the determinations made by individuals who are certified
33 pursuant to this section, may override a determination made by an individual certified under
34 this section, and, if the Director of the Division of Water ~~Quality-Resources~~ determines that an
35 individual is failing to make correct determinations, revoke the certification of that individual.

36 (b) The Division of Water ~~Quality-Resources~~ shall develop standard forms for use in
37 making and reporting determinations. Each individual who is certified to make determinations
38 under this section shall prepare a written report of each determination and shall submit the
39 report to the agency that employs the individual. Each agency shall maintain reports of
40 determinations made by its employees, shall forward a copy of each report to the Director of
41 the Division of Water ~~Quality-Resources~~, and shall maintain these reports and all other records
42 related to determinations so that they will be readily accessible to the public.

43 (c) In implementing the Surface Water Identification Training and Certification
44 Program established by this section, the Division of Water ~~Quality-Resources~~ of the
45 Department of Environment and Natural Resources shall give priority to training and certifying
46 the most highly qualified and experienced personnel in each agency. The Division of Water
47 ~~Quality-Resources~~ shall evaluate the effectiveness of the Surface Water Identification Training
48 and Certification Program and shall submit an annual report of its findings and
49 recommendations, if any, to the Environmental Review Commission on or before October 1 of
50 each year."

51 **SECTION 57.(l)** G.S. 143-215.9C reads as rewritten:

1 **"§ 143-215.9C. Use of certain types of culverts allowed.**

2 (a) The Division of Water ~~Quality-Resources~~ in the Department of Environment and
3 Natural Resources shall allow the use of structures known as three-sided, open-bottom, or
4 bottomless culverts. A culvert authorized under this section shall be designed, constructed, and
5 installed so that it satisfies all of the following requirements:

- 6 (1) Adheres to professional engineering standards and sound engineering
7 practices.
8 (2) To the extent practicable, minimizes the erosive velocity of water.
9 (3) Has an inside that is greater than or equal to 1.2 times the bankfull width of
10 the spanned waterbody. For purposes of this subdivision, "bankfull width"
11 means the width of the stream where over-bank flow begins during a flood
12 event.

13 (b) The Division shall allow the use of culverts authorized under this section throughout
14 the State and may not limit their use to locations where they must be tied into bedrock. Culverts
15 authorized under this section may only be used on private property and may not be transferred
16 to, or operated or maintained by, the Department of Transportation."

17 **SECTION 57.(m)** G.S. 143-215.10A reads as rewritten:

18 **"§ 143-215.10A. Legislative findings and intent.**

19 The General Assembly finds that animal operations provide significant economic and other
20 benefits to this State. The growth of animal operations in recent years has increased the
21 importance of good animal waste management practices to protect water quality. It is critical
22 that the State balance growth with prudent environmental safeguards. It is the intention of the
23 State to promote a cooperative and coordinated approach to animal waste management among
24 the agencies of the State with a primary emphasis on technical assistance to farmers. To this
25 end, the General Assembly intends to establish a permitting program for animal waste
26 management systems that will protect water quality and promote innovative systems and
27 practices while minimizing the regulatory burden. Technical assistance will be provided by the
28 Division of Soil and Water Conservation of the Department of Agriculture and Consumer
29 Services. Inspection and enforcement will be provided by the Division of Water
30 ~~Quality-Resources.~~"

31 **SECTION 57.(n)** G.S. 143-215.10B reads as rewritten:

32 **"§ 143-215.10B. Definitions.**

33 As used in this Part:

- 34 (1) "Animal operation" means any agricultural feedlot activity involving 250 or
35 more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more
36 sheep, or 30,000 or more confined poultry with a liquid animal waste
37 management system, or any agricultural feedlot activity with a liquid animal
38 waste management system that discharges to the surface waters of the State.
39 A public livestock market regulated under Article 35 of Chapter 106 of the
40 General Statutes is an animal operation for purposes of this Part.
41 (2) "Animal waste" means livestock or poultry excreta or a mixture of excreta
42 with feed, bedding, litter, or other materials from an animal operation.
43 (3) "Animal waste management system" means a combination of structures and
44 nonstructural practices serving a feedlot that provide for the collection,
45 treatment, storage, or land application of animal waste.
46 (4) "Division" means the Division of Water ~~Quality-Resources~~ of the
47 Department.
48 (5) "Feedlot" means a lot or building or combination of lots and buildings
49 intended for the confined feeding, breeding, raising, or holding of animals
50 and either specifically designed as a confinement area in which animal waste
51 may accumulate or where the concentration of animals is such that an

1 established vegetative cover cannot be maintained. A building or lot is not a
2 feedlot unless animals are confined for 45 or more days, which may or may
3 not be consecutive, in a 12-month period. Pastures shall not be considered
4 feedlots for purposes of this Part.

- 5 (6) "Technical specialist" means an individual designated by the Soil and Water
6 Conservation Commission, pursuant to rules adopted by that Commission, to
7 certify animal waste management plans."

8 **SECTION 57.(o)** G.S. 143-215.10M(a) reads as rewritten:

9 "(a) The Department shall report to the Environmental Review Commission and the
10 Fiscal Research Division on or before 1 October of each year as required by this section. Each
11 report shall include:

- 12 (1) The number of permits for animal waste management systems, itemized by
13 type of animal subject to such permits, issued since the last report.
14 (2) The number of operations reviews of animal waste management systems that
15 the Division of Soil and Water Conservation of the Department of
16 Agriculture and Consumer Services has conducted since the last report.
17 (3) The number of operations reviews of animal waste management systems
18 conducted by agencies other than the Division of Soil and Water
19 Conservation of the Department of Agriculture and Consumer Services that
20 have been conducted since the last report.
21 (4) The number of reinspections associated with operations reviews conducted
22 by the Division of Soil and Water Conservation of the Department of
23 Agriculture and Consumer Services since the last report.
24 (5) The number of reinspections associated with operations reviews conducted
25 by agencies other than the Division of Soil and Water Conservation of the
26 Department of Agriculture and Consumer Services since the last report.
27 (6) The number of compliance inspections of animal waste management
28 systems that the Division of Water ~~Quality Resources~~ has conducted since
29 the last report.
30 (7) The number of follow-up inspections associated with compliance inspections
31 conducted by the Division of Water ~~Quality Resources~~ since the last report.
32 (8) The average length of time for each category of reviews and inspections
33 under subdivisions (2) through (7) of this subsection.
34 (9) The number of violations found during each category of review and
35 inspection under subdivisions (2) through (7) of this subsection, the status of
36 enforcement actions taken and pending, and the penalties imposed, collected,
37 and in the process of being negotiated for each such violation.
38 (10) Any other information that the Department determines to be appropriate or
39 that is requested by the Environmental Review Commission or the Fiscal
40 Research Division."

41 **SECTION 57.(p)** G.S. 143B-279.7(a) reads as rewritten:

42 "(a) The Department of Environment and Natural Resources shall coordinate an
43 intradepartmental effort to develop scientific protocols to respond to significant fish kill events
44 utilizing staff from the Division of Water ~~Quality Resources~~, Division of Marine Fisheries,
45 Department of Health and Human Services, Wildlife Resources Commission, the scientific
46 community, and other agencies, as necessary. In developing these protocols, the Department of
47 Environment and Natural Resources shall address the unpredictable nature of fish kills caused
48 by both natural and man-made factors. The protocols shall contain written procedures to
49 respond to significant fish kill events including:

- 50 (1) Developing a plan of action to evaluate the impact of fish kills on public
51 health and the environment.

- 1 (2) Responding to fish kills within 24 hours.
2 (3) Investigating and collecting data relating to fish kill events.
3 (4) Summarizing and distributing fish kill information to participating agencies,
4 scientists and other interested parties."

5 **SECTION 57.(q)** G.S. 159G-20(5) is repealed.

6 **SECTION 57.(r)** G.S. 159G-23 reads as rewritten:

7 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
8 **Water Reserve.**

9 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the
10 Drinking Water Reserve. The ~~Division of Water Quality and the~~ Division of Water Resources
11 must ~~each~~ establish a system of assigning points to applications based on the following criteria:

12"

13 **SECTION 57.(s)** G.S. 159G-26(a) reads as rewritten:

14 **"§ 159G-26. Annual reports on Water Infrastructure Fund.**

15 (a) Requirement. – The Department must publish a report each year on the accounts in
16 the Water Infrastructure Fund that are administered by the ~~Division of Water Quality or the~~
17 Division of Water Resources. The report must be published by 1 November of each year and
18 cover the preceding fiscal year. The Department must make the report available to the public
19 and must give a copy of the report to the Environmental Review Commission and the Fiscal
20 Research Division of the General Assembly."

21 **SECTION 57.(t)** G.S. 159G-30 reads as rewritten:

22 **"§ 159G-30. Department's responsibility.**

23 The Department, through ~~the Division of Water Quality and the~~ Division of Water
24 Resources, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater
25 Reserve, and the Drinking Water Reserve. ~~The Division of Water Quality administers loans and~~
26 ~~grants from the CWSRF and the Wastewater Reserve. The Division of Water Resources~~
27 ~~administers loans and grants from the DWSRF and the Drinking Water Reserve."~~

28 **SECTION 57.(u)** G.S. 159G-37 reads as rewritten:

29 **"§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water**
30 **Reserve.**

31 An application for a loan or grant from the ~~CWSRF or the Wastewater Reserve~~ must be
32 ~~filed with the Division of Water Quality of the Department. An application for a loan or grant~~
33 ~~from the DWSRF or the Drinking Water Reserve must be filed with the CWSRF, the~~
34 ~~Wastewater Reserve, the DWSRF, or the Drinking Water Reserve must be filed with the~~
35 Division of Water Resources of the Department. An application must be submitted on a form
36 prescribed by the Division and must contain the information required by the Division. An
37 applicant must submit to the Division any additional information requested by the Division to
38 enable the Division to make a determination on the application. An application that does not
39 contain information required on the application or requested by the Division is incomplete and
40 is not eligible for consideration. An applicant may submit an application in as many categories
41 as it is eligible for consideration under this Article."

42 **SECTION 57.(v)** G.S. 159G-38 reads as rewritten:

43 **"§ 159G-38. Environmental assessment and public hearing.**

44 (a) Required Information. – An application submitted under this Article for a loan or
45 grant for a project must state whether the project requires an environmental assessment. If the
46 application indicates that an environmental assessment is not required, it must identify the
47 exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the
48 General Statutes, that applies to the project. If the application does not identify an exclusion in
49 the North Carolina Environmental Policy Act, it must include an environmental assessment of
50 the project's probable impacts on the environment.

1 (b) Division Review. – If, after reviewing an application, ~~the Division of Water Quality~~
2 ~~or the Division of Water Resources, as appropriate, Resources~~ determines that a project requires
3 an environmental assessment, the assessment must be submitted before the Division continues
4 its review of the application. If, after reviewing an environmental assessment, the Division
5 concludes that an environmental impact statement is required, the Division may not continue its
6 review of the application until a final environmental impact statement has been completed and
7 approved as provided in the North Carolina Environmental Policy Act.

8 (c) Hearing. – ~~The Division of Water Quality or the Division of Water Resources, as~~
9 ~~appropriate, Resources~~ may hold a public hearing on an application for a loan or grant under
10 this Article if it determines that holding a hearing will serve the public interest. An individual
11 who is a resident of any county in which a proposed project is located may submit a written
12 request for a public hearing. The request must set forth each objection to the proposed project
13 or other reason for requesting a hearing and must include the name and address of the
14 individual making the request. The Division may consider all written objections to the proposed
15 project, any statement submitted with the hearing request, and any significant adverse effects
16 the proposed project may have on the environment. The Division's decision on whether to hold
17 a hearing is conclusive. The Division must keep all written requests for a hearing on an
18 application as part of the records pertaining to the application."

19 **SECTION 57.(w)** G.S. 159G-39(a) reads as rewritten:

20 "(a) Point Assignment. – ~~The Division of Water Quality or the Division of Water~~
21 ~~Resources, as appropriate, Resources~~ must review all applications filed for a loan or grant under
22 this Article for an application period. The Division must rank each application in accordance
23 with the points assigned to the evaluation criteria. The Division must make a written
24 determination of an application's rank and attach the determination to the application. The
25 Division's determination of rank is conclusive."

26 **SECTION 57.(x)** Section 1.6 of S.L. 1998-221 reads as rewritten:

27 "Section 1.6. **Delegation of riparian buffer protection requirements to local**
28 **governments.** – (a) The Commission may delegate responsibility for the implementation and
29 enforcement of the State's riparian buffer protection requirements in the Neuse River Basin to
30 units of local government that have the power to regulate land use. A delegation under this
31 section shall not affect the jurisdiction of the Commission over State agencies and units of local
32 government. Any unit of local government in the Neuse River Basin that has the power to
33 regulate land use may request that responsibility for the implementation and enforcement of the
34 State's riparian buffer protection requirements be delegated to the unit of local government. To
35 this end, units of local government may adopt ordinances and regulations necessary to establish
36 and enforce the State's riparian buffer protection requirements.

37 (b) Within 90 days after the Commission receives a complete application requesting
38 delegation of responsibility for the implementation and enforcement of the State's riparian
39 buffer protection requirement, the Commission shall review the application and notify the unit
40 of local government that submitted the application whether the application has been approved,
41 approved with modifications, or disapproved. The Commission shall not approve a delegation
42 unless the Commission finds that local implementation and enforcement of the State's riparian
43 buffer protection requirements will equal implementation and enforcement by the State.

44 (c) If the Commission determines that any unit of local government is failing to
45 implement or enforce the State's riparian buffer protection requirements, the Commission shall
46 notify the unit of local government in writing and shall specify the deficiencies in
47 implementation and enforcement. If the local government has not corrected the deficiencies
48 within 90 days after the unit of local government receives the notification, the Commission
49 shall rescind delegation and shall implement and enforce the State's riparian buffer protection
50 program. If the unit of local government indicates that it is willing and able to resume

1 implementation and enforcement of the State's riparian buffer protection requirements, the unit
2 of local government may reapply for delegation under this section.

3 (d) The Division of Water ~~Quality Resources~~ in the Department shall provide technical
4 assistance to units of local government in the development, implementation, and enforcement
5 of the State's riparian buffer protection requirements.

6 (e) The Commission may adopt rules to implement this section and may recommend
7 any legislation it determines to be necessary or desirable to achieve the purposes of this section.
8 Rules to implement this section shall not be codified as a part of 15A NCAC 2B.0233 but shall
9 be set out as a separately numbered rule."

10 **SECTION 57.(y)** Section 2(c) of S.L. 2001-355 reads as rewritten:

11 "**SECTION 2.(c)** The Director of the Division of Water ~~Quality Resources~~ and the
12 Director of the Division of Soil and Water Conservation of the Department of Environment and
13 Natural Resources shall jointly appoint members described in subdivisions (1) through (4) of
14 subsection (b) of this section. The Commissioner of Agriculture shall appoint the members
15 described in subdivisions (5) and (6) of subsection (b) of this section. The Commissioner of
16 Agriculture shall appoint the members described in subdivision (6) of subsection (b) of this
17 section from persons nominated by nongovernmental organizations whose members produce or
18 manage significant agricultural commodities in each county or watershed."

19 **SECTION 57.(z)** Section 2 of S.L. 2006-246 reads as rewritten:

20 "**SECTION 2.** Definitions. – The following definitions apply to this act and its
21 implementation:

- 22 (1) The definitions set out in 40 Code of Federal Regulations § 122.2
23 (Definitions) and § 122.26(b) (Storm Water Discharges) (1 July 2003
24 Edition).
- 25 (2) The definitions set out in G.S. 143-212 and G.S. 143-213.
- 26 (3) The definitions set out in 15A NCAC 2H .0103 (Definitions of Terms).
- 27 (4) The definitions set out in 15A NCAC 2H .1002 (Definitions), except for the
28 definitions of "Built-upon area", "Development", and "Redevelopment",
29 which are defined below.
- 30 (5) "One-year, 24-hour storm" means a rainfall of an intensity expected to be
31 equaled or exceeded, on average, once in 12 months and with a duration of
32 24 hours.
- 33 (6) "BMP" means Best Management Practice.
- 34 (7) "Built-upon area" means that portion of a project that is covered by
35 impervious or partially impervious surface including, but not limited to,
36 buildings; pavement and gravel areas such as roads, parking lots, and paths;
37 and recreation facilities such as tennis courts. "Built-upon area" does not
38 include a wooden slatted deck, the water area of a swimming pool, or
39 pervious or partially pervious paving material to the extent that the paving
40 material absorbs water or allows water to infiltrate through the paving
41 material.
- 42 (8) "Development" means any land-disturbing activity that increases the amount
43 of built-upon area or that otherwise decreases the infiltration of precipitation
44 into the soil.
- 45 (9) "Division" means the Division of Water ~~Quality Resources~~ in the
46 Department.
- 47 (10) "Planning jurisdiction" means the territorial jurisdiction within which a
48 municipality exercises the powers authorized by Article 19 of Chapter 160A
49 of the General Statutes, or a county may exercise the powers authorized by
50 Article 18 of Chapter 153A of the General Statutes.

- 1 (11) "Public entity" means the United States; the State; a city, village, township,
2 county, school district, public college or university, or single-purpose
3 governmental agency; or any other governing body that is created by federal
4 or State law.
- 5 (12) "Redevelopment" means any land-disturbing activity that does not result in a
6 net increase in built-upon area and that provides greater or equal stormwater
7 control than the previous development.
- 8 (13) "Regulated entity" means any public entity that must obtain a Phase II
9 National Pollutant Discharge Elimination System (NPDES) permit for
10 stormwater management for its municipal separate storm sewer system
11 (MS4).
- 12 (14) "Sensitive receiving waters" means any of the following:
- 13 a. Waters that are classified as high quality, outstanding resource,
14 shellfish, trout, or nutrient-sensitive waters in accordance with
15 subsections (d) and (e) of 15A NCAC 2B .0101 (Procedures for
16 Assignment of Water Quality Standards – General Procedures).
- 17 b. Waters that are occupied by or designated as critical habitat for
18 aquatic animal species that are listed as threatened or endangered by
19 the United States Fish and Wildlife Service or the National Marine
20 Fisheries Service under the provisions of the Endangered Species Act
21 of 1973 (Pub. L. No. 93-205; 87 Stat. 884; 16 U.S.C. §§ 1531, et
22 seq.), as amended.
- 23 c. Waters for which the designated use, as described by the
24 classification system set out in subsections (c), (d), and (e) of 15A
25 NCAC 2B .0101 (Procedures for Assignment of Water Quality
26 Standards – General Procedures), have been determined to be
27 impaired in accordance with the requirements of subsection (d) of 33
28 U.S.C. § 1313.
- 29 (15) "Shellfish resource waters" means Class SA waters that contain an average
30 concentration of 500 parts per million of natural chloride ion. Average
31 concentration is determined by averaging the chloride concentrations of five
32 water samples taken one-half mile downstream from the project site that are
33 taken on separate days, within one hour of high tide, and not within 48 hours
34 following a rain event. The chloride ion concentrations are to be determined
35 by a State-certified laboratory.
- 36 (16) "Significant contributor of pollutants" means a municipal separate storm
37 sewer system (MS4) or a discharge that contributes to the pollutant loading
38 of a water body or that destabilizes the physical structure of a water body
39 such that the contribution to pollutant loading or the destabilization may
40 reasonably be expected to adversely affect the quality and uses of the water
41 body. Uses of a water body shall be determined pursuant to 15A NCAC 2B
42 .0211 through 15A NCAC 2B .0222 (Classifications and Water Quality
43 Standards Applicable to Surface Waters and Wetlands of North Carolina)
44 and 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).
- 45 (17) "Total maximum daily load (TMDL) implementation plan" means a written,
46 quantitative plan and analysis for attaining and maintaining water quality
47 standards in all seasons for a specific water body and pollutant."

48 **SECTION 57.(aa)** S.L. 2008-211 reads as rewritten:

49 **"SECTION 1.(a)** Disapprove Rule. – Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02H
50 .1005 (Stormwater Requirements: Coastal Counties), as adopted by the Environmental

1 Management Commission on 10 January 2008 and approved by the Rules Review Commission
2 on 20 March 2008, is disapproved.

3 **"SECTION 1.(b)** Supersede Rule. – 15A NCAC 02H .1005 (Stormwater Requirements:
4 Coastal Counties), effective 1 September 1995, is superseded by this act. References in the
5 North Carolina Administrative Code to 15A NCAC 02H .1005 shall be deemed to refer to the
6 equivalent provisions of this act.

7 **"SECTION 2.(a)** Definitions. – The following definitions apply to this act and its
8 implementation:

9 (1) The definitions set out in 15A NCAC 02H .1002 (Definitions).

10 (2) The definitions set out in G.S. 143-212 and G.S. 143-213.

11 (3) "Built upon area" has the same meaning as in Session Law 2006-246 and
12 means that portion of a project that is covered by impervious or partially
13 impervious surface including, but not limited to, buildings; pavement and
14 gravel areas such as roads, parking lots, and paths; and recreation facilities
15 such as tennis courts. "Built upon area" does not include a wooden slatted
16 deck, the water area of a swimming pool, or pervious or partially pervious
17 paving material to the extent that the paving material absorbs water or allows
18 water to infiltrate through the paving material.

19 (4) "Permeable pavement" means paving material that absorbs water or allows
20 water to infiltrate through the paving material. Permeable pavement
21 materials include porous concrete, permeable interlocking concrete pavers,
22 concrete grid pavers, porous asphalt, and any other material with similar
23 characteristics. Compacted gravel shall not be considered permeable
24 pavement.

25 (5) "Residential development activities" has the same meaning as in 15A NCAC
26 02B .0202(54).

27 (6) "Vegetative buffer" has the same meaning as in 15A NCAC 02H .1002(22)
28 and means an area of natural or established vegetation directly adjacent to
29 surface waters through which stormwater runoff flows in a diffuse manner to
30 protect surface waters from degradation due to development activities.

31 (7) "Vegetative conveyance" means a permanent, designed waterway lined with
32 vegetation that is used to convey stormwater runoff at a non-erosive velocity
33 within or away from a developed area.

34 **"SECTION 2.(b)** Requirements for Certain Nonresidential and Residential Development
35 in the Coastal Counties. – All nonresidential development activities that occur within the
36 Coastal Counties that will add more than 10,000 square feet of built upon area or that require a
37 Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area
38 Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all
39 residential development activities within the Coastal Counties that require a Sedimentation and
40 Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA)
41 Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as
42 provided in this subsection. A development activity or project requires a Sedimentation and
43 Erosion Control Plan if the activity or project disturbs one acre or more of land, including an
44 activity or project that disturbs less than one acre of land that is part of a larger common plan of
45 development. Whether an activity or project that disturbs less than one acre of land is part of a
46 larger common plan of development shall be determined in a manner consistent with the
47 memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from
48 the Director of the Division of Water Quality of the Department of Environment and Natural
49 Resources to Interested Parties dated 24 July 2006.

50 (1) Development Near Outstanding Resource Waters (ORW). – Development
51 activities within the Coastal Counties and located within 575 feet of the

1 mean high waterline of areas designated by the Commission as Outstanding
2 Resource Waters (ORW) shall meet the requirements of 15A NCAC 02H
3 .1007 (Stormwater Requirements: Outstanding Resource Waters) and shall
4 be permitted as follows:

5 a. Low-Density Option. – Development shall be permitted pursuant to
6 15A NCAC 02H .1003(d)(1) if the development meets all of the
7 following requirements:

- 8 1. The development has a built upon area of twelve percent
9 (12%) or less. A development project with an overall density
10 at or below the low-density threshold, but containing areas
11 with a density greater than the overall project density, shall be
12 considered low-density as long as the project meets or
13 exceeds the requirements for low-density development and
14 locates the higher density development in upland areas and
15 away from surface waters and drainageways to the maximum
16 extent practicable.
- 17 2. Stormwater runoff from the development is transported
18 primarily by vegetated conveyances. As used in this
19 sub-sub-subdivision, "conveyance system" shall not include a
20 stormwater collection system. Stormwater runoff from built
21 upon areas that is directed to flow through any wetlands shall
22 flow into and through these wetlands at a non-erosive
23 velocity.
- 24 3. The development contains a 50-foot-wide vegetative buffer
25 for new development activities and a 30-foot-wide vegetative
26 buffer for redevelopment activities. The width of a buffer is
27 measured horizontally from the normal pool elevation of
28 impounded structures, from the bank of each side of streams
29 or rivers, and from the mean high waterline of tidal waters,
30 perpendicular to the shoreline. The vegetative buffer may be
31 cleared or graded, but must be planted with and maintained in
32 grass or any other vegetative or plant material. The Division
33 of Water ~~Quality Resources~~ may, on a case-by-case basis,
34 grant a minor variance from the vegetative buffer
35 requirements of this section pursuant to the procedures set out
36 in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters
37 required by this section and any other buffers or filters
38 required by State water quality or coastal management rules
39 or local government requirements may be met concurrently
40 and may contain, in whole or in part, coastal, isolated, or 404
41 jurisdictional wetlands that are located landward of the
42 normal waterline.

43 b. High-Density Option. – Development shall be permitted pursuant to
44 15A NCAC 02H .1003(d)(2) if the development meets all of the
45 following requirements:

- 46 1. The development has a built upon area of greater than twelve
47 percent (12%).
- 48 2. The development has no direct outlet channels or pipes to
49 Class SA waters unless permitted in accordance with 15A
50 NCAC 02H .0126. Stormwater runoff from built upon areas

- 1 that is directed to flow through any wetlands shall flow into
2 and through these wetlands at a non-erosive velocity.
- 3 3. The development utilizes control systems that are any
4 combination of infiltration systems, bioretention systems,
5 constructed stormwater wetlands, sand filters, rain barrels,
6 cisterns, rain gardens or alternative low impact development
7 stormwater management systems designed in accordance with
8 15A NCAC 02H .1008 to control and treat the runoff from all
9 surfaces generated by one and one-half inches of rainfall, or
10 the difference in the stormwater runoff from all surfaces from
11 the predevelopment and postdevelopment conditions for a
12 one-year, 24-hour storm, whichever is greater. Wet detention
13 ponds may be used as a stormwater control system to meet
14 the requirements of this sub-sub-division, provided that
15 the stormwater control system fully complies with the
16 requirements of this sub-subdivision. If a wet detention pond
17 is used within one-half mile of Class SA waters, installation
18 of a stormwater best management practice in series with the
19 wet detention pond shall be required to treat the discharge
20 from the wet detention pond. Secondary stormwater best
21 management practices that are used in series with another
22 stormwater best management practice do not require any
23 minimum separation from the seasonal high water table.
24 Alternatives as described in 15A NCAC 02H .1008(h) may
25 also be approved if they meet the requirements of this
26 sub-subdivision.
- 27 4. Stormwater runoff from the development that is in excess of
28 the design volume must flow overland through a vegetative
29 filter designed in accordance with 15A NCAC 02H .1008
30 with a minimum length of 50 feet measured from mean high
31 water of Class SA waters.
- 32 5. The development contains a 50-foot-wide vegetative buffer
33 for new development activities and a 30-foot-wide vegetative
34 buffer for redevelopment activities. The width of a buffer is
35 measured horizontally from the normal pool elevation of
36 impounded structures, from the bank of each side of streams
37 or rivers, and from the mean high waterline of tidal waters,
38 perpendicular to the shoreline. The vegetative buffer may be
39 cleared or graded, but must be planted with, and maintained
40 in, grass or any other vegetative or plant material.
41 Furthermore, stormwater control best management practices
42 (BMPs), or stormwater control structures, with the exception
43 of wet detention ponds, may be located within this vegetative
44 buffer. The Division of Water ~~Quality~~ Resources may, on a
45 case by case basis, grant a minor variance from the vegetative
46 buffer requirements of this section pursuant to the procedures
47 set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers
48 and filters required by this section and any other buffers or
49 filters required by State water quality or coastal management
50 rules or local government requirements may be met
51 concurrently and may contain, in whole or in part, coastal,

- 1 isolated, or 404 jurisdictional wetlands that are located
2 landward of the normal waterline.
- 3 c. Stormwater Discharges Prohibited. – All development activities,
4 including both low- and high-density projects, shall prohibit new
5 points of stormwater discharge to Class SA waters or an increase in
6 the volume of stormwater flow through conveyances or increase in
7 capacity of conveyances of existing stormwater conveyance systems
8 that drain to Class SA waters. Any modification or redesign of a
9 stormwater conveyance system within the contributing drainage
10 basin must not increase the net amount or rate of stormwater
11 discharge through existing outfalls to Class SA waters. The following
12 shall not be considered a direct point of stormwater discharge:
- 13 1. Infiltration of the stormwater runoff from the design storm as
14 described in sub-sub-subdivision 3. of sub-subdivision b. of
15 subdivision (1) of this subsection.
- 16 2. Diffuse flow of stormwater at a non-erosive velocity to a
17 vegetated buffer or other natural area, that is capable of
18 providing effective infiltration of the runoff from the design
19 storm as described in sub-sub-subdivision 3. of
20 sub-subdivision b. of subdivision (1) of this subsection.
21 Notwithstanding the other requirements of this section, the
22 infiltration mandated in this sub-sub-subdivision does not
23 require a minimum separation from the seasonal high-water
24 table.
- 25 3. The discharge from a wet detention pond that is treated by a
26 secondary stormwater best management practice, provided
27 that both the wet detention pond and the secondary
28 stormwater best management practice meet the requirements
29 of this sub-subdivision.
- 30 d. Limitation on the Density of Development. – Development shall be
31 limited to a built upon area of twenty-five percent (25%) or less.
- 32 (2) Development Near Class SA Waters. – Development activities within
33 one-half mile of and draining to those waters classified by the Commission
34 as Class SA waters or within one-half mile of waters classified by the
35 Commission as Class SA waters and draining to unnamed freshwater
36 tributaries to Class SA waters shall meet the requirements of
37 sub-subdivisions a., b., and c. of subdivision (1) of this subsection. The
38 extent of Class SA waters is limited to those waters that are determined to be
39 at least an intermittent stream based on a site stream determination made in
40 accordance with the procedures that are delineated in the Division of Water
41 Quality's "Identification Methods for the Origin of Intermittent and Perennial
42 Streams" prepared pursuant to Session Law 2001-404.
- 43 (3) Other Coastal Development. – Development activities within the Coastal
44 Counties except those areas described in subdivisions (1) and (2) of this
45 subsection shall meet all of the following requirements:
- 46 a. Low-Density Option: Development shall be permitted pursuant to
47 15A NCAC 02H .1003(d)(1) if the development meets all of the
48 following requirements:
- 49 1. The development has a built upon area of twenty-four percent
50 (24%) or less. A development project with an overall density
51 at or below the low-density threshold, but containing areas

- 1 with a density greater than the overall project density, shall be
2 considered low density as long as the project meets or
3 exceeds the requirements for low-density development and
4 locates the higher density in upland areas and away from
5 surface waters and drainageways to the maximum extent
6 practicable.
- 7 2. Stormwater runoff from the development is transported
8 primarily by vegetated conveyances. As used in this
9 sub-sub-subdivision, "conveyance system" shall not include a
10 stormwater collection system. Stormwater runoff from built
11 upon areas that is directed to flow through any wetlands shall
12 flow into and through these wetlands at a non-erosive
13 velocity.
- 14 3. The development contains a 50-foot-wide vegetative buffer
15 for new development activities and a 30-foot-wide vegetative
16 buffer for redevelopment activities. The width of a buffer is
17 measured horizontally from the normal pool elevation of
18 impounded structures, from the bank of each side of streams
19 or rivers, and from the mean high waterline of tidal waters,
20 perpendicular to the shoreline. The vegetative buffer may be
21 cleared or graded, but must be planted with, and maintained
22 in, grass or any other vegetative or plant material. The
23 Division of Water ~~Quality~~ Resources may, on a case-by-case
24 basis, grant a minor variance from the vegetative buffer
25 requirements of this section pursuant to the procedures set out
26 in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters
27 required by this section and any other buffers or filters
28 required by State water quality or coastal management rules
29 or local government requirements may be met concurrently
30 and may contain, in whole or in part, coastal, isolated, or 404
31 jurisdictional wetlands that are located landward of the
32 normal waterline.
- 33 b. High-Density Option: Higher density developments shall be
34 permitted pursuant to 15A NCAC 02H .1003(d)(2) if the
35 development meets all of the following requirements:
- 36 1. The development has a built upon area of greater than
37 twenty-four percent (24%).
- 38 2. The development uses control systems that are any
39 combination of infiltration systems, wet detention ponds,
40 bioretention systems, constructed stormwater wetlands, sand
41 filters, rain barrels, cisterns, rain gardens or alternative
42 stormwater management systems designed in accordance with
43 15A NCAC 02H .1008.
- 44 3. Control systems must be designed to store, control, and treat
45 the stormwater runoff from all surfaces generated by one and
46 one-half inch of rainfall.
- 47 4. Stormwater runoff from built upon areas that is directed to
48 flow through any wetlands shall flow into and through these
49 wetlands at a non-erosive velocity.
- 50 5. A 50-foot-wide vegetative buffer for new development
51 activities and a 30-foot-wide vegetative buffer for

1 redevelopment activities. The width of a buffer is measured
2 horizontally from the normal pool elevation of impounded
3 structures, from the bank of each side of streams or rivers,
4 and from the mean high waterline of tidal waters,
5 perpendicular to the shoreline. The vegetative buffer may be
6 cleared or graded, but must be planted with, and maintained
7 in, grass or any other vegetative or plant material.
8 Furthermore, stormwater control best management practices
9 (BMPs), or stormwater control structures, with the exception
10 of wet detention ponds, may be located within this vegetative
11 buffer. The Division of Water ~~Quality Resources~~ may, on a
12 case by case basis, grant a minor variance from the vegetative
13 buffer requirements of this section pursuant to the procedures
14 set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers
15 and filters required by this section and any other buffers or
16 filters required by State water quality or coastal management
17 rules or local government requirements may be met
18 concurrently and may contain, in whole or in part, coastal,
19 isolated, or 404 jurisdictional wetlands that are located
20 landward of the normal waterline.

- 21 (4) Requirements for Structural Stormwater Controls. – Structural stormwater
22 controls required under this section shall meet all of the following
23 requirements:
- 24 a. Remove an eighty-five percent (85%) average annual amount of
25 Total Suspended Solids.
 - 26 b. For detention ponds, draw down the treatment volume no faster than
27 48 hours, but no slower than 120 hours.
 - 28 c. Discharge the storage volume at a rate equal to or less than the
29 predevelopment discharge rate for the one-year, 24-hour storm.
 - 30 d. Meet the General Engineering Design Criteria set forth in 15A
31 NCAC 02H .1008(c).
 - 32 e. For structural stormwater controls that are required under this section
33 and that require separation from the seasonal high-water table, a
34 minimum separation of two feet is required. Where a separation of
35 two feet from the seasonal highwater table is not practicable, the
36 Division of Water ~~Quality Resources~~ may grant relief from the
37 separation requirement pursuant to the Alternative Design Criteria set
38 out in 15A NCAC 02H .1008(h). No minimum separation from the
39 seasonal highwater table is required for a secondary stormwater best
40 management practice that is used in a series with another stormwater
41 best management practice.
- 42 (5) Certain Wetlands Excluded From Density Calculation. – For the purposes of
43 this section, areas defined as Coastal Wetlands under 15A NCAC 07H
44 .0205, as measured landward from the normal high waterline, shall not be
45 included in the overall project area to calculate impervious surface density.
46 Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC
47 07H .0205 and that are located landward of the normal high waterline may
48 be included in the overall project area to calculate impervious surface
49 density.

50 **"SECTION 2.(c) Requirements for Limited Residential Development in Coastal Counties.**
51 – For residential development activities within the 20 Coastal Counties that are located within

1 one-half mile and draining to Class SA waters, that have a built upon area greater than twelve
2 percent (12%), that do not require a stormwater management permit under subsection (b) of
3 this section, and that will add more than 10,000 square feet of built upon area, a one-time,
4 nonrenewable stormwater management permit shall be obtained. The permit shall require
5 recorded deed restrictions or protective covenants to ensure that the plans and specifications
6 approved in the permit are maintained. Under this permit, stormwater runoff shall be managed
7 using any one or combination of the following practices:

- 8 (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from
9 the first one and one-half inches of rain. Rain barrels and cisterns shall be
10 installed in such a manner as to facilitate the reuse of the collected rain water
11 on site and shall be installed in such a manner that any overflow from these
12 devices is directed to a vegetated area in a diffuse flow. Construct all
13 uncovered driveways, uncovered parking areas, uncovered walkways, and
14 uncovered patios out of permeable pavement or other pervious materials.
- 15 (2) Direct rooftop runoff from the first one and one-half inches of rain to an
16 appropriately sized and designed rain garden. Construct all uncovered
17 driveways, uncovered parking areas, uncovered walkways, and uncovered
18 patios out of permeable pavement or other pervious materials.
- 19 (3) Install any other stormwater best management practice that meets the
20 requirements of 15A NCAC 02H .1008 to control and treat the stormwater
21 runoff from all built upon areas of the site from the first one and one-half
22 inches of rain.

23 **"SECTION 2.(d)** Exclusions. – The requirements of this section shall not apply to any of
24 the following:

- 25 (1) Activities of the North Carolina Department of Transportation that are
26 regulated in accordance with the provisions of the Department's National
27 Pollutant Discharge Elimination System (NPDES) Stormwater Permit.
- 28 (2) Development activities that are conducted pursuant to and consistent with
29 one of the following authorizations, or any timely renewal thereof, shall be
30 regulated by those provisions and requirements of 15A NCAC 02H .1005
31 that were effective at the time of the original issuance of the following
32 authorizations:
 - 33 a. State Stormwater Permit issued under the provisions of 15A NCAC
34 02H .1005.
 - 35 b. Stormwater Certification issued pursuant to 15A NCAC 02H .1000
36 prior to 1 December 1995.
 - 37 c. A Coastal Area Management Act Major Permit.
 - 38 d. 401 Certification that contains an approved Stormwater Management
39 Plan.
 - 40 e. A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.
 - 41 f. A site-specific development plan as defined by
42 G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
 - 43 g. A phased development plan approved pursuant to G.S. 153A-344.1
44 or G.S. 160A-385.1 that shows:
 - 45 1. For the initial or first phase of development, the type and
46 intensity of use for a specific parcel or parcels, including at a
47 minimum, the boundaries of the project and a subdivision
48 plan that has been approved pursuant to G.S. 153A-330
49 through G.S. 153A-335 or G.S. 160A-371 through
50 G.S. 160A-376.

2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this section to that phase of development would require a material change in that phase of the plan.

h. A vested right to the development pursuant to common law.

- (3) Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development.
- (4) Development activities for which a complete Stormwater Permit Application has been accepted by the Division of Water ~~Quality Resources~~ prior to the effective date of this act, shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time that this application was accepted as complete by the Division of Water ~~Quality Resources~~. For purposes of this subsection, a Stormwater Permit Application is deemed accepted as complete by the Division of Water ~~Quality Resources~~ when the application is assigned a permit number in the Division's Basinwide Information Management System.
- (5) Development activities for which only a minor modification of a State Stormwater Permit is required shall be regulated by the provisions and requirements of 15A NCAC 02H .1005 that were effective at the time of the original issuance of the State Stormwater Permit. For purposes of this subsection, a minor modification of a State Stormwater Permit is defined as a modification that does not increase the net area of built upon area within the project site or does not increase the overall size of the stormwater controls that have been previously approved for that development activity.
- (6) Municipalities designated as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20 Coastal Counties, the Department shall review the permits to determine whether the permits should be amended to include the provisions of this section.

...."

SECTION 57.(bb) S.L. 2009-322 reads as rewritten:

"**SECTION 1.(a)** The Department of Environment and Natural Resources shall establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water ~~Quality Resources~~ in the Department and the Division of Waste Management in the Department. These practices, processes, and standards shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, and by reducing the opportunities for generation of such waters.

"**SECTION 1.(b)** The Division of Water ~~Quality Resources~~ shall clarify that stormwater is water that does not contact anything considered a feedstock, intermediate product, or final product of composting operations. The Division of Water ~~Quality Resources~~ 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 Resources~~ shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required.

1 **"SECTION 1.(c)** The Department shall establish revised water quality permitting
2 procedures for the composting industry. The revised permitting procedures shall identify the
3 various circumstances that determine which water quality permit is required for various
4 composting activities. The Department shall determine whether selected low-risk subsets of the
5 composting industry may be suitable for expedited or reduced water quality permitting
6 procedures. The determination shall include consideration of the economic impact of regulatory
7 decisions.

8 **"SECTION 1.(d)** In developing the practices, processes, and standards and the revised
9 water quality permitting procedures required by this section, the Department shall review
10 practices, processes, and standards and permitting procedures adopted by other states and
11 similar federal programs.

12 **"SECTION 1.(e)** The Department shall form a Compost Operation Stakeholder Advisory
13 Group composed of representatives from the North Carolina Chapter of the United States
14 Composting Council, the North Carolina Association of County Commissioners, the North
15 Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the
16 North Carolina Chapter of the American Water Works Association-Water Environment
17 Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste
18 Association of North America, the North Carolina Septic Tank Association, and any individual
19 or group commenting to the Department on issues related to water quality at composting
20 operations. The Compost Operation Stakeholder Advisory Group shall be convened
21 periodically to provide input and assistance to the Department.

22 **"SECTION 1.(f)** The practices, processes, and standards and the revised permitting
23 procedures shall address the site size of an operation, the nature of the feedstocks composted,
24 the type of compost production method employed, the quantity and water quality of the
25 stormwater or process water associated with composting facilities, the water quality of the
26 receiving waters, as well as operation and maintenance requirements for the resulting standard
27 stormwater control best management practices and standard process water treatment processes.

28 **"SECTION 2.** Not later than December 31, 2009, the Department shall report to the
29 Environmental Review Commission on the progress of the implementation of the provisions of
30 this act and any recommendations from the Compost Operation Stakeholder Advisory Group
31 and other commenters. The Department shall periodically make other progress reports as the
32 Commission may subsequently direct.

33 **"SECTION 3.(a)** For the period of time between the effective date of this act and phase-in
34 provided by Section 3(d) of this act, permits for composting facilities shall be handled as
35 follows:

- 36 (1) The Division of Water ~~Quality Resources~~ shall issue interim water quality
37 permit extensions to all composting facilities applying for a water quality
38 permit renewal until the revised final water quality permitting procedures are
39 phased in, as provided in Section 3(d) of this act. The issuance of interim
40 water quality permit extensions shall be contingent upon no significant
41 changes to the existing quantities, feedstocks, and composting methods
42 permitted by the Division of Waste Management. For any facility found to
43 be causing or contributing to a violation of water quality standards, the
44 Division of Water ~~Quality Resources~~ may subsequently determine that the
45 facility is ineligible for continued coverage under an interim water quality
46 permit extension.
- 47 (2) For facilities renewing permits issued by the Division of Waste Management
48 prior to the phase-in provided in Section 3(d) of this act, but operating
49 without the appropriate water quality permits, the Division of Water ~~Quality~~
50 Resources will work with those facilities on a case-by-case basis to establish
51 appropriate permit coverage.

1 (3) New water quality permit applications filed after July 1, 2009, shall be
2 handled on a case-by-case basis.

3 **"SECTION 3.(b)** Not later than January 1, 2010, the Department shall request comments
4 and recommendations from the Compost Operation Stakeholder Advisory Group as to standard
5 stormwater control best management practices, standard process water treatment processes, and
6 performance standards and the elements of the revised water quality permitting procedures.

7 **"SECTION 3.(c)** Not later than January 1, 2011, the Department shall establish standard
8 stormwater control best management practices and standard process water treatment processes
9 or performance standards, including standard methods for the reduction in volume for both of
10 these waters.

11 **"SECTION 3.(d)** Not later than January 1, 2011, the Department shall begin the phase-in
12 of the revised water quality permitting procedures for the composting industry. Complete phase
13 in of the revised water quality permitting procedures shall be accomplished not later than
14 October 1, 2012.

15 **"SECTION 3.(e)** Water quality permits for the composting industry shall include a
16 reopener clause that may be used to revise permit conditions to reflect the results of the
17 stakeholder process.

18 **"SECTION 4.** This act is effective when it becomes law."

19 **SECTION 57.(cc)** Section 4(b) of S.L. 2010-180 reads as rewritten:

20 **"SECTION 4.(b)** In implementing the Surface Water Identification Training and
21 Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act,
22 the Division of Water ~~Quality-Resources~~ of the Department of Environment and Natural
23 Resources shall give priority to training and certifying the most highly qualified and
24 experienced personnel in each agency. The Division of Water ~~Quality-Resources~~ shall evaluate
25 the effectiveness of the Surface Water Identification Training and Certification Program and
26 shall submit an annual report of its findings and recommendations, if any, to the Environmental
27 Review Commission on or before October 1 of each year. The Division of Water ~~Quality~~
28 ~~Resources~~ shall submit the first report required by this section on or before October 1, 2011."

29 **SECTION 57.(dd)** Section 4 of S.L. 2005-190, as amended by Section 31 of S.L.
30 2006-59 and Section 12 of S.L. 2010-180, reads as rewritten:

31 **"SECTION 4. Other drinking water supply reservoirs.** – The Environmental
32 Management Commission shall not make any new or increased nutrient loading allocation to
33 any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater
34 discharge directly or indirectly into any impaired drinking water supply reservoir for which the
35 Division of Water ~~Quality-Resources~~ of the Department of Environment and Natural Resources
36 has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent
37 rules adopted by the Commission to implement the nutrient management strategy for that
38 reservoir become effective. The Commission shall report its progress in developing and
39 implementing nutrient management strategies for reservoirs to which this section applies to the
40 Environmental Review Commission by 1 April of each year beginning 1 April 2006."

41 **SECTION 57.(ee)** Section 13.4(b) of S.L. 2011-145 reads as rewritten:

42 **"SECTION 13.4.(b)** During the 2011-2012 fiscal year and the 2012-2013 fiscal year, the
43 Groundwater Investigation Unit of the Division of Water ~~Quality-Resources~~ of the Department
44 of Environment and Natural Resources shall bid to contract to perform well drilling services for
45 any division within the Department of Environment and Natural Resources that needs to have
46 wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of
47 any other division or program responsibility, except for a particular instance when this would
48 be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to
49 any contract entered into under this section."

50 **SECTION 57.(ff)** Section 21 of Session Law 2011-394 reads as rewritten:

1 "SECTION 21. In order to ensure the ongoing delivery of services by the nonpoint source
2 pollution control programs of the Division of Forest Resources and the Division of Soil and
3 Water Conservation, the Division of Water ~~Quality-Resources~~ in the Department of
4 Environment and Natural Resources shall transfer Clean Water Act (CWA) Section 319
5 Nonpoint Source Management Program Base Grant funds to the Division of Forest Resources
6 and Division of Soil and Water Conservation, where consistent with the federal grant program
7 requirements, in an amount that is no less than the average annual amount of funding received
8 by each of those two Divisions over the two most-recent fiscal bienniums. In the event that the
9 level of Section 319 base grant funds received by the Department of Environment and Natural
10 Resources by the United States Environmental Protection Agency is increased or decreased in
11 any funding cycle, the level of funding received by the Division of Forest Resources and the
12 Division of Soil and Water Conservation shall be adjusted proportionally. Section 319
13 Nonpoint Source Management Program Competitive Grant funds shall consider water quality
14 benefit and be distributed in a fair and equitable manner based on the grant requirements and
15 the benefit. The Division of Water ~~Quality-Resources~~ will establish a Workgroup of Nonpoint
16 Source Agencies, including the Division of Forest Resources and the Division of Soil and
17 Water Conservation, which will consider the competitive grant project proposals. The
18 Workgroup will be given full input to the project funding decisions."

19 SECTION 57.(gg) G.S. 143-215.10F, as amended by S.L. 2013-131, reads as
20 rewritten:

21 "**§ 143-215.10F. Inspections.**

22 (a) Except as provided in subsection (b) of this section, the Division shall conduct
23 inspections of all animal operations that are subject to a permit under G.S. 143-215.10C at least
24 once a year to determine whether the system is causing a violation of water quality standards
25 and whether the system is in compliance with its animal waste management plan or any other
26 condition of the permit.

27 (b) As an alternative to the inspection program set forth in subsection (a) of this section,
28 the Division of Soil and Water Conservation of the Department of Agriculture and Consumer
29 Services shall conduct inspections of all animal operations that are subject to a permit under
30 G.S. 143-215.10C at least once a year to determine whether the system is causing a violation of
31 water quality standards and whether the system is in compliance with its animal waste
32 management plan or any other condition of the permit. The alternative inspection program shall
33 be located in up to four counties selected using the criteria set forth in Section 15.4(a) of S.L.
34 1997-443, as amended, as it existed prior to its expiration. The Department of Agriculture and
35 Consumer Services shall establish procedures whereby resources within the local Soil and
36 Water Conservation Districts serving the counties are used for quick response to complaints
37 and reported problems previously referred only to the Division of Water ~~Quality-Resources~~."

38
39 **LIMIT REVIEW OF ENGINEERING WORK**

40 SECTION 58. G.S. 89C-19 reads as rewritten:

41 "**§ 89C-19. Public works; requirements where public safety involved.**

42 This State and its political subdivisions such as counties, cities, towns, or other political
43 entities or legally constituted boards, commissions, public utility companies, or authorities, or
44 officials, or employees of these entities shall not engage in the practice of engineering or land
45 surveying involving either public or private property where the safety of the public is directly
46 involved without the project being under the supervision of a professional engineer for the
47 preparations of plans and specifications for engineering projects, or a professional land
48 surveyor for land surveying projects, as provided for the practice of the respective professions
49 by this Chapter. These entities shall not, in the course of conducting technical review of an
50 application for a permit or a plan submitted for approval by the entity, require revisions to that
51 part of the application or plan that constitutes the practice of engineering and that has been

1 supervised and sealed by a professional engineer unless the employee or official of the
2 reviewing entity requiring the revision is also a professional engineer or is an engineering
3 intern under the responsible charge of a professional engineer. Any revisions to the application
4 or plan that are required by the reviewing entity and that constitute the practice of engineering
5 shall be provided by written notice to the permit applicant or the person submitting a plan for
6 approval. The written notice shall be on agency letterhead and shall be signed by the
7 professional engineer reviewing or supervising the review of the submission and shall include
8 the engineer's state license number.

9 An official or employee of the State or any political subdivision specified in this section,
10 holding the positions set out in this section as of June 19, 1975, shall be exempt from the
11 provisions of this section so long as such official or employee is engaged in substantially the
12 same type of work as is involved in the present position.

13 Nothing in this section shall be construed to prohibit inspection, maintenance and service
14 work done by employees of the State of North Carolina, any political subdivision of the State,
15 or any municipality including construction, installation, servicing, and maintenance by regular
16 full-time employees of, secondary roads and drawings incidental to work on secondary roads,
17 streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,
18 electric and sewage treatment and disposal plants, the services of superintendents, inspectors or
19 foremen regularly employed by the State of North Carolina or any political subdivision of the
20 State, or municipal corporation.

21 The provisions in this section shall not be construed to alter or modify the requirements of
22 Article 1 of Chapter 133 of the General Statutes."
23

24 **PART VI. LEGISLATIVE RESEARCH COMMISSION STUDIES**

25 **SECTION 59.** The Legislative Research Commission may study any of the
26 following:

- 27 (1) Disciplinary hearings and the right to counsel under Part 3 of Article 1 of
28 Chapter 116.
- 29 (2) State personnel status of Deputy Commissioners of the Industrial
30 Commission.
- 31 (3) Preemption of certain local government ordinances.
- 32 (4) Child care provider criminal background checks.
- 33 (5) Regulatory requirements applicable to sanitary landfills.
- 34 (6) Spirituous liquor sales by distilleries to tour patrons.
- 35 (7) Regulation of digital dispatching services.
- 36 (8) The Professional Employer Organization Act.

37 **PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

38 **SECTION 60.(a)** If any section or provision of this act is declared unconstitutional
39 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
40 than the part so declared to be unconstitutional or invalid.

41 **SECTION 60.(b)** Except as otherwise provided, this act is effective when it
42 becomes law.
43