

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

3

HOUSE BILL 211\*

Committee Substitute Favorable 4/16/97

Senate Agriculture, Environment and Natural Resources Committee Substitute Adopted  
7/29/97

Short Title: Amend Env. Laws/Env. Tech. Corr.

(Public)

---

Sponsors:

---

Referred to:

---

February 17, 1997

1                                    A BILL TO BE ENTITLED  
2   AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS TO: (1) PROVIDE  
3   FOR CONTINUING EDUCATION REQUIREMENTS FOR, AND THE  
4   EXPIRATION AND RENEWAL OF, CERTIFICATES ISSUED BY THE WATER  
5   POLLUTION CONTROL SYSTEM OPERATORS CERTIFICATION  
6   COMMISSION; (2) INCLUDE CONSIDERATION OF THE COMPLIANCE  
7   HISTORY IN OTHER STATES OF AN APPLICANT FOR A PERMIT UNDER  
8   THE COASTAL AREA MANAGEMENT ACT; (3) CLARIFY THE DISTINCTION  
9   BETWEEN A PUBLIC HEARING AND A PUBLIC MEETING IN CONNECTION  
10   WITH AN APPLICATION FOR A WATER QUALITY PERMIT; (4) ALLOW THE  
11   ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE ITS  
12   POWERS BY RESOLUTION RATHER THAN BY RULE; (5) CLARIFY THE  
13   ASSESSMENT OF CIVIL PENALTIES FOR CONTINUING VIOLATIONS OF  
14   AIR QUALITY STANDARDS; (6) REESTABLISH A SCHEDULE OF SIX-YEAR  
15   STAGGERED TERMS FOR THE MINING COMMISSION; (7) REESTABLISH A  
16   SCHEDULE OF TWO-YEAR STAGGERED TERMS FOR THE NORTH  
17   CAROLINA PARKS AND RECREATION AUTHORITY; AND (8) MAKE

1 CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS  
2 LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL  
3 RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW  
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Part 1 of Article 3 of Chapter 90A is amended by adding a new  
7 section to read:

8 **"§ 90A-46.1. Expiration and renewal of certificates; continuing education**  
9 **requirements.**

10 A certificate issued under this Part expires on 31 December of the year in which it is  
11 issued or renewed. The Commission may establish minimum continuing education  
12 requirements that an applicant must meet to renew a certificate. The Commission shall  
13 renew a certificate if the applicant meets the continuing education requirement and pays  
14 the required renewal fee, any renewal fee in arrears, and any late application penalty."

15 Section 2. G.S. 113A-120(b1), as amended by Section 2 of S.L. 1997-337,  
16 reads as rewritten:

17 "(b1) In addition to those factors set out in subsection (a) of this section or of G.S.  
18 113A-120.2, and notwithstanding the provisions of subsection (b) of this section, the  
19 responsible official or body may deny an application for a permit upon finding that an  
20 applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- 21 (1) Is conducting or has conducted any activity causing significant  
22 environmental damage for which a major development permit is  
23 required under this Article without having previously obtained such  
24 permit or has received a notice of violation with respect to any activity  
25 governed by this Article and has not complied with the notice within the  
26 time specified in the notice;
- 27 (2) Has failed to pay a civil penalty assessed pursuant to this Article, a local  
28 ordinance adopted pursuant to this Article, or Article 17 of Chapter 113  
29 of the General Statutes which is due and for which no appeal is pending;
- 30 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-126, G.S.  
31 113-229(k), or any criminal provision of a local ordinance adopted  
32 pursuant to this Article; or
- 33 (4) Has failed to substantially comply with ~~State~~state rules or local  
34 ordinances and regulations adopted pursuant to this Article or with other  
35 federal and ~~State~~state laws, regulations, and rules for the protection of  
36 the environment."

37 Section 3. G.S. 143-215.1(c) reads as rewritten:

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

- 40 (1) All applications for permits and for renewal of existing permits for  
41 outlets and point sources and for treatment works and disposal systems  
42 discharging to the surface waters of the State shall be in writing, and the  
43 Commission may prescribe the form of such applications. All

1 applications shall be filed with the Commission at least 180 days in  
2 advance of the date on which it is desired to commence the discharge of  
3 wastes or the date on which an existing permit expires, as the case may  
4 be. The Commission shall act on a permit application as quickly as  
5 possible. The Commission may conduct any inquiry or investigation it  
6 considers necessary before acting on an application and may require an  
7 applicant to submit plans, specifications, and other information the  
8 Commission considers necessary to evaluate the application.

- 9 (2) a. The Department shall refer each application for permit, or renewal of  
10 an existing permit, for outlets and point sources and treatment works  
11 and disposal systems discharging to the surface waters of the State to its  
12 staff for written evaluation and proposed determination with regard to  
13 issuance or denial of the permit. If the Commission concurs in the  
14 proposed determination, it shall give notice of intent to issue or deny the  
15 permit, along with any other data that the Commission may determine  
16 appropriate, to be given to the appropriate State, interstate and federal  
17 agencies, to interested persons, and to the public.

18 a1. The Commission shall prescribe the form and content of the  
19 notice. ~~The notice required herein~~ Public notice shall be given at  
20 least 45 days prior to any proposed final action granting or  
21 denying the permit. Public notice shall be given by publication  
22 of the notice one time in a newspaper having general circulation  
23 within the county.

24 b. Repealed by Session Laws 1987, c. 734.

- 25 (3) If any person desires a public ~~meeting~~ hearing on any application for  
26 permit or renewal of an existing permit provided for in this subsection,  
27 he shall so request in writing to the Commission within 30 days  
28 following date of the notice of intent. The Commission shall consider  
29 all such requests for ~~meeting~~ hearing, and if the Commission determines  
30 that there is a significant public interest in holding such ~~meeting~~,  
31 hearing, at least 30 days' notice of such ~~meeting~~ hearing shall be given to  
32 all persons to whom notice of intent was sent and to any other person  
33 requesting notice. At least 30 days prior to the date of ~~meeting~~ hearing,  
34 the Commission shall also cause a copy of the notice thereof to be  
35 published at least one time in a newspaper having general circulation in  
36 such county. In any county in which there is more than one newspaper  
37 having general circulation in that county, the Commission shall cause a  
38 copy of such notice to be published in as many newspapers having  
39 general circulation in the county as the Commission in its discretion  
40 determines may be necessary to assure that such notice is generally  
41 available throughout the county. The Commission shall prescribe the  
42 form and content of the notices.

1           The Commission shall prescribe the procedures to be followed in  
2 ~~such meetings-hearings.~~ If the ~~meeting-hearing~~ is not conducted by the  
3 Commission, detailed minutes of the ~~meeting-hearing~~ shall be kept and  
4 shall be submitted, along with any other written comments, exhibits or  
5 documents presented at the ~~meeting-hearing~~, to the Commission for its  
6 consideration prior to final action granting or denying the permit.

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

13           (5) No permit issued pursuant to this subsection (c) shall be issued or  
14 renewed for a term exceeding five years.

15           (6) The Commission shall not act upon an application for a new  
16 nonmunicipal domestic wastewater discharge facility until it has  
17 received a written statement from each city and county government  
18 having jurisdiction over any part of the lands on which the proposed  
19 facility and its appurtenances are to be located which states whether the  
20 city or county has in effect a zoning or subdivision ordinance and, if  
21 such an ordinance is in effect, whether the proposed facility is consistent  
22 with the ordinance. The Commission shall not approve a permit  
23 application for any facility which a city or county has determined to be  
24 inconsistent with its zoning or subdivision ordinance unless it  
25 determines that the approval of such application has statewide  
26 significance and is in the best interest of the State. An applicant for a  
27 permit shall request that each city and county government having  
28 jurisdiction issue the statement required by this subdivision by mailing  
29 by certified mail, return receipt requested, a written request for such  
30 statement and a copy of the draft permit application to the clerk of the  
31 city or county. If a local government fails to mail the statement required  
32 by this subdivision, as evidenced by a postmark, within 15 days after  
33 receiving and signing for the certified mail, the Commission may  
34 proceed to consider the permit application notwithstanding this  
35 subdivision."

36 Section 4. G.S. 143-215.3(a)(4) reads as rewritten:

37 "(4) To delegate such of the powers of the Commission as the Commission  
38 deems necessary to one or more of its members, to the Secretary or any  
39 other qualified employee of the Department. ~~Department; provided, that~~  
40 ~~the provisions of any such delegation of power shall be set forth in the rules of~~  
41 ~~the Commission; and provided further that the~~ The Commission shall not  
42 delegate to persons other than its own members and the designated  
43 employees of the Department the power to conduct hearings with

1 respect to the classification of waters, the assignment of classifications,  
2 air quality standards, air contaminant source classifications, emission  
3 control standards, or the issuance of any special order except in the case  
4 of an emergency under subdivision (12) of this subsection for the  
5 abatement of existing water or air pollution. Any employee of the  
6 Department to whom a delegation of power is made to conduct a  
7 hearing shall report the hearing with its evidence and record to the  
8 Commission."

9 Section 5. G.S. 143-215.4(b) reads as rewritten:

10 "(b) Procedures for Public Input. –

11 (1) The Commission may, on its own motion or when required by federal  
12 law, request public comments on or hold public hearings on matters  
13 within the scope of its authority under this Article or Articles 21A or  
14 21B of this Chapter. To request public comments on a matter, the  
15 Commission shall notify appropriate agencies of the opportunity to  
16 submit written comments to the Commission on the matter and shall  
17 publish a notice in a newspaper having general circulation in the  
18 affected area, stating the matter under consideration by the Commission  
19 and informing the public of its opportunity to submit written comments  
20 to the Commission on the matter. A public comment period shall extend  
21 for at least 30 days after the notice is published.

22 (2) To hold a public hearing on a matter, the Commission shall notify, by  
23 personal service or certified mail, persons directly affected by the matter  
24 under consideration and shall publish a notice in a newspaper having  
25 general circulation in the affected area, stating the matter under  
26 consideration by the Commission and the time, date, and place of a  
27 public hearing to be held on the matter. A public hearing shall be held  
28 no sooner than 20 days after the notice is published. The proceedings at  
29 a public hearing held under this subsection shall be recorded. Upon  
30 payment of a fee established by the Commission, any person may obtain  
31 a copy of the record of the public hearing. After a public hearing, the  
32 Commission shall accept written comments for the time period  
33 prescribed by the Commission.

34 (3) This subsection does not apply to rule-making proceedings, contested  
35 case hearings, or the issuance of permits required under Title V. The  
36 Commission shall establish procedures for public hearings, public  
37 notice, and public comment respecting permits required by Title V as  
38 provided by G.S. 143-215.111(4).

39 (4) The Commission may hold a public meeting on any matter within its  
40 scope of authority. The Commission may hold a public meeting in  
41 addition to any public hearing that is required under any provision of  
42 law, but a public meeting may not be substituted for any required public

1                   hearing. Except as may be otherwise provided by law, the Commission  
2                   may determine the procedures for any public meeting it holds."

3 Section 6. G.S. 143-215.112(d)(1a) reads as rewritten:

4           "(1a) Each governing body, or its authorized agent, shall have the power  
5           to assess civil penalties under G.S. 143-215.114A. Any person  
6           assessed shall be notified of the assessment by registered or certified  
7           mail, and the notice shall specify the reasons for the assessment. If  
8           the person assessed fails to pay the amount of the assessment to the  
9           governing body or its authorized agent within 30 days after receipt  
10           of notice, or such longer period not to exceed 180 days as the  
11           governing body or its authorized agent may specify, the governing  
12           body may institute a civil action in the superior court of the county  
13           in which the violation occurred, to recover the amount of the  
14           assessment. ~~Each day of continuing violation after written notification~~  
15           ~~from the governing body or its authorized agent shall be considered a~~  
16           ~~separate offense. If any action or failure to act for which a penalty~~  
17           may be assessed under this section is continuous, the governing body  
18           or its authorized agent may assess a penalty not to exceed ten  
19           thousand dollars (\$10,000) per day for so long as the violation  
20           continues. In determining the amount of the penalty, the governing  
21           body or its authorized agent shall consider the degree and extent of  
22           harm caused by the violation, the cost of rectifying the damage, and  
23           the amount of money the violator saved by not having made the  
24           necessary expenditures to comply with the appropriate pollution  
25           control requirements."

26 Section 7. G.S. 143-215.114A(b) reads as rewritten:

27           "~~(b) Each day of continuing violation after written notification from the Secretary shall be~~  
28           ~~considered a separate offense. If any action or failure to act for which a penalty may be~~  
29           assessed under this section is continuous, the Secretary may assess a penalty not to  
30           exceed ten thousand dollars (\$10,000) per day for so long as the violation continues."

31 Section 8. G.S. 143B-291 reads as rewritten:

32 "**§ 143B-291. North Carolina Mining Commission – members; selection; removal;**  
33 **compensation; quorum; services.**

34           (a) Members, Selection. – The North Carolina Mining Commission shall consist of  
35           nine members appointed by the Governor. ~~The Commission shall be composed of the~~  
36           ~~following: one Governor under a specified subdivision of this subsection as follows:~~

37           (1) One member who is the chairman of the North Carolina State University  
38           Minerals Research Laboratory Advisory Committee, ex officio.  
39           ~~Committee; three representatives of mining industries; three representatives of~~  
40           ~~nongovernmental conservation interests and two who shall represent the~~  
41           ~~Environmental Management Commission and be knowledgeable in the~~  
42           ~~principles of water and air resources management.~~

43           (2) One member who is a representative of the mining industry.

- 1           (3) One member who is a representative of the mining industry.  
2           (4) One member who is a representative of the mining industry.  
3           (5) One member who is a representative of nongovernmental conservation  
4           interests.  
5           (6) One member who is a representative of nongovernmental conservation  
6           interests.  
7           (7) One member who is a representative of nongovernmental conservation  
8           interests.  
9           (8) One who, at the time of the appointment to the Mining Commission, is  
10          a member of the Environmental Management Commission and  
11          knowledgeable in the principles of water and air resources management.  
12          (9) One who, at the time of the appointment to the Mining Commission, is  
13          a member of the Environmental Management Commission and  
14          knowledgeable in the principles of water and air resources management.

15 ~~The initial members of the North Carolina Mining Commission shall be those~~  
16 ~~members of the present North Carolina Mining Council who shall meet the above~~  
17 ~~requirements for membership on the North Carolina Mining Commission and who shall~~  
18 ~~serve on the North Carolina Mining Commission for a period equal to the remainder of~~  
19 ~~their current terms on the North Carolina Mining Council. The remaining initial~~  
20 ~~members shall be appointed by the Governor to staggered terms of six years.~~

21       (b) Terms. – The term of office of a member of the Commission is six years. Any  
22 appointment to fill a vacancy on the Commission created by the resignation, dismissal,  
23 death or disability of a member shall be for the balance of the unexpired term. At the  
24 expiration of each member's term, the Governor shall replace the member with a new  
25 member of like qualifications for a term of six years. The term of members appointed  
26 under subdivisions (2), (5), and (8) of subsection (a) of this section shall expire on 30  
27 June of years that precede by one year those years that are evenly divisible by six. The  
28 term of members appointed under subdivisions (3) and (6) of subsection (a) of this  
29 section shall expire on 30 June of years that follow by one year those years that are  
30 evenly divisible by six. The term of members appointed under subdivisions (4), (7), and  
31 (9) of subsection (a) of this section shall expire on 30 June of years that follow by three  
32 years those years that are evenly divisible by six. Upon the expiration of a six-year term,  
33 a member may continue to serve until a successor is appointed and duly qualified as  
34 provided by G.S. 128-7.

35       (c) Vacancies. – An appointment to fill a vacancy shall be for the unexpired  
36 balance of the term.

37       (d) Removal. – ~~The Governor shall have the power to~~ may ~~remove any member of~~  
38 ~~the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance~~  
39 ~~with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973. G.S. 143B-~~  
40 ~~13.~~

41       (e) Compensation. – The members of the Commission shall receive per diem and  
42 necessary traveling and subsistence expenses in accordance with the provisions of G.S.  
43 138-5.

1 (f) Quorum. – A majority of the Commission shall constitute a quorum for the  
2 transaction of business.

3 (g) Staff. – All clerical and other services required by the Commission shall be  
4 supplied by the Secretary of the Department."

5 Section 9. In order to reestablish a schedule of six-year staggered terms for the  
6 Mining Commission as required by G.S. 143B-291, as amended by Section 8 of this act,  
7 the Governor, in making appointments to replace the two members of the Mining  
8 Commission who represent the mining industry and whose terms both expire on 30 June  
9 1997, shall appoint one member under G.S. 143B-291(a)(2) to a full six-year term  
10 expiring on 30 June 2003 and shall appoint one member under G.S. 143B-291(a)(4), to a  
11 four-year term expiring 30 June 2001.

12 Section 10. G.S. 143B-313.2 reads as rewritten:

13 "**§ 143B-313.2. North Carolina Parks and Recreation Authority; members;**  
14 **selection; compensation; meetings.**

15 (a) Membership. – The North Carolina Parks and Recreation Authority shall  
16 consist of 11 members. The members shall include persons who are knowledgeable about  
17 park and recreation issues in North Carolina or with expertise in finance. ~~Three members~~  
18 ~~shall be appointed by the Governor, four members shall be appointed by the General Assembly~~  
19 ~~upon the recommendation of the Speaker of the House of Representatives in accordance with~~  
20 ~~G.S. 120-121, and four members shall be appointed by the General Assembly upon the~~  
21 ~~recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.~~  
22 ~~The members shall serve at the pleasure of the appointing authority. The Governor shall appoint~~  
23 ~~one of the members to be Chair of the North Carolina Parks and Recreation Authority. Vacancies~~  
24 ~~shall be appointed by the original appointing authority, and the term shall be for the balance of~~  
25 ~~the unexpired term. The North Carolina Parks and Recreation Authority shall meet at a time and~~  
26 ~~place as designated by the Chair, but no less frequently than quarterly. In making~~  
27 ~~appointments, each appointing authority shall specify under which subdivision of this~~  
28 ~~subsection the person is appointed. Members shall be appointed as follows:~~

29 (1) One member appointed by the Governor.

30 (2) One member appointed by the Governor.

31 (3) One member appointed by the Governor.

32 (4) One member appointed by the General Assembly upon the  
33 recommendation of the Speaker of the House of Representatives, as  
34 provided in G.S. 120-121.

35 (5) One member appointed by the General Assembly upon the  
36 recommendation of the Speaker of the House of Representatives, as  
37 provided in G.S. 120-121.

38 (6) One member appointed by the General Assembly upon the  
39 recommendation of the Speaker of the House of Representatives, as  
40 provided in G.S. 120-121.

41 (7) One member appointed by the General Assembly upon the  
42 recommendation of the Speaker of the House of Representatives, as  
43 provided in G.S. 120-121.



1           (8) One member appointed by the General Assembly upon the  
2 recommendation of the President Pro Tempore of the Senate, as  
3 provided in G.S. 120-121.

4           (9) One member appointed by the General Assembly upon the  
5 recommendation of the President Pro Tempore of the Senate, as  
6 provided in G.S. 120-121.

7           (10) One member appointed by the General Assembly upon the  
8 recommendation of the President Pro Tempore of the Senate, as  
9 provided in G.S. 120-121.

10          (11) One member appointed by the General Assembly upon the  
11 recommendation of the President Pro Tempore of the Senate, as  
12 provided in G.S. 120-121.

13          (b) Terms. – Members shall serve two-year terms. Members shall serve no more  
14 than two full two-year terms. Upon the expiration of a two-year term, a member may  
15 continue to serve until a successor is appointed and duly qualified as provided by G.S.  
16 128-7. The term of members appointed under odd-numbered subdivisions of subsection  
17 (a) of this section shall expire on 30 June of odd-numbered years. The term of members  
18 appointed under even-numbered subdivisions of subsection (a) of this section shall expire  
19 on 30 June of even-numbered years.

20          (c) Chair. – The Governor shall appoint one member of the North Carolina Parks  
21 and Recreation Authority to serve as Chair.

22          (d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority  
23 shall be filled by the appointing authority responsible for making the appointment to that  
24 position as provided in subsection (a) of this section. An appointment to fill a vacancy  
25 shall be for the unexpired balance of the term.

26          (e) Removal. – The Governor may remove, as provided in G.S. 143-13, any  
27 member of the North Carolina Parks and Recreation Authority appointed by the Governor  
28 for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any  
29 member of the North Carolina Parks and Recreation Authority appointed by the General  
30 Assembly for misfeasance, malfeasance, or nonfeasance.

31          ~~(e)~~ (f) Compensation. – The members of the North Carolina Parks and Recreation  
32 Authority shall receive per diem and necessary travel and subsistence expenses according  
33 to the provisions of G.S. 138-5.

34          (g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at  
35 least quarterly at a time and place designated by the Chair.

36          ~~(d)~~ (h) Quorum. – A majority of the North Carolina Parks and Recreation  
37 Authority shall constitute a quorum for the transaction of business.

38          ~~(e)~~ (i) Staff. – All clerical and other services required by the North Carolina Parks  
39 and Recreation Authority shall be provided by the Secretary of Environment, Health, and  
40 Natural Resources."

41          Section 11. In order to reestablish a schedule of two-year staggered terms for  
42 the North Carolina Parks and Recreation Authority as required by G.S. 143B-313.2, as  
43 amended by Section 10 of this act:

- 1           (1) The Governor, in making appointments to replace the one member of  
2 the North Carolina Parks and Recreation Authority appointed by the  
3 Governor whose term expires on 30 June 1997, shall appoint a member  
4 under G.S. 143B-313.2(a)(1) to a full two-year term expiring on 30 June  
5 1999.
- 6           (2) The Governor, in making appointments to replace the two members of  
7 the North Carolina Parks and Recreation Authority appointed by the  
8 Governor whose terms expire on 30 June 1998, shall appoint one  
9 member under G.S. 143B-313.2(a)(2) to a full two-year term expiring  
10 on 30 June 2000 and shall appoint one member under G.S. 143B-  
11 313.2(a)(3) to a one-year term expiring 30 June 1999.
- 12           (3) The General Assembly, in making appointments to replace the four  
13 members of the North Carolina Parks and Recreation Authority  
14 appointed by the General Assembly upon the recommendation of the  
15 Speaker of the House of Representatives whose terms expire on 30 June  
16 1998, shall appoint two members under G.S. 143B-313.2(a)(4) and G.S.  
17 143B-313.2(a)(6) to full two-year terms expiring on 30 June 2000 and  
18 shall appoint two members under G.S. 143B-313.2(a)(5) and G.S.  
19 143B-313.2(a)(7) to one-year terms expiring 30 June 1999.
- 20           (4) The General Assembly, in making appointments to replace the four  
21 members of the North Carolina Parks and Recreation Authority  
22 appointed by the General Assembly upon the recommendation of the  
23 President Pro Tempore of the Senate whose terms expire on 30 June  
24 1998, shall appoint two members under G.S. 143B-313.2(a)(8) and G.S.  
25 143B-313.2(a)(10) to full two-year terms expiring on 30 June 2000 and  
26 shall appoint two members under G.S. 143B-313.2(a)(9) and G.S.  
27 143B-313.2(a)(11) to one-year terms expiring 30 June 1999.

28 Section 12. G.S. 106-802(4) reads as rewritten:

- 29           "(4) 'Site evaluation' means an investigation to determine if a site meets all  
30 federal and State standards as evidenced by the Waste Management  
31 Facility Site Evaluation Report on file with the Soil and Water  
32 Conservation District office or a comparable report certified by a  
33 professional engineer or a comparable report certified by a technical  
34 specialist approved by the North Carolina Soil and Water Conservation  
35 Commission.

36 ~~Department of Environment, Health and Natural Resources".~~

37 Section 13. G.S. 143-214.12(a) reads as rewritten:

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

1 and riparian areas and for payments made in lieu of compensatory mitigation as described  
2 in subsection (b) of this section. No funds shall be expended from this Fund for any  
3 purpose other than those directly contributing to the acquisition, perpetual maintenance,  
4 enhancement, restoration, or creation of wetlands and riparian areas in accordance with  
5 the basinwide plan as described in ~~subsection (a) of this section.~~ G.S. 143-214.10."

6 Section 14. G.S. 143-215.10G(3) reads as rewritten:

7 "(3) For a system with a design capacity of 800,000 pounds or more steady  
8 state live weight, two hundred dollars (\$200.00)."

9 Section 15. G.S. 143-215.74(b)(3) reads as rewritten:

10 "(3) Subject to subdivision (7) of this subsection, priority designations for  
11 inclusions in the program shall be under the authority of the Soil and  
12 Water Conservation ~~Commission and the~~ Commission. The Soil and  
13 Water Conservation Commission shall retain the authority to allocate  
14 the cost share funds."

15 Section 16. G.S. 143B-282(a) reads as rewritten:

16 "(a) There is hereby created the Environmental Management Commission of the  
17 Department of Environment, Health, and Natural Resources with the power and duty to  
18 promulgate rules to be followed in the protection, preservation, and enhancement of the  
19 water and air resources of the State.

20 (1) Within the limitations of G.S. 143-215.9 concerning industrial health  
21 and safety, the Environmental Management Commission shall have all  
22 of the following powers and duties:

- 23 a. To grant a permit or temporary permit, to modify or revoke a  
24 permit, and to refuse to grant permits pursuant to G.S. 143-215.1  
25 and G.S. 143-215.108 with regard to controlling sources of air  
26 and water ~~pollution;~~ pollution.
- 27 b. To issue a special order pursuant to G.S. 143-215.2(b) and G.S.  
28 143-215.110 to any person whom the Commission finds  
29 responsible for causing or contributing to any pollution of water  
30 within such watershed or pollution of the air within the area for  
31 which standards have been ~~established;~~ established.
- 32 c. To conduct and direct that investigations be conducted pursuant  
33 to G.S. 143-215.3 and G.S. ~~143-215.108(b)(5);~~ 143-215.108(b)(5).
- 34 d. To conduct public hearings, institute actions in superior court,  
35 and agree upon or enter into settlements, all pursuant to G.S. ~~143-~~  
36 ~~215.3;~~ 143-215.3.
- 37 e. To direct the investigation of any killing of fish and wildlife  
38 pursuant to G.S. ~~143-215.3;~~ 143-215.3.
- 39 f. To consult with any person proposing to construct, install, or  
40 acquire an air or water pollution source pursuant to G.S. 143-  
41 215.3 and G.S. ~~143-215.111;~~ 143-215.111.

- 1 g. To encourage local government units to handle air pollution  
2 problems and to provide technical and consultative assistance  
3 pursuant to G.S. 143-215.3 and G.S. ~~143-215.112;~~ 143-215.112.  
4 h. To review and have general oversight and supervision over local  
5 air pollution control programs pursuant to G.S. 143-215.3 and  
6 G.S. ~~143-215.112;~~ 143-215.112.  
7 i. To declare an emergency when it finds a generalized dangerous  
8 condition of water or air pollution pursuant to G.S. ~~143-215.3;~~  
9 143-215.3.  
10 j. To render advice and assistance to local government regarding  
11 floodways pursuant to G.S. ~~143-215.56;~~ 143-215.56.  
12 k. To declare and delineate and modify capacity use areas pursuant  
13 to G.S. ~~143-215.13;~~ 143-215.13.  
14 l. To grant permits for water use within capacity use areas pursuant  
15 to G.S. ~~143-215.15;~~ 143-215.15.  
16 m. To direct that investigations be conducted when necessary to  
17 carry out duties regarding capacity use areas pursuant to G.S.  
18 ~~143-215.19;~~ 143-215.19.  
19 n. To approve, disapprove and approve subject to conditions all  
20 applications for dam construction pursuant to G.S. 143-215.28; to  
21 require construction progress reports pursuant to G.S. ~~143-~~  
22 ~~215.29;~~ 143-215.29.  
23 o. To halt dam construction pursuant to G.S. ~~143-215.29;~~ 143-  
24 215.29.  
25 p. To grant final approval of dam construction work pursuant to  
26 G.S. ~~143-215.30;~~ 143-215.30.  
27 q. To have jurisdiction and supervision over the maintenance and  
28 operation of dams pursuant to G.S. ~~143-215.31;~~ 143-215.31.  
29 r. To direct the inspection of dams pursuant to G.S. ~~143-215.32;~~  
30 143-215.32.  
31 s. To modify or revoke any final action previously taken by the  
32 Commission pursuant to G.S. 143-214.1 and G.S. ~~143-215.107;~~  
33 143-215.107. and  
34 t. To have jurisdiction and supervision over oil pollution pursuant  
35 to Article 21A of Chapter ~~143;~~ 143. ~~[and]~~  
36 u. To administer the State's authority under 33 ~~USC-U.S.C.~~ § 1341  
37 of the federal Clean Water Act."

38 Section 17. Section 17 of Chapter 626 of the 1995 Session Laws (1996  
39 Regular Session) reads as rewritten:

40 "Sec. 17. No later than October 1, 1996, the Environmental Management  
41 Commission and the Soil and Water Conservation Commission, with technical assistance  
42 from the Cooperative Extension Service, shall establish the record-keeping requirements  
43 under G.S. ~~143-215.1C(e)(8);~~ 143-215.10C(e)(8), as enacted by Section 2 of this act. The

1 Natural Resources Conservation Service is encouraged to cooperate fully with  
2 establishing these requirements."

3 Section 18. Section 2 of Chapter 627 of the 1995 Session Laws (1996 Regular  
4 Session) reads as rewritten:

5 "Sec. 2. G.S. ~~113-133(e)~~ 113-133.1(e) is amended by deleting the words  
6 'Currituck: Session Laws 1959, Chapter 545.'"

7 Section 19. This act is effective when it becomes law.