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SESSION 2017

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HOUSE BILL 56  
Committee Substitute Favorable 4/20/17  
Third Edition Engrossed 4/24/17  
PROPOSED SENATE COMMITTEE SUBSTITUTE H56-PCS10361-SBf-23

Short Title: Amend Environmental Laws.

(Public)

Sponsors:

Referred to:

February 8, 2017

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

4  
5 **FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS**

6 **SECTION 1.** G.S. 130A-310.72 reads as rewritten:

7 "**§ 130A-310.72. Financial assurance requirement.**

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

26 (1) Annual reporting of land-use controls.

27 (2) The maintenance of durable or low-maintenance covers for contaminated  
28 soil."

29  
30 **REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS**

31 **SECTION 2.(a)** G.S. 130A-294(k) is repealed.

32 **SECTION 2.(b)** G.S. 130A-309.17 is repealed.  
33



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1 **LAND-USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST**  
2 **PETROLEUM DISCHARGE OR RELEASE**

3 **SECTION 3.(a)** G.S. 143B-279.9(b) reads as rewritten:

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

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

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

47 **SECTION 3.(b)** G.S. 143B-279.11 reads as rewritten:

48 "**§ 143B-279.11. Recordation of residual petroleum from ~~an~~ underground or**  
49 **aboveground storage tank, tanks or other sources.**

50 (a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this  
51 section. This section applies only to a cleanup pursuant to a remedial action plan that addresses

1 environmental damage resulting from a discharge or release of petroleum from an underground  
2 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General ~~Statutes~~.Statutes  
3 or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article  
4 21A of Chapter 143 of the General Statutes.

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

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

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

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

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

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

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

## 22 23 CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

24 SECTION 4. G.S. 143-215.1C reads as rewritten:

25 "**§ 143-215.1C. Report to wastewater system customers on system performance; report**  
26 **discharge of untreated wastewater to the Department; publication of notice of**  
27 **discharge of untreated wastewater and waste.**

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

38 (a1) Report Discharge of Untreated Wastewater to the Department. – Except as required  
39 in subsection (d) of this section, the ~~The~~ owner or operator of any wastewater collection or  
40 treatment works ~~for which a permit is issued under this Part~~ shall report a discharge of 1,000  
41 gallons or more of untreated wastewater ~~to the surface to land, or a spill of any amount that~~  
42 reaches waters of the ~~State~~ State, to the Department as soon as practicable, but no later than 24  
43 hours after the owner or operator has ~~determined that the discharge has reached the surface~~  
44 waters of the State, ~~first knowledge of the spill~~. This reporting requirement shall be in addition  
45 to any other reporting requirements applicable to the owner or operator of the wastewater  
46 collection or treatment works.

47 (b) Publication of Notice of Discharge of Untreated Wastewater. – Except as required  
48 in subsection (d) of this section, the ~~The~~ owner or operator of any wastewater collection or  
49 treatment works, the operation of which is primarily to collect or treat municipal or domestic  
50 wastewater ~~and for which a permit is issued under this Part~~ shall:

51 ...

1 (c) Publication of Notice of Discharge of Untreated Waste. – Except as required in  
 2 subsection (d) of this section, the~~The~~ owner or operator of any wastewater collection or  
 3 treatment works, other than a wastewater collection or treatment works the operation of which  
 4 is primarily to collect or treat municipal or domestic wastewater, ~~for which a permit is issued~~  
 5 ~~under this Part~~ wastewater shall:

6 ...  
 7 (d) During extraordinary circumstances, including major floods, named storms, or  
 8 extreme weather, which make it impracticable to measure or otherwise collect data regarding a  
 9 discharge, the Department may extend the time period for making, or the Department may  
 10 waive, reports required under subsection (a1) of this section, including any written, follow-up  
 11 report required pursuant thereto. In the event of extraordinary circumstances, the Department  
 12 may also extend the time period for issuing or publishing, or the Department may waive, any  
 13 press release or notice required under subsections (b) and (c) of this section."  
 14

## 15 CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY 16 REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

17 SECTION 5.(a) G.S. 143-355(m) is repealed.

18 SECTION 5.(b) G.S. 143-355(p) reads as rewritten:

19 "(p) Report. – The Department of Environmental Quality shall report to the  
 20 Environmental Review Commission on the implementation of this section, including ~~the~~  
 21 ~~development of the State water supply plan and~~ the development of basinwide hydrologic  
 22 models, no later than November 1 of each year. The Department shall submit the report  
 23 required by this subsection with the report on basinwide water ~~quality~~ management plans  
 24 required by G.S. 143-215.8B(d) as a single report."  
 25

## 26 COASTAL AREA MANAGEMENT ACT MODIFICATIONS

27 SECTION 6.(a) G.S. 113A-124(c) is amended by adding a new subdivision to  
 28 read:

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

- 31 (1) To recommend to the Secretary the acceptance of donations, gifts, grants,  
 32 contributions and appropriations from any public or private source to use in  
 33 carrying out the provisions of this Article.
- 34 (2) To recommend to the Secretary of Administration the acquisition by  
 35 purchase, gift, condemnation, or otherwise, lands or any interest in any lands  
 36 within the coastal area.
- 37 (3) To hold such public hearings as the Commission deems appropriate.
- 38 (4) To delegate the power to conduct a hearing, on behalf of the Commission, to  
 39 any member of the Commission or to any qualified employee of the  
 40 Department. Any person to whom a delegation of power is made to conduct  
 41 a hearing shall report his recommendations with the evidence and the record  
 42 of the hearing to the Commission for decision or action.
- 43 (5) Repealed by Session Laws 1987, c. 827, s. 141.
- 44 (6) To delegate the power to determine whether a contested case hearing is  
 45 appropriate in accordance with G.S. 113A-121.1(b).
- 46 (7) To delegate the power to grant or deny requests for declaratory rulings under  
 47 G.S. 150B-4 in accordance with standards adopted by the Commission.
- 48 (8) To adopt rules to implement this Article.
- 49 (9) To delegate the power to approve land-use plan for a county in accordance  
 50 with G.S. 113A-110(f) to any qualified employee of the Department."

51 SECTION 6.(b) G.S. 113A-119 reads as rewritten:

1 **"§ 113A-119. Permit applications generally.**

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

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

26 (c) Within the meaning of this Part, the "designated local official" is the official who  
27 has been designated by the local governing body to receive and consider permit applications  
28 under this Part."  
29

30 **CLARIFY SETBACK DETERMINATION FOR PERMITTED DISPOSAL SYSTEMS**

31 **SECTION 9.** G.S. 143-215.1(i) reads as rewritten:

32 "(i) Any person subject to the requirements of this section who is required to obtain an  
33 individual permit from the Commission for a disposal system under the authority of  
34 G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as  
35 may be established by rule or permit for various categories of disposal systems and beyond  
36 which groundwater quality standards may not be exceeded. Multiple contiguous properties  
37 under common ownership and permitted for use as a disposal system shall be treated as a single  
38 property with regard to determination of a compliance ~~boundary~~boundary and setbacks to  
39 property lines."  
40

41 **REPEAL PLASTIC BAG BAN**

42 **SECTION 10.(a)** Part 2G of Article 9 of Chapter 130A of the General Statutes is  
43 repealed.

44 **SECTION 10.(b)** G.S. 130A-22(a) reads as rewritten:

45 "(a) The Secretary of Environmental Quality may impose an administrative penalty on a  
46 person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to  
47 Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a  
48 continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen  
49 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste.  
50 The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the  
51 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving

1 the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that  
2 results in medical waste entering waters or lands of the State; and shall not exceed fifty  
3 thousand dollars (\$50,000) per day for a second or further violation involving the disposal of  
4 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical  
5 waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand  
6 five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action  
7 implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to  
8 G.S. 130A-310.12(b). ~~The penalty shall not exceed one hundred dollars (\$100.00) for a first  
9 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;  
10 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for  
11 any violation of Part 2G of Article 9 of this Chapter.~~ For violations of Part 7 of Article 9 of this  
12 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the  
13 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the  
14 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person  
15 fails to pay a civil penalty within 60 days after the final agency decision or court order has been  
16 served on the violator, the Secretary of Environmental Quality shall request the Attorney  
17 General to institute a civil action in the superior court of any county in which the violator  
18 resides or has his or its principal place of business to recover the amount of the assessment.  
19 Such civil actions must be filed within three years of the date the final agency decision or court  
20 order was served on the violator."

21 **SECTION 10.(c)** Section 13.10(c) of S.L. 2010-31 is repealed.

22 **SECTION 10.(d)** This section becomes effective July 1, 2017.

#### 23 24 **AMEND THE RULE FOR POOL LIGHTING**

25 **SECTION 11.(a)** Definitions. – "Pool Lighting and Ventilation Rule" means 15A  
26 NCAC 18A .2524 (Lighting and Ventilation) for purposes of this section and its  
27 implementation.

28 **SECTION 11.(b)** Pool Lighting and Ventilation Rule. – Until the effective date of  
29 the revised permanent rule that the Commission for Public Health is required to adopt pursuant  
30 to subsection (d) of this section, the Commission and local inspectors shall implement the Pool  
31 Lighting and Ventilation Rule, as provided in subsection (c) of this section.

32 **SECTION 11.(c)** Implementation. – The Commission shall require pool  
33 illumination sufficient to illuminate the main drains of a pool. The Commission shall require  
34 pool illumination sufficient to illuminate the deck area of a pool so that it is visible at all times  
35 the pool is in use but shall not require specific foot candles of illumination for the deck area.

36 **SECTION 11.(d)** Additional Rule-Making Authority. – The Commission shall  
37 adopt a rule to amend the Pool Lighting and Ventilation Rule consistent with subsection (c) of  
38 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant  
39 to this section, shall be substantively identical to the provisions of subsection (c) of this section.  
40 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B  
41 of the General Statutes. Rules adopted pursuant to this section shall become effective as  
42 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as  
43 provided by G.S. 150B-21.3(b2).

44 **SECTION 11.(e)** Sunset. – This section expires when permanent rules adopted as  
45 required by subsection (d) of this section become effective.

#### 46 47 **COASTAL STORMWATER PROGRAM VARIANCE**

48 **SECTION 12.(a)** Notwithstanding S.L. 2008-211 and rules adopted to implement  
49 the act, any subdivision meeting all of the following requirements shall be deemed to be in  
50 compliance with the impervious surface limitations of the act and its implementing rules:

- 1 (1) The subdivision's original declaration of covenants was recorded at least 20  
2 years prior to the effective date of this act.
- 3 (2) The original developer of the subdivision transferred the stormwater permit  
4 to the homeowners association for the subdivision and, at the time of the  
5 transfer, the homeowners association had no notice from the original  
6 developer or any regulatory agency that the subdivision was not in  
7 compliance with the impervious surface limitations.

8 **SECTION 12.(b)** This section applies only to impervious surface built prior to  
9 January 1, 2017. Any impervious surface built on or after January 1, 2017, shall be subject to  
10 S.L. 2008-211 and its implementing rules.

11  
12 **AMEND THE RULE FOR PROTECTION OF EXISTING BUFFERS IN THE JORDAN**  
13 **LAKE WATERSHED TO EXEMPT CERTAIN APPLICABILITY REQUIREMENTS**  
14 **FOR PUBLIC SAFETY**

15 **SECTION 13.(a)** Definitions. – "Protection of Existing Buffers Rule" means 15A  
16 NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian  
17 Buffers) for purposes of this section and its implementation.

18 **SECTION 13.(b)** Protection of Existing Buffers Rule. – Until the effective date of  
19 the revised permanent rule that the Environmental Management Commission is required to  
20 adopt pursuant to subsection (d) of this section, the Commission and the Department of  
21 Environmental Quality shall implement the Protection of Existing Buffers Rule, as provided in  
22 subsection (c) of this section.

23 **SECTION 13.(c)** Implementation. – The Commission shall exempt from the  
24 applicability requirements of the Protection of Existing Buffers Rule any publicly owned  
25 spaces where it has been determined by the head of the local law enforcement agency with  
26 jurisdiction over that area that the buffers pose a risk to public safety.

27 **SECTION 13.(d)** Additional Rule-Making Authority. – The Commission shall  
28 adopt a rule to amend the Protection of Existing Buffers Rule consistent with subsection (c) of  
29 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant  
30 to this section, shall be substantively identical to the provisions of subsection (c) of this section.  
31 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B  
32 of the General Statutes. Rules adopted pursuant to this section shall become effective as  
33 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as  
34 provided by G.S. 150B-21.3(b2).

35 **SECTION 13.(e)** Sunset. – This section expires when permanent rules adopted as  
36 required by subsection (d) of this section become effective.

37  
38 **AMEND THE RULE FOR PROTECTION AND MAINTENANCE OF EXISTING**  
39 **BUFFERS IN THE CATAWBA RIVER BASIN TO EXEMPT CERTAIN**  
40 **APPLICABILITY REQUIREMENTS FOR PUBLIC WALKING TRAILS**

41 **SECTION 14.(a)** Definitions. – "Protection and Maintenance of Existing Riparian  
42 Buffers Rule" means 15A NCAC 02B .0243 (Catawba River Basin: Protection and  
43 Maintenance of Existing Riparian Buffers) for purposes of this section and its implementation.

44 **SECTION 14.(b)** Protection and Maintenance of Existing Riparian Buffers Rule. –  
45 Until the effective date of the revised permanent rule that the Environmental Management  
46 Commission is required to adopt pursuant to subsection (d) of this section, the Commission and  
47 the Department of Environmental Quality shall implement the Protection and Maintenance of  
48 Existing Riparian Buffers Rule, as provided in subsection (c) of this section.

49 **SECTION 14.(c)** Implementation. – The Commission shall exempt from the  
50 applicability requirements of the Protection and Maintenance of Existing Riparian Buffers Rule  
51 any publicly owned property that will be used for walking trails.



1           **SECTION 14.(d)** Additional Rule-Making Authority. – The Commission shall  
2 adopt a rule to amend the Protection and Maintenance of Existing Riparian Buffers Rule  
3 consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule  
4 adopted by the Commission, pursuant to this section, shall be substantively identical to the  
5 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not  
6 subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant  
7 to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more  
8 written objections had been received as provided by G.S. 150B-21.3(b2).

9           **SECTION 14.(e)** Sunset. – This section expires when permanent rules adopted as  
10 required by subsection (d) of this section become effective.

## 11 12 **RIPARIAN BUFFER TAX EXCLUSION**

13           **SECTION 15.(a)** G.S. 105-275 reads as rewritten:

14 "**§ 105-275. Property classified and excluded from the tax base.**

15           The following classes of property are designated special classes under Article V, Sec. 2(2),  
16 of the North Carolina Constitution and are excluded from tax:

17           ...

18           (49) That portion of real property that is subject to any of the following riparian  
19 buffer rules and that is being used as a riparian buffer:

- 20           a. Neuse River Basin: Nutrient Sensitive Waters Management Strategy:  
21 Protection and Maintenance of Existing Riparian Buffers (15A  
22 NCAC 02B .0233).
- 23           b. Tar-Pamlico River Basin: Nutrient Sensitive Waters Management  
24 Strategy: Protection and Maintenance of Existing Riparian Buffers  
25 (15A NCAC 02B. 0259).
- 26           c. Randleman Lake Water Supply Watershed: Protection and  
27 Maintenance of Existing Riparian Buffers (15A NCAC 02B .0250).
- 28           d. Jordan Water Supply Nutrient Strategy: Protection of Existing  
29 Riparian Buffers (15A NCAC 02B .0267).
- 30           e. Goose Creek Watershed Water Quality Management Plan (15A  
31 NCAC 02B .0605, 15A NCAC 02B .0606, 15A NCAC 02B .0607,  
32 15A NCAC 02B .0608).
- 33           f. Mitigation Program Requirements for Protection and Maintenance of  
34 Riparian Buffers (15A NCAC 02B .0295).
- 35           g. Catawba River Basin: Protection and Maintenance of Existing  
36 Riparian Buffers (15A NCAC 02B .0243)."

37           **SECTION 15.(b)** This section is effective for taxes imposed for taxable years  
38 beginning on or after July 1, 2018.

## 39 40 **WATER QUALITY TESTING**

41           **SECTION 16.** The Division of Water Resources of the Department of  
42 Environmental Quality shall conduct a water quality sampling program for nutrients along the  
43 mainstem of the Catawba River. The study shall include water quality sampling for nutrients  
44 above, in, and below each major tributary of the Catawba River. No later than October 1, 2018,  
45 the Division shall report the results of the study to the Environmental Review Commission.

## 46 47 **MINING PERMITTING REVISIONS**

48           **SECTION 17.(a)** G.S. 74-50(d) reads as rewritten:

49           "~~(d) An operating permit shall be granted for a period not exceeding 10 years. If~~Except  
50 as provided in subsection (d1) of this section, permits for mining operations shall be issued for  
51 the life-of-site of the operation unless revoked as otherwise provided under this Article. For

1 purposes of this section, "life-of-site" means the period from the initial receipt of a permit from  
2 the operation until the mining operation terminates and the reclamation required under the  
3 approved reclamation plan is completed prior to the end of the period, ~~completed, the permit~~  
4 ~~shall terminate.~~ completed. Termination of a permit shall not have the effect of relieving the  
5 operator of any obligations that the operator has incurred under an approved reclamation plan  
6 or otherwise. Where the mining operation itself has terminated, no permit shall be required in  
7 order to carry out reclamation measures under the reclamation plan.

8 (d1) Permits for mining operations conducted on real property that is leased from a  
9 public entity shall be issued for the life-of-lease. For purposes of this subsection, the following  
10 terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of  
11 the mining operation and a public entity and (ii) "public entity" means the State, any State  
12 agency, State college or university, county, municipal corporation, local board of education,  
13 community college, special district, or other political subdivision of the State. Termination of a  
14 permit shall not have the effect of relieving the operator of any obligations that the operator has  
15 incurred under an approved reclamation plan or otherwise. Where the mining operation itself  
16 has terminated, no permit shall be required in order to carry out reclamation measures under the  
17 reclamation plan."

18 SECTION 17.(b) G.S. 74-51(d)(7) is amended by adding a new sub-subdivision to  
19 read:

20 "f. Failure to pay the application processing fee required under  
21 G.S. 74-54.1."

22 SECTION 17.(c) G.S. 74-52 reads as rewritten:

23 "**§ 74-52. Permits—Modification, renewal.**Permit modifications.

24 (a) Any operator engaged in mining under an operating permit may apply at any time  
25 for modification of the permit. ~~A permittee may apply for renewal of the permit at any time~~  
26 ~~during the two years prior to the expiration of the permit.~~ The application shall be in writing  
27 upon forms furnished by the Department and shall fully state the information called for. The  
28 applicant must provide the Department with any additional information necessary to satisfy  
29 application requirements. ~~The applicant is not required to resubmit information that remains~~  
30 ~~unchanged since the time of the prior application.~~ In addition, the applicant may be required to  
31 furnish any other information as may be deemed necessary by the Department in order  
32 adequately to enforce the Article.

33 (b) ~~The procedure to be followed and standards to be applied in renewing a permit shall~~  
34 ~~be the same as those for issuing a permit; provided, however, that in the absence of any~~  
35 ~~changes in legal requirements for issuance of a permit since the date on which the prior permit~~  
36 ~~was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the~~  
37 ~~type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of~~  
38 ~~conditions then existing.~~

39 (c) A modification under this section may affect the land area covered by the permit,  
40 the approved reclamation plan coupled with the permit, or other terms and conditions of the  
41 permit. A permit may be modified to include land neighboring the affected land, but not other  
42 lands. The reclamation plan may be modified in any manner, so long as the Department  
43 determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the  
44 modifications would be generally consistent with the bases for issuance of the original permit.  
45 Other terms and conditions may be modified only where the Department determines that the  
46 permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. ~~No~~  
47 ~~modification shall extend the expiration date of any permit issued under this Article.~~

48 (d) ~~No modification or renewal of a permit shall become effective until any required~~  
49 ~~changes have been made in the performance bond or other security posted under the provisions~~  
50 ~~of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the~~  
51 ~~permit and reclamation plan."~~

SECTION 17.(d) G.S. 74-54 reads as rewritten:

"§ 74-54. Bonds.

(a) Each applicant for an operating permit, or for the ~~renewal of a~~modification of an existing permit shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the ~~Commission~~Commission, but shall not exceed one million dollars (\$1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

...."

SECTION 17.(e) G.S. 74-54.1 reads as rewritten:

"§ 74-54.1. Permit fees.

(a) The fee schedule for the processing of permit ~~applications and permit renewals~~applications, transfers, and modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	\$3,750.00	\$5,000.00
Permit Modifications	\$750.00	\$1,000.00
<del>Permit Renewals</del>	<del>\$750.00</del>	<del>\$1,000.00</del>
<u>Permit Transfers</u>	<u>\$100.00</u>	<u>\$100.00</u>

(a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay an annual operating fee of four hundred dollars (\$400.00) per permit per year as set forth in G.S. 74-55. The Department may charge a late fee of fifty dollars (\$50.00) per month per permit for every month or partial month that payment of the annual operating fee is delinquent.

...."

SECTION 17.(f) G.S. 74-55 reads as rewritten:

"§ 74-55. Reclamation report.

(a) ~~Within 30 days after completion or termination of mining on an area under permit or within 30 days after each anniversary of the issuance of the operating permit, whichever is earlier, or at such later date as may be provided by rules of the Department, and each year thereafter until reclamation is completed and approved, the~~By July 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which ~~shall~~ includes all of the following.

- (1) Identify the mine, the operator and the permit ~~number;~~number.
- (2) State acreage disturbed by mining in the last 12-month ~~period;~~period.
- (3) State and describe amount and type of reclamation carried out in the last 12-month ~~period;~~period.
- (4) Estimate acreage to be newly disturbed by mining in the next 12-month ~~period;~~period.
- (5) Provide such maps as may be specifically requested by the ~~Department.~~Department.
- (6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

1       (b) When filing the annual report, the permittee shall pay the annual operating fee for  
2 the permit to the Department until the permit has been terminated by the Department. The  
3 Department may assess and collect a monthly penalty for each annual report or annual  
4 operating fee not filed by July 31 of each year until the annual report and annual operating fee  
5 are filed with the Department. If the required annual report and operating fee, including any  
6 late payment penalties, are not filed by December 31 of each year, the Department shall give  
7 written notice to the operator and shall then initiate permit revocation proceedings in  
8 accordance with G.S. 74-58."

9           **SECTION 17.(g)** G.S. 74-58 reads as rewritten:

10 **"§ 74-58. Suspension or revocation of permit.**

11       (a) Whenever the Department shall have reason to believe that a violation of (i) this  
12 Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit,  
13 including the approved reclamation plan, has taken place, it shall serve written notice of the  
14 apparent violation upon the operator, specifying the facts constituting the apparent violation  
15 and informing the operator of the operator's right to an informal conference with the  
16 Department. The date for an informal conference shall be not less than 15 nor more than 30  
17 days after the date of the notice, unless the Department and the operator mutually agree on  
18 another date. If the operator or the operator's representative does not appear at the informal  
19 conference, or if the Department following the informal conference finds that there has been a  
20 violation, the Department may suspend the permit until the violation is corrected or may revoke  
21 the permit where the violation appears to be ~~willful~~, willful, or where the permittee has failed to  
22 pay the fee or late payment penalties required by G.S. 74-55(b).

23       (b) The effective date of any suspension or revocation shall be 30 days following the  
24 date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the  
25 effective date until issuance of a final decision. If the Department finds at the time of its initial  
26 decision that any delay in correcting a violation would result in imminent peril to life or danger  
27 to property or to the environment, it shall promptly initiate a proceeding for injunctive relief  
28 under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any  
29 appeal from a suspension or revocation of a permit shall have no effect upon an action for  
30 injunctive relief.

31       (c) Any operator whose permit has been suspended or revoked shall be denied a new  
32 permit ~~or a renewal of an existing~~ reinstatement of the suspended permit to engage in mining  
33 until the operator gives evidence satisfactory to the Department of the operator's ability and  
34 intent to fully comply with the provisions of this Article and rules adopted under this Article,  
35 and the terms and conditions of the permit, including the approved reclamation plan, and that  
36 the operator has satisfactorily corrected all previous violations."

37           **SECTION 17.(h)** G.S. 74-60 reads as rewritten:

38 **"§ 74-60. Notice.**

39       Whenever in this Article written notice is required to be given by the Department, such  
40 notice shall be mailed by registered or certified mail to the permanent address of the operator  
41 set forth in his most recent application for an operating permit or for a modification ~~or renewal~~  
42 of such permit. No other notice shall be required."

43           **SECTION 17.(i)** Notwithstanding G.S. 74.55(b), as enacted by subsection (f) of  
44 this section, the initial annual operating fee imposed by G.S. 74-54.1, as enacted by subsection  
45 (e) of this section, shall be due December 31, 2017.

46           **SECTION 17.(j)** This section becomes effective when it becomes law and applies  
47 to (i) valid permits for existing mining operations issued before the date this act becomes  
48 effective and (ii) any permit application for a mining operation, pending or submitted on or  
49 after that date. No later than December 1, 2017, the Department shall issue life-of-site permits  
50 or life-of-lease permits, as applicable, to replace valid permits for existing mining operations  
51 issued before the date this act becomes effective in compliance with the provisions of this act.

1 Until such time as life-of-site permits or life-of-lease permits, as applicable, have been issued to  
2 replace valid permits for existing mining operations issued before the date this act becomes  
3 effective; any valid permit and its terms and conditions shall remain in effect and govern the  
4 operations of the facility notwithstanding any termination date that may be included in such  
5 permit.

6  
7 **AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS**  
8 **ORIGINATING OUTSIDE OF NORTH CAROLINA**

9 **SECTION 18.(a)** G.S. 40A-3(a) reads as rewritten:

10 **"§ 40A-3. By whom right may be exercised.**

11 (a) Private Condemnors. – For the public use or benefit, the persons or organizations  
12 listed below shall have the power of eminent domain and may acquire by purchase or  
13 condemnation property for the stated purposes and other works which are authorized by law.

14 (1) Corporations, bodies politic or persons have the power of eminent domain  
15 for the construction of railroads, power generating facilities, substations,  
16 switching stations, microwave towers, roads, alleys, access railroads,  
17 turnpikes, street railroads, plank roads, tramroads, canals, telegraphs,  
18 telephones, electric power lines, electric lights, public water supplies, public  
19 sewerage systems, flumes, bridges, and pipelines or mains ~~originating in~~  
20 ~~North Carolina~~ for the transportation of petroleum products, coal, gas,  
21 limestone or minerals. Land condemned for any liquid pipelines shall:

22 a. Not be less than 50 feet nor more than 100 feet in width; and

23 b. Comply with the provisions of G.S. 62-190(b).

24 The width of land condemned for any natural gas pipelines shall not be more  
25 than 100 feet.

26 ...."

27 **SECTION 18.(b)** This section is effective when it becomes law and applies to  
28 takings occurring on or after that date.

29 **SECTION 19.(a)** As used in this section, "sand dune system" means "primary  
30 dunes" and "frontal dunes" as defined in 15A NCAC 07H .0305 and any secondary or other  
31 dunes.

32 **SECTION 19.(b)** Except as otherwise provided by law, a city or county that has  
33 accepted State funds for inlet dredging, beach renourishment, or dune construction or  
34 maintenance shall prohibit any alteration, excavation, or removal of sand in the sand dune  
35 system in areas subject to inundation by the one percent (1%) annual chance flood event unless  
36 the sand dune system provides adequate flood protection to withstand erosion during the one  
37 percent (1%) annual chance flood event. A sand dune system must have a minimum frontal  
38 dune reservoir (dune cross-section above 100-year stillwater level and seaward of dune peak)  
39 of 540 square feet to be considered substantial enough to withstand erosion during a one  
40 percent (1%) annual chance flood event.

41 **SECTION 19.(c)** The State shall not provide State funds for inlet dredging, beach  
42 renourishment, or dune construction or maintenance to any city or county unless the applicant  
43 for such funds provides a certification showing that it has complied with this section.

44  
45 **MARINE FISHERIES COMMISSION AMENDMENTS**

46 **SECTION 20.(a)** G.S. 143B-289.52 reads as rewritten:

47 **"§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

48 ...

49 (e1) A supermajority of the Commission shall be ~~six-five~~ members. A supermajority  
50 shall be necessary to ~~override recommendations from the Division of Marine Fisheries~~  
51 ~~regarding measures needed to end overfishing or to rebuild overfished stocks.~~for any action

1 taken under the powers and duties set forth in this section, including rule making and the  
2 regulation of fisheries under a fishery management plan.

3 ...."

4 **SECTION 20.(b)** G.S. 143B-289.54 reads as rewritten:

5 **"§ 143B-289.54. Marine Fisheries Commission – members; appointment; term; oath;**  
6 **ethical standards; removal; compensation; staff.**

7 (a) Members, Selection. – The Marine Fisheries Commission shall consist of ~~nine~~seven  
8 members appointed by the Governor as follows:

9 (1) One person actively engaged in, or recently retired from, commercial fishing  
10 as demonstrated by currently or recently deriving at least fifty percent (50%)  
11 of annual earned income from taking and selling fishery resources in coastal  
12 fishing waters of the State. The spouse of a commercial fisherman who  
13 meets the criteria of this subdivision may be appointed under this  
14 subdivision.

15 (2) One person actively engaged in, or recently retired from, commercial fishing  
16 as demonstrated by currently or recently deriving at least fifty percent (50%)  
17 of annual earned income from taking and selling fishery resources in coastal  
18 fishing waters of the State. The spouse of a commercial fisherman who  
19 meets the criteria of this subdivision may be appointed under this  
20 subdivision.

21 (3) One person actively connected with, and experienced as, a licensed fish  
22 dealer or in seafood processing or distribution as demonstrated by deriving  
23 at least fifty percent (50%) of annual earned income from activities  
24 involving the buying, selling, processing, or distribution of seafood landed in  
25 this State. The spouse of a person qualified under this subdivision may be  
26 appointed provided that the spouse is actively involved in the qualifying  
27 business.

28 (4) One person actively engaged in recreational sports fishing in coastal waters  
29 in this State. An appointee under this subdivision may not derive more than  
30 ten percent (10%) of annual earned income from sports fishing activities.

31 (5) One person actively engaged in recreational sports fishing in coastal waters  
32 in this State. An appointee under this subdivision may not derive more than  
33 ten percent (10%) of annual earned income from sports fishing activities.

34 (6) One person actively engaged in the sports fishing industry as demonstrated  
35 by deriving at least fifty percent (50%) of annual earned income from selling  
36 goods or services in this State. The spouse of a person qualified under this  
37 subdivision may be appointed provided that the spouse is actively involved  
38 in the qualifying business.

39 ~~(7) One person having general knowledge of and experience related to subjects~~  
40 ~~and persons regulated by the Commission.~~

41 ~~(8) One person having general knowledge of and experience related to subjects~~  
42 ~~and persons regulated by the Commission.~~

43 (9) One person who is a fisheries scientist having special training and expertise  
44 in marine and estuarine fisheries biology, ecology, population dynamics,  
45 water quality, habitat protection, or similar knowledge. A person appointed  
46 under this subdivision may not receive more than ten percent (10%) of  
47 annual earned income from either the commercial or sports fishing  
48 industries, including the processing and distribution of seafood.

49 (b) Residential Qualifications. – For purposes of providing regional representation on  
50 the Commission, the following three coastal regions of the State are designated: (i) Northeast  
51 Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax,

1 Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties,  
2 (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico  
3 Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New  
4 Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), ~~(4),~~  
5 ~~and (8)~~ and (4) of subsection (a) of this section shall be residents of one of the coastal regions of  
6 the State. The membership of the Commission shall include at least one person who is a  
7 resident of each of the three coastal regions of the State.

8 (c) Additional Considerations. – In making appointments to the Commission, the  
9 Governor shall provide for appropriate representation of women and minorities on the  
10 Commission.

11 (d) Terms. – The term of office of members of the Commission is three years. A  
12 member may be reappointed to any number of successive three-year terms. Upon the expiration  
13 of a three-year term, a member shall continue to serve until a successor is appointed and duly  
14 qualified as provided by G.S. 128-7. The term of members appointed under subdivisions ~~(4),~~  
15 ~~(4), and (7)~~ (1) and (4) of subsection (a) of this section shall expire on 30 June of years evenly  
16 divisible by three. The term of members appointed under subdivisions ~~(2), (5), and (8)~~ (2) and  
17 (5) of subsection (a) of this section shall expire on 30 June of years that precede by one year  
18 those years that are evenly divisible by three. The term of members appointed under  
19 subdivisions (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years  
20 that follow by one year those years that are evenly divisible by three.

21 ...."

22 **SECTION 20.**(c) G.S. 113-182.1(e1) reads as rewritten:

23 "(e1) If the Secretary determines that it is in the interest of the long-term viability of a  
24 fishery, the Secretary may authorize the Commission to develop expedited temporary  
25 management measures to supplement an existing Fishery Management Plan pursuant to this  
26 subsection. Management measures considered in a supplement shall be strictly limited to those  
27 management strategies contained in the original fishery management plan or subsequent  
28 amendments to the plan adopted by the Marine Fisheries Commission and shall not include  
29 management measures that either (i) were not originally developed in accordance with this  
30 section or (ii) result in severe curtailment of the usefulness or value of equipment as provided  
31 by G.S. 113-221(d). Development of temporary management measures pursuant to this  
32 subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List,  
33 Schedule, and guidance criteria established by the Marine Fisheries Commission under  
34 G.S. 143B-289.52. During the next review period for a Fishery Management Plan  
35 supplemented pursuant to this subsection, the Commission shall either incorporate the  
36 temporary management measures into the revised Fishery Management Plan or the temporary  
37 management measures shall expire on the date the revised Fishery Management Plan is  
38 adopted."

#### 39 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

40 **SECTION 21.(a)** If any section or provision of this act is declared unconstitutional  
41 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
42 than the part declared to be unconstitutional or invalid.

43 **SECTION 21.(b)** Except as otherwise provided, this act is effective when it  
44 becomes law.  
45