GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 38*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/12/13
House Committee Substitute Favorable 6/18/14

Short Title: Amend Environmental Laws 2014. (Public)

Sponsors:

Referred to:

February 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

AMEND TRANSPLANTING OF OYSTERS AND CLAMS STATUTE

SECTION 1. G.S. 113-203 reads as rewritten:

"**§ 113-203. Transplanting of oysters and clams.**

~~(a) It is unlawful to transplant oysters taken from public grounds to private beds except:~~

~~(1) When lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.~~

(2) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

~~(3) When the transplanting is done in accordance with the provisions of this section and implementing rules.~~

~~(a1) It is lawful to transplant seed clams less than 12 millimeters in their largest dimension and seed oysters less than 25 millimeters in their largest dimension and when the seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary.~~

(a2) It is unlawful to do any of the following:

(1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.

(2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.

(3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) It is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

(1) When transplanting seed clams less than 12 millimeters in their largest dimension.

(2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

(a4) It is unlawful to conduct a seed transplanting operation pursuant to subsection (a3) of this section if the seed transplanting operation is not conducted in compliance with its Aquaculture Seed Transplant Permit.

(b) It is lawful to transplant from public bottoms to private beds oysters or clams taken from ~~polluted~~ waters in the restricted or conditionally approved classifications with a permit from the Secretary setting out the waters from which the oysters or clams may be taken, the quantities which may be taken, the times during which the taking is permissible, and other reasonable restrictions imposed by the Secretary for the regulation of transplanting operations. Any transplanting operation which does not substantially comply with the restrictions of the permit issued is unlawful.

(c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

(d) It is lawful to transplant to private beds in North Carolina oysters taken from natural or managed public beds designated by the Marine Fisheries Commission as seed oyster management areas. The Secretary shall issue permits to all qualified individuals who are residents of North Carolina without regard to county of residence to transplant seed oysters from said designated seed oyster management areas, setting out the quantity which may be taken, the times which the taking is permissible and other reasonable restrictions imposed to aid the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to pay to the Department for oysters taken an amount to reimburse the Department in full or in part for the costs of seed oyster management operations. Any transplanting operation which does not substantially comply with the restrictions of the permit issued is unlawful.

(e) The Marine Fisheries Commission may implement the provisions of this section by rules governing sale, possession, transportation, storage, handling, planting, and harvesting of oysters and clams and setting out any system of marking oysters and clams or of permits or receipts relating to them generally, from both public and private beds, as necessary to regulate the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or private beds.

(f) The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars ($100.00) per permit.

(g) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid."

EXEMPT CONSTRUCTION AND DEMOLITION LANDFILLS FROM THE MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO OTHER SOLID WASTE MANAGEMENT FACILITIES

SECTION 2. G.S. 130A-295.2 reads as rewritten:

"**§ 130A-295.2. Financial responsibility requirements for applicants and permit holders for solid waste management facilities.**

…

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary ~~landfill~~landfill, other than a sanitary landfill for the disposal of construction and demolition debris waste, shall establish financial assurance sufficient to cover a minimum of two million dollars ($2,000,000) in costs for potential assessment and corrective action at the

facility. The Department may require financial assurance in a higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

(h1) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill for the disposal of construction and demolition debris waste shall establish financial assurance sufficient to cover a minimum of one million dollars ($1,000,000) in costs for potential assessment and corrective action at the facility. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

…

(j) In addition to the other methods by which financial assurance may be established as set forth in subsection (f) of this section, the Department may allow the owner or operator of a sanitary landfill permitted on or before August 1, 2009, to meet the financial assurance requirement set forth in subsection (h) of this section by establishing a trust fund which conforms to the following minimum requirements:

…

(4) Payments into the fund shall be made in equal annual installments in amounts calculated by dividing the current cost estimate for potential assessment and corrective action at the facility, ~~which~~ which, for a sanitary landfill, other than a sanitary landfill for the disposal of construction and demolition debris waste, shall not be less than two million dollars ($2,000,000) in accordance with subsection (h) of this section, by the number of years in the pay-in period.

(5) The trust fund may be terminated by the owner or operator only if the owner or operator establishes financial assurance by another method or combination of methods allowed under subsection (f) of this section.

(6) The trust agreement shall be accompanied by a formal certification of acknowledgement."

ON-SITE WASTEWATER APPROVAL CLARIFICATION

SECTION 3.(a) G.S. 130A-343 is amended by adding a new subsection to read:

"**§ 130A-343. Approval of on-site subsurface wastewater systems.**

…

(j1) Clarification With Respect to Certain Dispersal Media. – In considering the application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under this section, neither the Commission nor the Department may condition, delay, or deny the approval based on the particle or bulk density of the expanded polystyrene material. With respect to approvals already issued by the Department or Commission that include conditions or requirements related to the particle or bulk density of expanded polystyrene material, the Commission or Department, as applicable, shall promptly reissue all such approvals with the conditions and requirements relating to the density of expanded polystyrene material permanently deleted while leaving all other terms and conditions of the approval intact.

…."

SECTION 3.(b) Until the reissuance of approvals by the Department of Environment and Natural Resources or the Commission for Public Health as required by Section 3(a) of this act, conditions or requirements in existing approvals relating to the particle or bulk density of expanded polystyrene shall have no further force or effect.

EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES

SECTION 4. Section 34(b) of S.L. 2013-413 reads as rewritten:

"**SECTION 34.(b)** Implementation. – Notwithstanding the Daily Flow for Design rates listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall be exempt from the Daily Flow for Design, and any other design flow standards that are established by the Department of Health and Human Services or the Commission for Public Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A .1949(b)~~15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through engineering design that utilizes low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes. The Department and Commission may ~~establish~~ establish, by rule, lower limits on reduced flow rates as necessary to ensure wastewater system integrity and protect public health, safety, and ~~welfare~~welfare, provided that the Commission relies on scientific evidence specific to soil types found in North Carolina that the lower limits are necessary for those soil types. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC 18A .1938(e)."

REFORM AGENCY REVIEW OF ENGINEERING WORK

SECTION 6.(a) Definitions. – The following definitions apply to Section 6 of this act:

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

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

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

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

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

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

SECTION 6.(b) Standardize Certain Regulatory Review Procedures. – No later than December 1, 2014, each Regulatory Authority shall review and, where necessary, revise its procedures for review of Regulatory Submittals to accomplish the following:

(1) Standardize the provision of review and comments on Regulatory Submittals so that revisions or requests for additional information that are required by

the Regulatory Authority in order to proceed with the permit, license, or approval are clearly delineated from revisions or requests for additional information that constitute suggestions or recommendations by the Regulatory Authority. For purposes of this subdivision, "suggestions or recommendations by the Regulatory Authority" means comments made by the reviewer of the Regulatory Submittal to the Submitting Party that make a suggestion or recommendation for consideration by the Submitting Party but that are not required by the Regulatory Authority in order to proceed with the permit, license, or approval.

(2) With respect to revisions or requests for additional information that are required by the Regulatory Authority in order to proceed with the permit, license, or approval, the Regulatory Authority shall identify the statutory or regulatory authority for the requirement.

SECTION 6.(c) Informal Review. – No later than December 1, 2014, each Regulatory Authority shall create a process for each regulatory program administered by the Regulatory Authority for an informal internal review at the request of the Submitting Party in each of the following circumstances:

(1) The inclusion in a Regulatory Submittal of a design or practice sealed by a Professional Engineer but not included in the Regulatory Authority's existing guidance, manuals, or standard operating procedures. This review should first be conducted by the reviewing employee's supervisor or, in the case of a Regulatory Authority that is a unit of local government, either the reviewing employee's supervisor or the delegating or approving State agency. If this initial review was not conducted by a Professional Engineer, then the Submitting Party may request review by (i) a Professional Engineer on the staff of the Regulatory Authority or (ii) the delegating or approving State agency in the case of a Regulatory Authority that is a unit of local government. If the Regulatory Authority or delegating or approving State agency does not employ a Professional Engineer qualified and competent to perform the review, it may provide for review by a consulting Professional Engineer selected from a list developed and maintained by the Regulatory Authority. The Regulatory Authority may charge the Submitting Party for the costs of the review by the consulting Professional Engineer. Nothing in this subdivision is intended to limit the authority of the Regulatory Authority to make a final decision with regard to a Regulatory Submittal following the reviews described in this subdivision.

(2) A disagreement between the reviewer of the Regulatory Submittal and the Submitting Party regarding whether the statutory or regulatory authority identified by the Regulatory Authority for revisions or requests for additional information designated as "required" under the procedures set forth in Section 6(b) of this act justifies a required change.

SECTION 6.(d) Scope. – Nothing in Section 6(c) of this act shall limit or abrogate any rights available under Chapter 150B of the General Statutes to any Submitting Party.

SECTION 6.(e) Procedure to Develop List of Consulting Professional Engineers. – Regulatory Authorities shall develop formal written procedures to prepare and maintain a list of consulting Professional Engineers required pursuant to subdivision (1) of Section 6(c) of this act.

SECTION 6.(f) Pilot Study. – No later than March 1, 2015, the Department of Environment and Natural Resources shall complete a pilot study on the Pretreatment, Emergency Response and Collection System (PERCS) wastewater collection system permitting program and the stormwater permitting program and perform the following activities with the

assistance and cooperation of the North Carolina Board of Examiners for Engineers and Surveyors and the Professional Engineers of North Carolina:

(1) Produce an inventory of work activities associated with the operation of each regulatory program.

(2) Determine the work activities identified under subdivision (1) of this subsection that constitute the Practice of Engineering.

(3) Develop recommendations for ensuring that work activities constituting the Practice of Engineering are conducted with the appropriate level of oversight.

SECTION 6.(g) Report. – The Department shall report the results of the pilot study to the Environmental Review Commission no later than April 15, 2015.

SECTION 6.(h) Review of Working Job Titles. – No later than December 1, 2014, each Regulatory Authority and the Department of Transportation shall do the following:

(1) Review the Working Job Titles of every employee with job duties that include the review of Regulatory Submittals.

(2) Propose revisions to the Working Job Titles identified under subdivision (1) of this subsection or other administrative measures that will eliminate the public identification as "engineers" of persons reviewing Regulatory Submittals who are not Professional Engineers.

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

(1) The standardized procedures required by Section 6(b) of this act.

(2) The informal review process required by Section 6(c) of this act.

(3) The review of Working Job Titles required by Section 6(h) of this act.

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

SECTION 6.(k) Annual Reporting Sunset. – Section 6(j) of this act expires on January 1, 2019.

STUDY TEMPORARY GROUNDWATER WITHDRAWAL PERMITS WITHIN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA

SECTION 7.(a) The Department of Environment and Natural Resources shall study groundwater withdrawal permitting in the Central Coastal Plain Capacity Use Area (CCPCUA), as designated by 15A NCAC 02E .0501. The study shall include:

(1) A study of the adequacy of the existing permitting program with respect to protection of groundwater supplies within Cretaceous aquifer zones.

(2) A study of the impact of the issuance of temporary groundwater withdrawal permits by the Division of Water Resources of the Department of Environment and Natural Resources that considers the number of temporary permits now in place, the number of pending temporary permit applications, and the total amount of groundwater withdrawals from the Cretaceous aquifer zones within the CCPCUA.

(3) A recommendation, supported by findings of fact, as to whether a limit on the issuance of temporary groundwater withdrawal permits within the CCPCUA is needed to prevent further Cretaceous aquifer depletion and saltwater encroachment.

SECTION 7.(b) The Department may make an interim report prior to the convening of the 2015 General Assembly and shall make its final report, including any proposed legislation, to the 2015 General Assembly when it reconvenes in 2016.

AMEND ISOLATED WETLANDS REGULATION

SECTION 8.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 8(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 8(b) of this act.

SECTION 8.(b) Notwithstanding 15A NCAC 02H .1305 (Review of Applications), both of the following shall apply to the implementation of 15A NCAC 02H .1305:

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

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

SECTION 8.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02H .1305 (Review of Applications) consistent with Section 8(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to Section 9(c) of this act shall be substantively identical to the provisions of Section 8(b) of this act. Rules adopted pursuant to Section 8(c) of this act are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to Section 8(c) of this act shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 8.(d) The Department of Environment and Natural Resources shall study (i) how the term "isolated wetland" is defined in State law and whether the term should be clarified in order to provide greater certainty in identifying isolated wetlands and (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

SECTION 8.(e) This section is effective when it becomes law. Section 8(b) of this act expires on the date that rules adopted pursuant to Section 8(c) of this act become effective.

SPEED LIMIT WAIVER IN STATE PARKS AND FORESTS

SECTION 9.(a) G.S. 143-116.8 is amended by adding two new subsections to read:

"**§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

(a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the General Statutes relating to the use of highways and public vehicular areas of the State and the operation of vehicles thereon are made applicable to the State parks and forests road system. For the purposes of this section, the term "State parks and forests road system" shall mean the streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests, State recreation areas, State lakes, and all other lands administered by the Department of Environment and Natural Resources or the Department of Agriculture and Consumer Services. This term shall not be construed, however, to include streets that are a part of the State highway system. Any person violating any of the provisions of Chapter 20 of the General Statutes hereby made applicable in the State parks and forests road system shall, upon conviction, be punished in accordance with Chapter 20 of the General Statutes. Nothing herein contained shall

be construed as in any way interfering with the ownership and control of the State parks road system by the Department of Environment and Natural Resources and the forests road system by the Department of Agriculture and Consumer Services.

(b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road system at a speed in excess of twenty-five miles per hour (25 mph). When the Secretary of Environment and Natural Resources determines that this speed is greater than reasonable and safe under the conditions found to exist in the State parks road system, the Secretary may establish a lower reasonable and safe speed limit. No speed limit established by the Secretary pursuant to this provision shall be effective until posted in the part of the system where the limit is intended to apply.

(1a) It shall be unlawful for a person to operate a vehicle in the State forests road system at a speed in excess of 25 miles per hour. When the Commissioner of Agriculture determines that this speed is greater than reasonable and safe under the conditions found to exist in the State forests road system, the Commissioner may establish a lower reasonable and safe speed limit. No speed limit established by the Commissioner pursuant to this provision shall be effective until posted in the part of the system where the limit is intended to apply.

…

(f) Notwithstanding any other provision of this section, a person may petition the Department of Environment and Natural Resources for a waiver authorizing the person to operate a vehicle in the State parks road system at a speed in excess of 25 miles per hour in connection with a special event. The Secretary may impose any conditions on a waiver that the Secretary determines to be necessary to protect public health, safety, welfare, and the natural resources of the State park. These conditions shall include a requirement that the person receiving the waiver execute an indemnification agreement with the Department and obtain general liability insurance in an amount not to exceed three million dollars ($3,000,000) covering personal injury and property damage that may result from driving in excess of 25 miles per hour in the State parks road system subject to the conditions determined by the Secretary.

(g) Notwithstanding any other provision of this section, a person may petition the Department of Agriculture and Consumer Services for a waiver authorizing the person to operate a vehicle in the State forests road system at a speed in excess of 25 miles per hour in connection with a special event. The Commissioner may impose any conditions on a waiver that the Commissioner determines to be necessary to protect public health, safety, welfare, and the natural resources of the State forest. These conditions shall include a requirement that the person receiving the waiver execute an indemnification agreement with the Department and obtain general liability insurance in an amount not to exceed three million dollars ($3,000,000) covering personal injury and property damage that may result from driving in excess of 25 miles per hour in the State forests road system subject to the conditions determined by the Commissioner."

SECTION 9.(b) The Department of Environment and Natural Resources and the Department of Agriculture and Consumer Services shall amend their rules to be consistent with Section 9(a) of this act.

INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS

SECTION 10.(a) G.S. 14-129 reads as rewritten:

"**§ 14-129. Taking, etc., of certain wild plants from land of another.**

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (Dionaea muscipula), trailing

arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata), Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana), Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia canadensis), Dutchman's Breeches (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus rhizophyllus), Gentians (Gentiana), Ground Cedar, Running Cedar, Hepatica (Hepatica americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Shooting Star (Dodecatheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than ~~ten dollars ($10.00)~~seventy-five dollars ($75.00) nor more than ~~fifty dollars ($50.00)~~one hundred seventy-five dollars ($175.00) for each ~~offense.~~offense, with each plant taken in violation of this section constituting a separate offense. The Clerk of Court for the jurisdiction in which a conviction occurs under this section involving any species listed in this section that also appears on the North Carolina Protected Plants list created under the authority granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the Plant Conservation Board so the Board may consider a civil penalty under the authority of that Article.~~The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain.~~"

SECTION 10.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

STUDY USE OF CONTAMINATED PROPERTY

SECTION 11.(a) The Department of Environment and Natural Resources shall study ways to improve the timeliness of actions necessary to address contaminated properties such that the property is safe for productive use, threats to the environment and public health are minimized to acceptable levels, and the risk of taxpayer funded remediation is reduced. The Department shall specifically consider all of the following:

(1) The expansion of risk-based remediation of groundwater to all remediation programs under the Department.

(2) The Resources needed within the Department to oversee remediation, including the potential to expand the use of Department approved private environmental consulting and engineering firms to implement and oversee remedial actions.

(3) That rules adopted by the Environmental Management Commission for water quality standards applicable to groundwater be no more stringent than the lower of the federal or State maximum contaminant levels for drinking water in cases where the maximum contaminant levels have been adopted.

(4) Liability protection for innocent purchasers of nonresidential property who take actions consistent with the federal Comprehensive Environmental Response, Compensation, and Liability Act for due diligence and due care regarding investigations and contaminants found.

(5) Other matters the Department deems appropriate to further the goals of this study.

SECTION 11.(b) The Department shall report the results of this study, including any recommendations, to the Environmental Review Commission no later than November 1, 2014.

SCOPE OF LOCAL AUTHORITY FOR ORDINANCES

SECTION 12.(a) Section 10.2 of S.L. 2013-413 is repealed.

SECTION 12.(b) No later than November 1, 2014, and November 1, 2015, the Department of Agriculture and Consumer Services shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 12.(c) No later than November 1, 2014, and November 1, 2015, the Department of Environment and Natural Resources shall report to the Environmental Review Commission on any local government ordinances that impinge on or interfere with any area subject to regulation by the Department.

SECTION 12.(d) In developing the reports pursuant to Sections 12(b) and 12(c) of this act, the Department of Environment and Natural Resources and the Department of Agriculture and Consumer Services shall solicit and receive input from the public regarding any local government ordinances that impinge on or interfere with any area subject to regulation by the respective Department.

SECTION 12.(e) Article 56 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-678. Authority to regulate fertilizers.**

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection authority. Nothing in this section shall limit the authority of the Department of Environment and Natural Resources or the Environmental Management Commission to enforce water quality standards. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from adopting ordinances regulating fertilizers to protect water quality, provided that the ordinances have been approved by the Environmental Management Commission or the Department of Environment and Natural Resources as part of a local plan or NPDES permit application and do not exceed the State's minimum requirements to protect water quality as established by the Environmental Management Commission under Part 1, Article 21 of Chapter 143 of the General Statutes."

CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS

SECTION 13. Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.10J Closure of certain animal waste containment basins.**

(a) The Department may consider any waste containment basin to be a fresh water storage facility meeting all requirements for closure under 15A NCAC 02T .1306 if the owner of the basin demonstrates to the satisfaction of the Department that the basin meets all of the following requirements:

(1) The basin has been used only for the containment of dairy cattle waste.

(2) The basin was constructed prior to 2006.

(3) The basin has not been used for the containment of dairy cattle waste after September 1, 2006.

(4) The only liquid currently entering the basin is from rainwater or rainwater runoff.

(5) Nitrogen levels in the basin water do not exceed 40 parts per million.

(b) The Department shall provide written notification to the owner of a basin meeting the requirements of subsection (a) of this section that the basin is no longer considered an animal waste management system."

FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS

SECTION 14.(a) Subsections (l) and (m) of G.S. 113-210 are repealed.

SECTION 14.(b) This section becomes effective July 1, 2014.

LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES

SECTION 15. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

…

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~ 25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon only.~~"

OPEN BURNING

SECTION 16.(a) The definitions set out in G.S. 143-212, G.S. 143-213, and 15A NCAC 02D .1902 (Definitions) apply to this section.

SECTION 16.(b) 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 16(d) of this section, the Commission and the Department shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) as provided in Section 16(c) of this section.

SECTION 16.(c) Implementation. – Notwithstanding Paragraph (b) of 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is required for the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the following conditions are met:

(1) The material burned originates on the premises of private residences and is burned on those premises.

(2) There are no public pickup services available.

(3) Nonvegetative materials, such as household garbage, lumber, or any other synthetic materials, are not burned.

(4) The burning is initiated no earlier than 8:00 A.M. and no additional combustible material is added to the fire between 6:00 P.M. on one day and 8:00 A.M. on the following day.

(5) The burning does not create a nuisance.

(6) Material is not burned when the North Carolina Forest Service has banned burning for that area.

The burning of logs or stumps of any size shall not be considered to create a nuisance for purposes of the application of the open burning air quality permitting exception described in this subsection.

SECTION 16.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit) consistent with Section 16(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 16(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 16.(e) Sunset. – Section 16(c) of this act expires on the date that rules adopted pursuant to Section 16(d) of this section become effective.

INLET HAZARD AREAS

SECTION 17.(a) The definitions set out in G.S. 113A-103 apply to this section.

SECTION 17.(b) 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 17(d) of this act, the Commission and the Department shall implement 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section 17(c) of this act.

SECTION 17.(c) Implementation. – Notwithstanding Subparagraph (3) of 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any new and shall repeal any existing inlet hazard area in any location with the following characteristics:

(1) The location is the former location of an inlet, but the inlet has been closed for at least 15 years.

(2) Due to shoreline migration, the location no longer includes the current location of the inlet.

(3) The location includes an inlet providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

SECTION 17.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent with Section 17(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 17(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 17.(e) Sunset. – Section 17(c) of this act expires on the date that rules adopted pursuant to Section 17(d) of this act become effective.

SECTION 17.(f) Nothing in this section is intended to prevent the Commission from (i) studying any current inlet hazard area or any other area considered by the Commission for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii) modifying existing inlet hazard areas consistent with Section 17(c) of this act.

HUNTING TRIALS

SECTION 18.(a) The Wildlife Resources Commission shall adopt rules to clarify the requirements in 15A NCAC 10B .0114 addressing which participants in retriever field trials are required to possess a hunting license, including out-of-state participants, judges, and spectators.

SECTION 18.(b) In developing the rules pursuant to Section 18(a) of this act, the Wildlife Resources Commission shall hold public hearings and consult with field trial groups active in the State.

EXPEDITED IBT PROCESS FOR CERTAIN RESERVOIRS

SECTION 19. G.S. 143-215.22L(w) reads as rewritten:

"(w) Requirements for Coastal ~~Counties.~~Counties and Reservoirs Constructed by the United States Army Corps of Engineers. – A petition for a certificate (i) to transfer surface water to supplement ground water supplies in the 15 counties designated as the Central Capacity Use Area under 15A NCAC 2E.0501, ~~or~~ (ii) to transfer surface water withdrawn from the mainstem of a river to provide service to one of the coastal area counties designated pursuant to G.S. 113A-103, or (iii) to withdraw or transfer water stored in any multipurpose reservoir constructed by the United States Army Corps of Engineers and partially located in a state adjacent to North Carolina, provided the United States Army Corps of Engineers approved the withdrawal or transfer on or before July 1, 2014, shall be considered and a determination made according to the following procedures:

(1) The applicant shall file a notice of intent that includes a nontechnical description of the applicant's request and identification of the proposed water source.

(2) The applicant shall prepare an environmental document pursuant to subsection (d) of this section, except that an environmental impact statement shall not be required unless it would otherwise be required by Article 1 of Chapter 113A of the General Statutes.

(3) Upon determining that the documentation submitted by the applicant is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the petition in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins. The Department shall provide written notice of the petition and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section. The applicant who petitions the Commission for a certificate under this subdivision shall pay the costs associated with the notice and public hearing.

(4) The Department shall accept comments on the petition for a minimum of 30 days following the public hearing.

(5) The Commission or the Department may require the applicant to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.

(6) The Commission shall make a final determination whether to grant the certificate based on the factors set out in subsection (k) of this section, information provided by the applicant, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.

(7) The Commission shall grant the certificate if it finds that the applicant has established by a preponderance of the evidence that the petition satisfies the requirements of subsection (m) of this section. The Commission may grant the certificate in whole or in part, or deny the request, and may impose such limitations and conditions on the certificate as it deems necessary and relevant."

ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS

SECTION 20.(a) G.S. 143-215.3A reads as rewritten:

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

…

(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the State's environmental permitting programs contained within the Department on or before 1 November of each year. ~~In addition, the Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the Title V Program on or before 1 November of each year.~~ The ~~reports~~ report shall include, but ~~are~~ is not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

SECTION 20.(b) The following sections of S.L. 2002-4 are repealed:

(1) Section 10.

(2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.

(3) Section 12.

(4) Section 13.

SECTION 20.(c) G.S. 143-215.108(g) is repealed.

CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT OF VENOMOUS SNAKES AND OTHER REPTILES

SECTION 21. G.S. 114-419(b) reads as rewritten:

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

…

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine final disposition of the reptile in a manner consistent with the safety of the public, which in the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~may include euthanasia.~~shall be euthanized unless the species is protected under the federal Endangered Species Act of 1973."

REFORM ON-SITE WASTEWATER REGULATION

SECTION 22.(a) G.S. 130A-334 reads as rewritten:

"**§ 130A-334. Definitions.**

The following definitions shall apply throughout this Article:

…

(1b) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.

…

(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. "Plat" also means, for subdivision lots approved by the local planning authority ~~and recorded with the county register of deeds,~~if a local planning authority exists at the time of application for a permit under this Article, a copy of the ~~recorded~~ subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

…

(15) "Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article."

SECTION 22.(b) G.S. 130A-335(f1) reads as rewritten:

"(f1) A preconstruction conference with the owner or developer, or an agent of the owner or developer, and a representative of the local health department shall be required for any authorization for wastewater system construction issued with an improvement permit under G.S. 130-336 when the authorization is greater than five years old. Following the conference, the local health department shall ~~issue a revised authorization~~ advise the owner or developer of any rule changes for wastewater system construction ~~that includes~~ incorporating current technology that can reasonably be expected to improve the performance of the system. The local health department shall issue a revised authorization for wastewater system construction incorporating the rule changes upon the written request of the owner or developer."

SECTION 22.(c) G.S. 130A-336 reads as rewritten:

"**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

…

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement ~~permit, not to exceed five years,~~permit and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within 60 days of receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

REPEAL WASTE MANAGEMENT BOARD RULES

SECTION 23.(a) The General Assembly finds that the statutory authority for the Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore, regulations previously promulgated by that Board are no longer enforceable or necessary.

SECTION 23.(b) The Secretary of Environment and Natural Resources shall repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 24. G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan ~~annually~~ biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office ~~an annual~~a biennial written report of utility consumption and costs. Management plans submitted ~~annually~~biennially by State institutions of higher learning shall include all of the following:

(1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.
(2) The cost of analyzing the projected energy savings.
(3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.
(4) An analysis that identifies projected annual energy savings and estimated payback periods.

…

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required.~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in~~

~~consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.~~

(c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

~~(h) When conducting a facilities condition and assessment under this section, the Department of Administration shall identify and recommend to the State Energy Office any facility of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.~~

~~(i) Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt architectural and engineering standards to implement this section.~~

(j) The State Energy Office shall submit a report by December 1 of ~~each~~every odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~Energy Policy Commission describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this ~~section and the energy audits required by subsection (b1) of this~~ section.

(4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this ~~section and a list of the State agencies and State institutions of higher learning that received an energy audit.~~section.

(5) Any recommendations on how management plans can be better managed and implemented."

WELL CONTRACTOR LICENSING CHANGES

SECTION 25.(a) G.S. 87-43.1 is amended by adding the following new subdivision to read:

"**§ 87-43.1. Exceptions.**

The provisions of this Article shall not apply:

…

(10) To the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch."

SECTION 25.(b) G.S. 87-98.6 reads as rewritten:

"**§ 87-98.6. Well contractor qualifications and examination.**

(a) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate so that prompt and fair consideration will be given to each applicant.

(b) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors for the installation, construction, maintenance, and repair of electrical wiring devices, appliances, and equipment related to the construction, operation, and repair of wells. Requirements developed pursuant to this subsection shall apply only to the initial certification of an applicant and shall not be required as part of continuing education or as a condition of certification renewal."

SECTION 25.(c) This section is effective when it becomes law. The requirements of subsection (b) of G.S. 87-98.6, as enacted by Section 25(b) of this act, apply to applicants applying for certification on or after the date this section becomes effective.

STANDARDIZE LOCAL WELL PROGRAMS

SECTION 26.(a) G.S. 87-97 reads as rewritten:

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

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

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own forms unless the local program submits a petition for rule making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.

…

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is ~~issued.~~issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

…."

SECTION 26.(b) Notwithstanding 15A NCAC 02C .0107(j)(2), neither the Department of Environment and Natural Resources nor any local well program shall require that well contractor identification plates include the well construction permit numbers. Local well programs may install a plate with the well construction permit number or any other information deemed relevant on a well at the expense of the local program.

SECTION 26.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02C .0107(j)(2) consistent with Section 26(b) of this act.

SECTION 26.(d) Section 26(b) of this act expires on the date that the rule adopted pursuant to Section 26(c) of this act becomes effective.

SECTION 26.(e) If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be on–site during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY

SECTION 27.(a) It is the intent of the General Assembly to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

SECTION 27.(b) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall designate a contiguous area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes the following components:

(1) Location and delineation of the sanctuary. – The plan should include a location for the sanctuary that minimizes the impact on commercial trawling. In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.

(2) Administration. – The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.

(3) Funding. – The plan should include a request for appropriations sufficient to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.

(4) Commercial fisherman relief. – To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty percent (50%) of their income from commercial fishing with those licenses.

(5) Recommendations. – The plan should include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, and expand the coastal economy.

SECTION 27.(c) No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.

CLARIFY GRAVEL UNDER STORMWATER LAWS

SECTION 28.(a) G.S. 143-214.7(b2) reads as rewritten:

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

SECTION 28.(b) The Environmental Management Commission shall amend its rules to be consistent with the definition of "built-upon area" set out in subsection (b2) of G.S. 143-214.7, as amended by Section 28(a) of this act.

SECTION 28.(c) Unless specifically authorized by the General Assembly, neither the Environmental Management Commission nor the Department of Environment and Natural Resources have the authority to define the term "gravel" for purposes of implementing stormwater programs. Any rule adopted by the Environmental Management Commission or the Department of Environment and Natural Resources that defines the term "gravel" for purposes of implementing stormwater programs is not effective and shall not become effective.

SECTION 28.(d) Of funds available to the Department of Environment and Natural Resources for the 2013-2015 biennium, the Department shall use up to the sum of one hundred ten thousand dollars ($110,000) to contract with the Department of Biological and Agricultural Engineering at North Carolina State University to conduct the study required by this section. The Department of Biological and Agricultural Engineering at North Carolina State University shall conduct a study to determine the extent to which different aggregate surfaces are pervious, impervious, or partially pervious. The study shall include variables such as different types of aggregate, different types of underlying soil, different levels of compaction, different types of soil preparation and aggregate installation, different depths of aggregate, and any other variables that may significantly affect whether an aggregate surface is pervious, impervious, or partially pervious. The Department of Biological and Agricultural Engineering at North Carolina State University shall submit an interim report on the results of the study to the Department of Environment and Natural Resources and the Environmental Review Commission no later than September 1, 2014. The Department of Biological and Agricultural Engineering at North Carolina State University shall submit a final report on the results of the study to the Department of Environment and Natural Resources and the Environmental Review Commission no later than January 1, 2015.

SECTION 28.(e) This act is effective when it becomes law. Subsection (b2) of G.S. 143-214.7, as amended by Section 28(a) of this act, applies to projects for which permit applications are received on or after that date.

UNITED STATES POSTAL SERVICE CLUSTER BOX UNITS/NO STORMWATER PERMIT MODIFICATION REQUIRED

SECTION 29.(a) Notwithstanding the requirements of Article 21 of Chapter 143 of the General Statutes and rules adopted pursuant to that Article, the addition of a cluster box unit to a single-family or duplex development permitted by a local government shall not require a modification to any stormwater permit for that development. This section shall only apply to single-family or duplex developments in which individual curbside mailboxes are replaced with cluster box units whereupon the associated built-upon area supporting the cluster box units shall be considered incidental and shall not be required in the calculation of built-upon area for the development for stormwater permitting purposes.

SECTION 29.(b) Section 29(a) of this act becomes effective when this act becomes law and expires on December 31, 2015, or when regulations on cluster box design and placement by the United States Postal Service become effective and those regulations are adopted by local governments, whichever is earlier.

MODIFICATION OF APPROVED WASTEWATER SYSTEMS

SECTION 30.(a) The definitions set out in G.S. 130A-343 shall apply to this section.

SECTION 30.(b) 15A NCAC 18A .1969(j) (Modification of Approved Systems). – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 30(d) of this act, the Commission and the Department shall

implement15A NCAC 18A .1969(j) (Modification of Approved Systems) as provided in Section 30(c) of this act.

SECTION 30.(c) Implementation. – Notwithstanding 15A NCAC 18A .1969(j) (Modification of Approved Systems), the rule shall be implemented so as to not require a survey or audit of installed modified accepted systems in order to confirm the satisfactory performance of such systems.

SECTION 30.(d) Additional Rulemaking Authority. – The Commission for Public Health shall adopt a rule to amend 15A NCAC 18A .1969(j) (Modification of Approved Systems) consistent with Section 30(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 30(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 30.(e) Sunset. – Section 30(c) of this act expires on the date that the rule adopted pursuant to Section 30(d) of this act becomes effective.

CAPSTONE PERMITTING

SECTION 31. G.S. 150B-23 is amended by adding a new subsection to read:

"**§ 150B-23. Commencement; assignment of administrative law judge; hearing required; notice; intervention.**

…

(g) Where multiple licenses are required from an agency for a single activity, the Secretary or chief administrative officer of the agency may issue a written determination that the administrative decision reviewable under Article 3 of this Chapter occurs on the date the last license for the activity is issued, denied, or otherwise disposed of. The written determination of the administrative decision is not reviewable under this Article. Any licenses issued for the activity prior to the date of the last license identified in the written determination are not reviewable under this Article until the last license for the activity is issued, denied, or otherwise disposed of. A contested case challenging the last license decision for the activity may include challenges to agency decisions on any of the previous licenses required for the activity."

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 32. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 33. Except as otherwise provided, this act is effective when it becomes law.