Article 7.

Department of Environmental Quality.

Part 1. General Provisions.

§ 143B-275. Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-276. Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-277. Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-278. Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-279. Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-279.1. Department of Environmental Quality – creation.

(a) There is hereby created and constituted a department to be known as the Department of Environmental Quality, with the organization, powers, and duties defined in this Article and other applicable provisions of law.

(b) The provisions of Article 1 of this Chapter not inconsistent with this Article shall apply to the Department of Environmental Quality. (1989, c. 727, s. 3; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-279.2. Department of Environmental Quality – duties.

It shall be the duty of the Department:

(1) To provide for the protection of the environment;

(1a) To administer the State Outer Continental Shelf (OCS) Task Force and coordinate State participation activities in the federal outer continental shelf resource recovery programs as provided under the OCS Lands Act Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).

(1b) To provide for the protection of the environment and public health through the regulation of solid waste and hazardous waste management and the administration of environmental health programs.

(2) Repealed by Session Laws 1997-443, s. 11A.5, effective August 28, 1997.

(2a) Repealed by Session Laws 2015-241, s. 14.30(kkk), effective July 1, 2015.

(3) To provide for the management of the State's natural resources.

(4) Repealed by Session Laws 2011-145, s. 13.11, effective July 1, 2011. (1989, c. 727, s. 3; 1993, c. 321, s. 28(c); c. 561, s. 116(e); 1997-443, s. 11A.5; 2009-451, s. 13.1A; 2011-145, s. 13.11; 2015-241, ss. 14.30(u), (kkk).)

§ 143B-279.3. Department of Environmental Quality – structure.

(a) All functions, powers, duties, and obligations previously vested in the following subunits of the following departments are transferred to and vested in the Department of Environmental Quality by a Type I transfer, as defined in G.S. 143A-6:

(1) Radiation Protection Section, Division of Health Service Regulation, Department of Health and Human Services.

(2), (3) Repealed by Session Laws 1997-443, s. 11A.6.

(4) Coastal Management Division, Department of Natural Resources and Community Development.
(5) Environmental Management Division, Department of Natural Resources and Community Development.
(6) Repealed by Session Laws 2011-145, s. 13.25(b), effective July 1, 2011.
(7) Land Resources Division, Department of Natural Resources and Community Development.
(8) Marine Fisheries Division, Department of Natural Resources and Community Development.
(9) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(10) Repealed by Session Laws 2011-145, s. 13.22A(c), effective July 1, 2011.
(11) Water Resources Division, Department of Natural Resources and Community Development.
(12) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(13) Albemarle-Pamlico Study.
(14) Office of Marine Affairs, Department of Administration.
(15) Environmental Health Section, Division of Health Services, Department of Health and Human Services.

(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environmental Quality by a Type II transfer, as defined in G.S. 143A-6:

(1) Repealed by Session Laws 1993, c. 501, s. 27.
(2) Radiation Protection Commission, Department of Health and Human Services.
(3) Repealed by Session Laws 1997-443, s. 11A.6.
(4) Water Treatment Facility Operators Board of Certification, Department of Health and Human Services.
(5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.
(9) Coastal Resources Commission, Department of Natural Resources and Community Development.
(10) Environmental Management Commission, Department of Natural Resources and Community Development.
(11) Air Quality Council, Department of Natural Resources and Community Development.
(12) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
(13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
(14) North Carolina Mining Commission, Department of Natural Resources and Community Development.
(15) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
(16) Marine Fisheries Commission, Department of Natural Resources and Community Development.
(17) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
(19) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.

(20) Sedimentation Control Commission, Department of Natural Resources and Community Development.
(21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
(22) Repealed by Session Laws 2015-241, s. 14.30(lll), effective July 1, 2015.
(23) Repealed by Session Laws 1997-286, s. 6.

(c) (1) Repealed by Session Laws 2002, ch. 70, s. 1, effective July 1, 2002.
(2) There is created a division within the environmental area of the Department of Environmental Quality to be named the Division of Waste Management. All functions, powers, duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Health and Human Services are transferred in their entirety to the Division of Waste Management of the Department of Environmental Quality.
(3) Repealed by Session Laws 2011-145, s. 13.3(i), effective July 1, 2011.

(d) The Department of Environmental Quality is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State. (1989, c. 727, s. 3; 1989 (Reg. Sess., 1990), c. 1004, s. 31; 1991, c. 342, ss. 16(a), (b); 1993, c. 321, ss. 28(a), (b); c. 501, s. 27; 1995 (Reg. Sess., 1996), c. 743, s. 20; 1997-286, s. 6; 1997-443, ss. 11A.6, 11A.123; 2002-70, s. 1; 2007-182, s. 1; 2011-145, ss. 13.3(i), 13.25(b), (e), 13.22A(c), (d); 2012-143, s. 1(d); 2013-360, s. 14.3(j); 2014-4, s. 5(c); 2015-241, ss. 14.30(u), (lll).)

§ 143B-279.4. The Department of Environmental Quality – Secretary; Deputy Secretaries.

(a) The Secretary of Environmental Quality shall be the head of the Department.

(b) The Secretary may appoint two Deputy Secretaries. (1989, c. 727, s. 3; 1989 (Reg. Sess., 1990), c. 1004, s. 19(a); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

§ 143B-279.4A. Requirement for Department-issued permits to include statutory or regulatory authority for conditions.

The Department shall include in any permit issued by the Department the statutory or regulatory authority for each permit condition required by the Department. (2023-137, s. 13.)

§ 143B-279.5: Repealed by Session Laws 2017-10, s. 4.6, effective May 4, 2017.

§ 143B-279.6: Repealed by Session Laws 1997-443, s. 11A.2.

§ 143B-279.7. Fish kill response protocols; report.

(a) The Department of Environmental Quality shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Water Resources, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environmental Quality shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:
(1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
(2) Responding to fish kills within 24 hours.
(3) Investigating and collecting data relating to fish kill events.

(4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties.

(b) The Secretary of Environmental Quality shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

(1) Providing adequate training for fish kill investigators.

(2) Taking immediate action to protect public health and the environment.

(3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill.

(c) Repealed by Session Laws 2017-10, s. 4.7, effective May 4, 2017. (1995 (Reg. Sess., 1996), c. 633, s. 4; 1997-443, s. 11A.108A; 2001-452, s. 2.8; 2001-474, ss. 30, 31; 2013-413, s. 57(p); 2014-115, s. 17; 2015-241, ss. 14.30(u), (v); 2017–10, s. 4.7.)

§ 143B-279.8. Coastal Habitat Protection Plans.

(a) The Department shall coordinate the preparation of draft Coastal Habitat Protection Plans for critical fisheries habitats. The goal of the Plans shall be the long-term enhancement of coastal fisheries associated with each coastal habitat identified in subdivision (1) of this subsection. The Department shall use the staff of those divisions within the Department that have jurisdiction over marine fisheries, water quality, and coastal area management in the preparation of the Coastal Habitat Protection Plans and shall request assistance from other federal and State agencies as necessary. The plans shall:

(1) Describe and classify biological systems in the habitats, including wetlands, fish spawning grounds, estuarine or aquatic endangered or threatened species, primary or secondary nursery areas, shellfish beds, submerged aquatic vegetation (SAV) beds, and habitats in outstanding resource waters.

(2) Evaluate the function, value to coastal fisheries, status, and trends of the habitats.

(3) Identify existing and potential threats to the habitats and the impact on coastal fishing.

(4) Recommend actions to protect and restore the habitats.

(b) Once a draft Coastal Habitat Protection Plan has been prepared, the chairs of the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall each appoint two members of the commission he or she chairs to a six-member review committee. The six-member review committee, in consultation with the Department, shall review the draft Plan and may revise the draft Plan on a consensus basis. The draft Plan, as revised by the six-member review committee, shall then be submitted to the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission, each of which shall independently consider the Plan for adoption. If any of the three commissions is unable to agree to any aspect of a Plan, the chair of each commission shall refer that aspect of the Plan to a six-member conference committee to facilitate the resolution of any differences. The six-member conference committee shall be appointed in the same manner as a six-member review committee and may include members of the six-member review committee that reviewed the Plan. Each final Coastal Habitat Protection Plan shall consist of those provisions adopted by all three commissions. The three commissions shall review and revise each Coastal Habitat Protection Plan at least once every five years.

(c) In carrying out their powers and duties, the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall ensure, to

the maximum extent practicable, that their actions are consistent with the Coastal Habitat Protection Plans as adopted by the three commissions. The obligation to act in a manner consistent with a Coastal Habitat Protection Plan is prospective only and does not oblige any commission to modify any rule adopted, permit decision made, or other action taken prior to the adoption or revision of the Coastal Habitat Protection Plan by the three commissions. The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall adopt rules to implement Coastal Habitat Protection Plans in accordance with Chapter 150B of the General Statutes.

(d) If any of the three commissions concludes that another commission has taken an action that is inconsistent with a Coastal Habitat Protection Plan, that commission may request a written explanation of the action from the other commission. A commission shall provide a written explanation: (i) upon the written request of one of the other two commissions, or (ii) upon its own motion if the commission determines that it must take an action that is inconsistent with a Coastal Habitat Protection Plan.

(e) The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on progress in developing and implementing the Coastal Habitat Protection Plans, including the extent to which the actions of the three commissions are consistent with the Plans, on or before September 1 of each year in which any significant revisions to the Plans are made.

(f) Repealed by Session Laws 2017-10, s. 4.11(b), effective May 4, 2017. (1997-400, s. 3.1; 1997-443, s. 11A.119(b); 2011-291, ss. 2.52, 2.53; 2012-201, s. 6; 2015-241, s. 14.30(v); 2017-10, ss. 4.11(a), (b); 2017-57, s. 14.1(m).)

§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet unrestricted use standards, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10 or G.S. 143B-279.11, whichever applies. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner of the land, operator of the facility, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be

enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

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

(1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.

(2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.

(3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.

(4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department.

With respect to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), the imposition of restrictions on the current or future use of real property on such a site shall only be allowed if the

Department has determined that the requirements of G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable, have been satisfied for the site.

(c) This section does not alter any right, duty, obligation, or liability of any owner, operator, or other responsible party under any other provision of law.

(d) As used in this section:

(1) "Unrestricted use standards" means generally applicable standards, guidance, or established methods governing contaminants that are established by statute or adopted, published, or implemented by the Environmental Management Commission, the Commission for Public Health, or the Department. Cleanup or remediation of real property to unrestricted use standards means that the property is restored to a condition such that the property and any use that is made of the property does not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than that posed by use of the property prior to its having been contaminated.

(2) "Risk-based", when used in connection with cleanup, remediation, or similar terms, means cleanup or remediation of contamination of real property to a level that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk to public health, the environment, or users of the real property so long as the property remains in the condition and is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based. (1999-198, s. 1; 2000-51, s. 1; 2001-384, ss. 1, 12; 2002-90, s. 1; 2007-182, s. 2; 2017-209, s. 3(a); 2018-114, s. 18(a).)

§ 143B-279.10. Recordation of contaminated sites.

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9(a) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled "NOTICE OF CONTAMINATED SITE". Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

(b) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section, and shall provide the owner of the site with a notarized copy of the approved Notice. After the Department approves the Notice, the owner of the site shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) Repealed by Session Laws 2012-18, s. 1.22, effective July 1, 2012.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated, or that the contamination has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(g) This section does not apply to the cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(h) The definitions set out in G.S. 143B-279.9 apply to this section.

(i) If a site subject to the requirements of this section is remediated pursuant to the requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of Restricted Use may be prepared and filed in accordance with G.S. 130A-310.71(e) in lieu of a Notice of Residual Contamination or a Notice of Contaminated Site. (1999-198, s. 1; 2000-51, s. 2; 2001-384, s. 2; 2002-90, s. 2; 2012-18, s. 1.22; 2015-286, s. 4.7(e); 2021-158, s. 7(c).)

§ 143B-279.11. Recordation of residual petroleum from underground or aboveground storage tanks or other sources.

(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes.

(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank, aboveground storage tank, or other petroleum source shall prepare and submit to the Department a proposed Notice that meets the requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that would be sufficient as a

description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank, aboveground storage tank, or other petroleum source, or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users of the property.

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

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

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

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

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or

remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(h) With respect to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), the provisions of this section shall only apply if the Department has determined that the requirements of G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable, have been satisfied for the site. (2001-384, s. 3; 2002-90, ss. 3-5; 2012-18, s. 1.23; 2017-209, s. 3(b); 2018-114, s. 18(b).)

§ 143B-279.12. One-stop permits for certain environmental permits.

(a) The Department of Environmental Quality shall establish a one-stop environmental permit application assistance and tracking system program for all its regional offices. The Department shall provide to each person who submits an application for any environmental permit subject to this section to any regional office a time frame within which that applicant may expect a final decision regarding the issuance or denial of the permit. The Department shall identify the environmental permits that are subject to this section. The procedure regulating the time frame estimates and sanction for failing to honor the time frame shall be as set out in subsections (b) and (c) of this section.

(b) Upon receipt of a complete application for an environmental permit, the Department of Environmental Quality shall provide to the applicant a good faith estimate of the date by which the Department expects to make the final decision of whether to issue or deny the permit.

(c) Unless otherwise provided by law, when an applicant has provided to the Department of Environmental Quality the information and documentation required and requested by the Department and the Department fails to issue or deny the permit within 60 days of the date projected by the Department for the final decision of whether to issue or deny the permit, the permit shall be automatically granted to the applicant. This subsection does not apply when an applicant submits a substantial amendment to its application after the Department has provided the applicant the projected time frame as required by this section. This subsection does not apply when an applicant agrees to receive a final decision from the Department more than 60 days from the date projected by the Department under subsection (b) of this section.

(d) The Department of Environmental Quality shall track the time required to process each complete environmental permit application that is subject to this section. The Department shall compare the time in which the permit was issued or denied with the projected time frame provided to the applicant by the Department as required by this section. The Department shall identify each permit that was issued or denied more than 90 days after receipt of a complete application by the Department and shall document the reasons for the delayed action.

(e) Repealed by Session Laws 2008-198, s. 10.1, effective August 8, 2008.

(f) The Department may adopt temporary rules to implement this section. (2004-124, s. 12.12(a); 2006-79, s. 14; 2008-198, s. 10.1; 2015-241, s. 14.30(u).)

§ 143B-279.13. Express permit and certification reviews.

(a) The Department of Environmental Quality shall develop an express review program to provide express permit and certification reviews in all of its regional offices. Participation in the express review program is voluntary, and the program shall be supported by the fees determined pursuant to subsection (b) of this section. The Department of Environmental Quality shall determine the project applications to review under the express review program from those who request to participate in the program. The express review program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water quality certifications and stormwater management. The express review program shall focus on the following permits or certifications:

(1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the General Statutes.
(2) Stream origination certifications under Article 21 of Chapter 143 of the General Statutes.
(3) Water quality certification under Article 21 of Chapter 143 of the General Statutes.
(4) Erosion and sedimentation control permits under Article 4 of Chapter 113A of the General Statutes.
(5) Permits under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.

(a1) The Department of Environmental Quality shall have the authority to create express permitting options for programs in addition to those listed in subsection (a) of this section where it deems there to be a need or where it determines an express permitting option would create greater efficiencies for the permitting process.

(b) The Department of Environmental Quality shall set the fees for express application review under the express review program at a level sufficient to cover all program expenses. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged under subsection (a) of this section for the express review of a project application requiring all of the permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed five thousand eight hundred eight dollars ($5,808). Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged for the express review of a project application requiring all of the permits under subdivisions (1) through (4) of subsection (a) of this section shall not exceed four thousand seven hundred fifty-two dollars ($4,752). Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the express review of a project application for any other combination of permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed four thousand two hundred twenty-four dollars ($4,224). As set forth in subsection (a1) of this section, express review of a project application involving additional permits or certifications issued by the Department of Environmental Quality other than those under subdivisions (1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application that includes a permit, approval, or certification designated for express review under subsection (a1) of this section shall not exceed four thousand two hundred twenty-four dollars ($4,224), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular permit, approval, or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due

to the insufficiency of the permit applications. The Department of Environmental Quality may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the express review program under this section.

(c) Repealed by Session Laws 2008-198, s. 10.2, effective August 8, 2008. (2005-276, s. 12.2(a); 2008-198, s. 10.2; 2015-241, s. 14.30(u); 2023-134, s. 12.13(a).)

§ 143B-279.14. Express Review Fund.

The Express Review Fund is created as a special nonreverting fund. All fees collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The Express Review Fund shall be used for the costs of implementing the express review program under G.S. 143B-279.13 and the costs of administering the program, including the salaries and support of the program's staff. If the express review program is abolished, the funds in the Express Review Fund shall be credited to the General Fund. (2005-276, s. 12.2(a).)

§ 143B-279.15: Repealed by Session Laws 2015-286, s. 4.12(c), effective October 22, 2015.

§ 143B-279.16. Civil penalty assessments.

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environmental Quality, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environmental Quality shall, effective July 1, 2011, extend the period of time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation. (2011-145, s. 13.6; 2015-241, s. 14.30(u).)

§ 143B-279.17. Tracking and report on permit processing times.

The Department of Environmental Quality shall track the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs established by G.S. 143B-279.12 and the Express Permit and Certification Reviews established by G.S. 143B-279.13 that are received by the Department. The processing time tracked shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. No later than January 1 of each odd-numbered year, the Department shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division of the General Assembly, and the Environmental Review Commission on the permit processing times required to be tracked pursuant to this section. The Department shall submit this report with the report required by G.S. 143-215.3A(c) as a single report. (2012-187, s. 13(a); 2015-241, s. 14.30(u); 2017-10, s. 4.12(b); 2017-57, s. 14.1(n).)

§ 143B-279.18. Right to apply and obtain permits.

Except to the extent required by federal or State law, the Department of Environmental Quality shall not refuse to accept an application for a permit, authorization, or certification or refuse to issue any permit, authorization, or certificate based solely on the failure of an applicant to obtain another permit, authorization, or certification required for the same project. For purposes of this section, failure to obtain a permit, authorization, or certification shall not include denial of the permit, authorization, or certification by the Department based on the standards for approval of the permit, authorization, or certification provided by law. (2023-134, s. 12.10(a).)

§ 143B-279.19. Quadriennial adjustment of certain fees and rates.

(a) Adjustment for Legislatively Mandated Salaries and Benefits. – Beginning July 1, 2025, and every four years thereafter, the Department shall adjust the fees and rates imposed pursuant to the statutes listed in this subsection in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics during the prior two bienniums. The adjustment for per transaction rates shall be rounded to the nearest dollar ($1.00):

(1) G.S. 74-54.1.
(2) G.S. 90A-42.
(3) G.S. 90A-47.4.
(4) G.S. 113A-54.2.
(5) G.S. 113A-119.1.
(6) G.S. 130A-291.1.
(7) G.S. 130A-294.1.
(8) G.S. 130A-295.8.
(9) G.S. 130A-310.9.
(10) G.S. 130A-310.39.
(11) G.S. 130A-310.76.
(12) G.S. 130A-328(b).
(13) G.S. 130A-328(c).
(14) G.S. 143-215.3D.
(15) G.S. 143-215.10G.
(16) G.S. 143-215.28A
(17) G.S. 143-215.94C.
(18) G.S. 143-215.119.
(19) G.S. 143-215.125A.
(20) G.S. 143B-279.13.

(b) Rulemaking Exemption. – The fee adjustments required by this section are not subject to the requirements of Article 2A of Chapter 150B of the General Statutes.

(c) Consultation and Publication. – Notwithstanding any provision of G.S. 12-3.1 to the contrary, prior to implementing an adjustment pursuant to subsection (a) of this section the Department must, no later than 90 days prior to the end of the fiscal biennium, (i) consult with the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, (ii) report the proposed fee adjustments to the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division, and (iii) publish notice of the fees that will be in effect in the offices of the Department and on the Department's website. After making the adjustment, the Department shall notify the Revisor of Statutes, who shall adjust the amounts in statute.

(d) Effective Date; Grandfathering. – Any adjustment to fees or rates under this section applicable to an application or request for a permit, certification, or other Department approval submitted to the Department is only applicable to an application or request for a permit, certification, or other Department approval submitted to the Department on or after the effective date of the fee or rate adjustment. No adjustment to fees or rates under this section applies to an application or request for a permit, certification, or other Department approval submitted to the Department prior to the effective date of the fee or rate adjustment. (2023-134, s. 12.14(p).)

§ 143B-279.20. Report on Department activity to process applications for permits required for natural gas pipelines and gas-fired electric generation facilities.

The Department of Environmental Quality shall report on any applications received for permits required for siting or operation of natural gas pipelines and gas-fired electric generation facilities within the State, and activities of the Department to process such applications, including tracking of processing times. The processing time tracked shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. The Department shall report quarterly to the Joint Legislative Commission on Energy Policy pursuant to this section. (2024-45, s. 28(a).)

Part 2. Board of Natural Resources and Community Development.

§ 143B-280: Repealed by Session Laws 1989, c. 727, s. 2.

Part 3. Wildlife Resources Commission.

§ 143B-281: Repealed by Session Laws 1989, c. 727, s. 2.

§ 143B-281.1. Wildlife Resources Commission – transfer; independence preserved; appointment of Executive Director and employees.

The Wildlife Resources Commission, as established by Chapters 75A, 113, and 143 of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environmental Quality by a Type II transfer as defined in G.S. 143A-6. The Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Environmental Quality and, other provisions of this Chapter notwithstanding, shall be subject to the direction and supervision of the Secretary only with respect to the management functions of coordinating and reporting. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the Wildlife Resources Commission shall be appointed by the Commission and the employees of the Commission shall be employed as now provided in G.S. 143-246. (1989, c. 727, s. 4; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

Part 4. Environmental Management Commission.

§ 143B-282. Environmental Management Commission – creation; powers and duties.

(a) There is hereby created the Environmental Management Commission of the Department of Environmental Quality with the power and duty to promulgate rules to be followed in the protection, preservation, and enhancement of the water and air resources of the State.

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

a. To grant a permit or temporary permit, to modify or revoke a permit, and to refuse to grant permits pursuant to G.S. 143-215.1 and G.S. 143-215.108 with regard to controlling sources of air and water pollution.
b. To issue a special order pursuant to G.S. 143-215.2(b) and G.S. 143-215.110 to any person whom the Commission finds responsible for causing or contributing to any pollution of water within such watershed or pollution of the air within the area for which standards have been established.
c. To conduct and direct that investigations be conducted pursuant to G.S. 143-215.3 and G.S. 143-215.108(c)(5).
d. To conduct public hearings, institute actions in superior court, and agree upon or enter into settlements, all pursuant to G.S. 143-215.3.
e. To direct the investigation of any killing of fish and wildlife pursuant to G.S. 143-215.3.
f. To consult with any person proposing to construct, install, or acquire an air or water pollution source pursuant to G.S. 143-215.3 and G.S. 143-215.111.
g. To encourage local government units to handle air pollution problems and to provide technical and consultative assistance pursuant to G.S. 143-215.3 and G.S. 143-215.112.
h. To review and have general oversight and supervision over local air pollution control programs pursuant to G.S. 143-215.3 and G.S. 143-215.112.
i. To declare an emergency when it finds a generalized dangerous condition of water or air pollution pursuant to G.S. 143-215.3.
j. To render advice and assistance to local government regarding floodways pursuant to G.S. 143-215.56.
k. To declare and delineate and modify capacity use areas pursuant to G.S. 143-215.13.
l. To grant permits for water use within capacity use areas pursuant to G.S. 143-215.15.
m. To direct that investigations be conducted when necessary to carry out duties regarding capacity use areas pursuant to G.S. 143-215.19.
n. To approve, disapprove and approve subject to conditions all applications for dam construction pursuant to G.S. 143-215.28; to require construction progress reports pursuant to G.S. 143-215.29.
o. To halt dam construction pursuant to G.S. 143-215.29.
p. To grant final approval of dam construction work pursuant to G.S. 143-215.30.
q. To have jurisdiction and supervision over the maintenance and operation of dams pursuant to G.S. 143-215.31.
r. To direct the inspection of dams pursuant to G.S. 143-215.32.
s. To modify or revoke any final action previously taken by the Commission pursuant to G.S. 143-214.1 and G.S. 143-215.107.

t. To have jurisdiction and supervision over oil pollution and dry-cleaning solvent use, contamination, and remediation pursuant to Article 21A of Chapter 143 of the General Statutes.
u. To administer the State's authority under 33 U.S.C. § 1341 of the federal Clean Water Act.
v. To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.
w. To identify, review, and assess reports prepared by the Department of Environmental Quality that are required by an act of the General Assembly and that the Commission finds would have a significant public interest and to include that assessment in its report to the Environmental Review Commission under subsection (b) of this section.

(2) The Environmental Management Commission shall adopt rules:
a. For air quality standards, emission control standards and classifications for air contaminant sources pursuant to G.S. 143-215.107.
b. For water quality standards and classifications pursuant to G.S. 143-214.1 and G.S. 143-215.
c. To implement water and air quality reporting pursuant to Part 7 of Article 21 of Chapter 143 of the General Statutes.
d. To be applied in capacity use areas pursuant to G.S. 143-215.14.
e. To implement the issuance of permits for water use within capacity use areas pursuant to G.S. 143-215.15 and G.S. 143-215.16.
f. Repealed by Session Laws 1983, c. 222, s. 3.
g. For the protection of the land and the waters over which this State has jurisdiction from pollution by oil, oil products and oil by-products pursuant to Article 21A of Chapter 143.
h. Governing underground tanks used for the storage of oil or hazardous substances pursuant to Articles 21, 21A, or 21B of Chapter 143 of the General Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks.
i. To implement the provisions of Part 2A of Article 21 of Chapter 143 of the General Statutes.
j. To implement the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes.
k. To implement basinwide water quality management plans developed pursuant to G.S. 143-215.8B.
l. For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

(3) The Commission is authorized to make such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for water and air resources purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(4) The Commission shall make rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(5) The Environmental Management Commission shall have the power to adopt rules with respect to any State laws administered under its jurisdiction so as to accept evidence of compliance with corresponding federal law or regulation in lieu of a State permit, or otherwise modify a requirement for a State permit, upon findings by the Commission, and after public hearings, that there are:

a. Similar and corresponding or more restrictive federal laws or regulations which also require an applicant to obtain a federal permit based upon the same general standards or more restrictive standards as the State laws and rules require; and

b. That the enforcement of the State laws and rules would require the applicant to also obtain a State permit in addition to the required federal permit; and

c. That the enforcement of the State laws and rules would be a duplication of effort on the part of the applicant; and

d. Such duplication of State and federal permit requirements would result in an unreasonable burden not only on the applicant, but also on the citizens and resources of the State.

(6) The Commission may establish a procedure for evaluating clean energy technologies that are, or are proposed to be, employed as part of a clean energy facility, as defined in G.S. 62-133.8; establish standards to ensure that clean energy technologies do not harm the environment, natural resources, cultural resources, or public health, safety, or welfare of the State; and, to the extent that there is not an environmental regulatory program, establish an environmental regulatory program to implement these protective standards.

(b) The Environmental Management Commission shall submit written reports as to its operation, activities, programs, and progress to the Environmental Review Commission by January 1 of each year. The Environmental Management Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission.

(c) The Environmental Management Commission shall implement the provisions of subsections (d) and (e) of 33 U.S.C. § 1313 by identifying and prioritizing impaired waters and by developing appropriate total maximum daily loads of pollutants for those impaired waters. The Commission shall incorporate those total maximum daily loads approved by the United States Environmental Protection Agency into its continuing basinwide water quality planning process.

(d) The Environmental Management Commission may adopt rules setting out strategies necessary for assuring that water quality standards are met by any point or nonpoint source or by any category of point or nonpoint sources that is determined by the Commission to be contributing to the water quality impairment. These strategies may include, but are not limited to, additional monitoring, effluent limitations, supplemental standards or classifications, best management practices, protective buffers, schedules of compliance, and the establishment of and delegations to intergovernmental basinwide groups.

(e) In appointing the members of the Commission, the appointing authorities shall make every effort to ensure fair geographic representation of the Commission. (1973, c. 1262, s. 19;

1975, c. 512; 1977, c. 771, s. 4; 1983, c. 222, s. 3; 1985, c. 551, s. 1; 1989, c. 652, s. 2; c. 727, s. 218(128); 1989 (Reg. Sess., 1990), c. 1036, s. 1; 1991 (Reg. Sess., 1992), c. 990, s. 1; 1993, c. 348, s. 3; 1996, 2nd Ex. Sess., c. 18, s. 27.4(b); 1997-392, s. 2(a), (b); 1997-400, s. 3.2; 1997-443, s. 11A.119(a); 1997-458, ss. 8.4, 8.5; 1997-496, s. 16; 1998-212, s. 14.9H(f); 1999-328, s. 4.13; 2001-424, s. 19.13(a); 2002-165, s. 1.9; 2007-397, s. 2(c); 2012-143, s. 2(h); 2015-241, s. 14.30(u); 2017-10, s. 4.13(a); 2017-211, s. 3; 2023-138, s. 1(e).)

§ 143B-282.1. Environmental Management Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Environmental Management Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. This section and any rules adopted by the Environmental Management Commission shall govern such proceedings:

(1) Exceptions to recommended decisions in contested cases shall be filed with the Secretary within 30 days of the receipt by the Secretary of the official record from the Office of Administrative Hearings, unless additional time is allowed by the chairman of the Commission.

(2) Oral arguments by the parties may be allowed by the chairman of the Commission upon request of the parties.

(3) Deliberations of the Commission shall be conducted in its public meeting unless the Commission determines that consultation with its counsel should be held in a closed session pursuant to G.S. 143-318.11.

(b) The final agency decision in contested cases that arise from civil penalty assessments shall be made by the Commission. In the evaluation of each violation, the Commission shall recognize that harm to the natural resources of the State arising from the violation of standards or limitations established to protect those resources may be immediately observed through damaged resources or may be incremental or cumulative with no damage that can be immediately observed or documented. Penalties up to the maximum authorized may be based on any one or combination of the following factors:

(1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

(8) The cost to the State of the enforcement procedures.

(c) The chairman shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which he has an economic interest. The Committee on Civil Penalty Remissions shall make the final agency decision on remission requests. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary and the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner;
(2) Whether the violator promptly abated continuing environmental damage resulting from the violation;
(3) Whether the violation was inadvertent or a result of an accident;
(4) Whether the violator had been assessed civil penalties for any previous violations;
(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(d) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations, and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(e) If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(f) As used in this section, "Secretary" means the Secretary of Environmental Quality. (1989 (Reg. Sess., 1990), c. 1036, s. 2; 1993 (Reg. Sess., 1994), c. 570, s. 5; 1995 (Reg. Sess., 1996), c. 743, s. 21; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)

§ 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by Session Laws 2013-360, s. 14.23(a), effective July 1, 2013.

(a1) Composition. – The Environmental Management Commission shall consist of 15 members as follows:

(1) One appointed by the Governor who shall be a licensed physician.
(2) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.
(3) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in hydrology, water pollution control, or the effects of water pollution.
(4) One appointed by the Governor who shall at the time of appointment have special training or scientific expertise in air pollution control or the effects of air pollution.
(5) One appointed by the Commissioner of Agriculture who shall at the time of appointment be actively connected with or have had experience in agriculture.
(6) One appointed by the Governor who shall at the time of appointment have special training and scientific expertise in freshwater, estuarine, marine biological, or ecological sciences or be actively connected with or have had experience in the fish and wildlife conservation activities of the State.
(7) One appointed by the Governor who shall at the time of appointment be actively employed by, or recently retired from, an industrial manufacturing facility and shall be knowledgeable in the field of industrial pollution control.

(8) One appointed by the Governor who shall at the time of appointment be a licensed engineer with specialized training and experience in water supply or water or air pollution control.
(9) One appointed by the Commissioner of Agriculture who shall serve at large.
(10) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
(11) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
(12) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 who shall serve at large.
(13) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.
(14) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.
(15) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 who shall serve at large.

(b) Filling of Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivision (1), (2), (3), (4), (6), (7), or (8) of subsection (a1) of this section. The Commissioner may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subdivision (5) or (9) of subsection (a1) of this section. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

(b1) Removal of Members. – Each appointing authority may remove any member of the Commission appointed by that appointing authority from office for misfeasance, malfeasance, or nonfeasance.

(b2) Per Diem and Expenses. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) Commission Staff, Structure, and Function. –

(1) The chair is authorized and empowered to employ professional, administrative, technical, and clerical personnel as the chair may determine to be necessary in the proper discharge of the Commission's duty and responsibility as provided by law. The chair shall organize and direct the work of the Commission staff. Any additional clerical and other services required by the Commission shall be supplied by the Secretary of the Department at the direction of the chair.

(2) The salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(3) The chair, within allowed budgetary limits and as allowed by law, shall authorize and approve travel, subsistence, and related expenses of such personnel incurred while traveling on official business.

(c) Repealed by Session Laws 2015-9, s. 1.2, effective April 27, 2015.

(c1) Ethics. – All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest. The Governor may require additional disclosure of potential conflicts of interest by members. The Governor may promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

(d) Repealed by Session Laws 2013-360, s. 14.23(a), effective July 1, 2013.

(e) Terms. – Members of the Commission shall serve terms of four years. (1973, c. 1262, s. 20; 1977, c. 771, s. 4; 1979, 2nd Sess., c. 1158, ss. 5, 6; 1981 (Reg. Sess., 1982), c. 1191, s. 19; 1989, c. 315; c. 727, s. 218(129); 1995, c. 490, s. 18; 1997-381, s. 1; 1997-443, s. 11A.119(a); 1998-217, s. 17; 2000-172, ss. 4.1, 4.2; 2001-486, s. 2.16; 2007-182, s. 2; 2013-360, s. 14.23(a); 2015-9, s. 1.2; 2015-241, s. 14.30(v); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2023-136, s. 2.1(a); 2023-139, s. 6.1(a); 2025-97, s. 4.3(a).)

§ 143B-284. Environmental Management Commission – officers.

The Environmental Management Commission shall have a chairman and a vice-chairman elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of their regularly appointed terms whichever comes first. (1973, c. 1262, s. 21; 2023-136, s. 2.1(b).)

§ 143B-285. Environmental Management Commission – meetings.

The Environmental Management Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members. (1973, c. 1262, s. 22.)

§§ 143B-285.1 through 143B-285.9. Reserved for future codification purposes.

Part 4A. Governor's Waste Management Board.

§§ 143B-285.10 through 143B-285.15: Repealed by Session Laws 1993, c. 501, s. 1.

§§ 143B-285.16 through 143B-285.19. Reserved for future codification purposes.

Part 4B. Office of Environmental Education and Public Affairs.

§ 143B-285.20. Short title.

This Part shall be known and cited as the Environmental Education Act of 1993. (1993, c. 501, s. 28.)

§ 143B-285.21. Declaration of purpose.

The purpose of this Part shall be to encourage, promote, and support the development of programs, facilities, and materials for the purpose of environmental education in North Carolina. (1993, c. 501, s. 28.)

§ 143B-285.22. Creation.

There is hereby created the Office of Environmental Education and Public Affairs (hereinafter referred to as "Office") within the Department of Environmental Quality. (1993, c. 501, s. 28; 1997-443, s. 11A.119(a); 2010-31, s. 13.1A(c); 2015-241, s. 14.30(u).)

§ 143B-285.23. Powers and duties of the Secretary of Environmental Quality.

The Secretary of Environmental Quality shall:

(1) Establish an Office of Environmental Education and Public Affairs to:
   a. Serve as a clearinghouse of environmental information for the State.
   b. Plan for the Department's future needs for environmental education materials and programs.
   c. Maintain a computerized database of existing education materials and programs within the Department.
   d. Maintain a speaker's bureau of environmental specialists to address environmental concerns and issues in communities across the State.
   e. Evaluate opportunities for establishing regional environmental education centers.
   f. Administer the Project Tomorrow Award Program to encourage school children to discover and explore ways to protect the environment.
   g. Assist the Department of Public Instruction in integrating environmental education into course curricula.
   h. Develop and implement a grants and award program for environmental education projects in schools and communities.

(2) Coordinate, through technical assistance and staff support and with participation of the Department of Public Instruction and other relevant agencies, institutions, and citizens, the planning and implementation of a statewide program of environmental education.

(3) Be responsible for such matters as the purchase of educational equipment, materials, and supplies; the construction or modification of facilities; and the employment of consultants and other personnel necessary to carry out the provisions of this Part.

(4) Encourage coordination between the various State and federal agencies, citizens groups, and the business and industrial community, in the dissemination of environmental information and education.

(5) Utilize existing programs, educational materials, or facilities, both public and private, wherever feasible. (1993, c. 501, s. 28; 1997-443, s. 11A.119(a); 2010-31, s. 13.1A(d); 2015-241, s. 14.30(v).)

§ 143B-285.24. Grants and awards.

The objective of grants and awards made under the provisions of this Part shall be to promote the further development of local and regional environmental education and information dissemination to aid especially, but not be limited to, school-age children. The Office shall recommend each year to the Governor recipients for the Project Tomorrow Award, which the Governor shall award for outstanding environmental projects by elementary schools in North Carolina. (1993, c. 501, s. 28.)

§ 143B-285.25. Liaison between the Office of Environmental Education and Public Affairs and the Department of Public Instruction.

The Superintendent of the Department of Public Instruction shall identify an environmental education liaison within the Office of Instructional Services of the Department of Public Instruction to:

(1) Coordinate environmental education within the State curriculum and among the Department and other State agencies.
(2) Conduct teacher training in environmental education topics in conjunction with Department and other State agencies.
(3) Coordinate and integrate topics within the various curriculum areas of the standard course of study.
(4) Promote awareness of environmental issues to the public and to the school communities, including students, teachers, and administrators.
(5) Establish a repository of environmental education instructional materials and disseminate information on the availability of these materials to schools.
(6) Promote and facilitate the sharing of information through electronic networks to all schools. (1993, c. 501, s. 28; 2010-31, s. 13.1A(e).)

Part 5. Marine Fisheries Commission.

§§ 143B-286 through 143B-289: Repealed by Session Laws 1987, c. 641, s. 1.

Part 5A. Marine Fisheries Commission.

§§ 143B-289.1 through 143B-289.12: Repealed by Session Laws 1997-400, s. 6.3.

§§ 143B-289.13 through 143B-289.18: Reserved for future codification purposes.

Part 5B. Office of Marine Affairs.

§§ 143B-289.19 through 143B-289.23: Recodified as §§ 143B-289.40 through 143B-289.44 by Session Laws 1997-400, ss. 6, 6.3(b).

§§ 143B-289.24 through 143B-289.39: Reserved for future codification purposes.

Part 5C. Division of North Carolina Aquariums.

§ 143B-289.40: Recodified as G.S. 143B-135.180 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.41: Recodified as G.S. 143B-135.182 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.42: Recodified as G.S. 143B-135.184 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.43: Recodified as G.S. 143B-135.186 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.44: Recodified as G.S. 143B-135.188 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.45: Recodified as G.S. 143B-135.190 by Session Laws 2015-241, s. 14.30(g), effective July 1, 2015.

§ 143B-289.46. Reserved for future codification purposes.

§ 143B-289.47. Reserved for future codification purposes.

§ 143B-289.48. Reserved for future codification purposes.

§ 143B-289.49. Reserved for future codification purposes.

Part 5D. Marine Fisheries Commission.

§ 143B-289.50. Definitions.

(a) As used in this part:

(1) "Commission" means the Marine Fisheries Commission.

(2) "Department" means the Department of Environmental Quality.

(3) "Fisheries Director" means the Director of the Division of Marine Fisheries of the Department of Environmental Quality.

(4) "Secretary" means the Secretary of Environmental Quality.

(b) The definitions set out in G.S. 113-129 and G.S. 113-130 shall apply throughout this Part. (1997-400, s. 2.1; 1997-443, s. 11A.123; 2015-241, ss. 14.30(u), (v).)

§ 143B-289.51. Marine Fisheries Commission – creation; purposes.

(a) There is hereby created the Marine Fisheries Commission in the Department of Environmental Quality.

(b) The functions, purposes, and duties of the Marine Fisheries Commission are to:

(1) Manage, restore, develop, cultivate, conserve, protect, and regulate the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132.

(2) Implement the laws relating to coastal fisheries, coastal fishing, shellfish, crustaceans, and other marine and estuarine resources enacted by the General Assembly by the adoption of rules and policies, to provide a sound, constructive, comprehensive, continuing, and economical coastal fisheries program directed by citizens who are knowledgeable in the protection, restoration, proper use, and management of marine and estuarine resources.

(3) Implement management measures regarding ocean and marine fisheries in the Atlantic Ocean consistent with the authority conferred on the State by the United States.

(4) Advise the State regarding ocean and marine fisheries within the jurisdiction of the Atlantic States Marine Fisheries Compact, the South Atlantic Fishery Management Council, the Mid-Atlantic Fishery Management Council, and other similar organizations established to manage or regulate fishing in the Atlantic Ocean. (1997-400, s. 2.1; 1997-443, s. 11A.119(b); 2015-241, s. 14.30(u).)

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

(a) The Marine Fisheries Commission shall adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries resources. The Marine Fisheries Commission shall have the power and duty:

(1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:
   a. Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish.
   b. Seasons for taking fish.
   c. Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.

(2) To provide fair regulation of commercial and recreational fishing groups in the interest of the public.

(3) To adopt rules and take all steps necessary to develop and improve mariculture, including the cultivation, harvesting, and marketing of shellfish and other marine resources in the State, involving the use of public grounds and private beds as provided in G.S. 113-201.

(4) To close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204.

(5) In the interest of conservation of the marine and estuarine resources of the State, to institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of the State registered with the Department as provided in G.S. 113-206(d).

(6) To make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223.

(7) To adopt relevant provisions of federal laws and regulations as State rules pursuant to G.S. 113-228.

(8) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, a particular rule of the Commission that may be affected by variable conditions as provided in G.S. 113-221.1.

(9) To comment on and otherwise participate in the determination of permit applications received by State agencies that may have an effect on the marine and estuarine resources of the State.

(10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to establish a Priority List to determine the order in which Fishery Management Plans are developed, to establish a Schedule for the development and adoption of each Fishery Management Plan, and to establish guidance criteria as to the contents of Fishery Management Plans.
(11) To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.
(12) Except as may otherwise be provided, to make the final agency decision in all contested cases involving matters within the jurisdiction of the Commission.
(13) To adopt rules to define fishing gear as either recreational gear or commercial gear.

(b) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules:

(1) To implement the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134.
(2) To manage the disposition of confiscated property as set forth in G.S. 113-137.
(3) To govern all license requirements prescribed in Article 14A of Chapter 113 of the General Statutes.
(4) To regulate the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of the State as provided in G.S. 113-170.
(5) To regulate the possession, transportation, and disposition of seafood, as provided in G.S. 113-170.4.
(6) To regulate the disposition of the young of edible fish, as provided by G.S. 113-185.
(7) To manage the leasing of public grounds for mariculture, including oysters and clam production, as provided in G.S. 113-202.
(8) To govern the utilization of private fisheries, as provided in G.S. 113-205.
(9) To impose further restrictions upon the throwing of fish offal in any coastal fishing waters, as provided in G.S. 113-265.
(10) To regulate the location and utilization of artificial reefs in coastal waters.
(11) To regulate the placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational or recreational safety as well as from a conservation standpoint.

(c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:

(1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities.
(2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to carry out its duties.

(d) The Commission may adopt rules required by the federal government for grants-in-aid for coastal resource purposes that may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.

(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars ($500.00).

(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid.

(e) The Commission may adopt rules to implement or comply with a fishery management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption or amendment of a fishery management plan or the notification of a change in management measures needed to remain in compliance with a fishery management plan.

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

(f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to accomplish the purposes for which it was created.

(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, email address, Commission-issued customer identification number, date of birth, and telephone number.

(i) The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission.

(j) The Commission may not adopt rules regulating cages, poles, anchoring systems, or any above-water frames or structural supports used to suspend or hold in place equipment or floating structures used for aquaculture as defined in G.S. 106-758. (1997-400, ss. 2.1, 2.2; 1997-443, s. 11A.123; 1998-217, s. 18(a); 1998-225, ss. 1.3, 1.4, 1.5; 2001-474, s. 32; 2003-154, s. 3; 2004-187, ss. 7, 8; 2006-255, ss. 11.2, 12; 2012-190, s. 5; 2012-200, s. 17; 2013-360, ss. 14.8(v), 14.8(w); 2015-241, s. 14.30(u); 2017-10, s. 2.1(b); 2024-45, s. 16.1(b); 2025-25, s. 29(1).)

§ 143B-289.53. Marine Fisheries Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Marine Fisheries Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the

General Statutes. This section and any rules adopted by the Marine Fisheries Commission shall govern the following proceedings:

(1) Exceptions to recommended decisions in contested cases shall be filed with the Secretary within 30 days of the receipt by the Secretary of the official record from the Office of Administrative Hearings, unless additional time is allowed by the Chair of the Commission.

(2) Oral arguments by the parties may be allowed by the Chair of the Commission upon request of the parties.

(3) Deliberations of the Commission shall be conducted in its public meeting unless the Commission determines that consultation with its counsel should be held in a closed session pursuant to G.S. 143-318.11.

(b) The final agency decision in contested cases that arise from civil penalty assessments shall be made by the Commission. In the evaluation of each violation, the Commission shall recognize that harm to the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, arising from the violation of a statute or rule enacted or adopted to protect those resources may be immediately observed through damaged resources or may be incremental or cumulative with no damage that can be immediately observed or documented. Penalties up to the maximum authorized may be based on any one or combination of the following factors:

(1) The degree and extent of harm to the marine and estuarine resources within the jurisdiction of the Commission, as described in G.S. 113-132; to the public health; or to private property resulting from the violation.

(2) The frequency and gravity of the violation.

(3) The cost of rectifying the damage.

(4) Whether the violation was committed willfully or intentionally.

(5) The prior record of the violator in complying or failing to comply with programs over which the Marine Fisheries Commission has regulatory authority.

(6) The cost to the State of the enforcement procedures.

(c) The Chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. The Committee on Civil Penalty Remissions shall make the final agency decision on remission requests. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary and the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.

(2) Whether the violator promptly abated continuing environmental damage resulting from the violation.

(3) Whether the violation was inadvertent.

(4) Whether the violator had been assessed civil penalties for any previous violations.

(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(d) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(e) If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(f) The Secretary may delegate his powers and duties under this section to the Fisheries Director. (1997-400, s. 2.1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)

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

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

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

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

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

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

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

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

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

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

(9) One person who is a fisheries scientist having special training and expertise in marine and estuarine fisheries biology, ecology, population dynamics, water quality, habitat protection, or similar knowledge. A person appointed under this subdivision may not receive more than ten percent (10%) of annual earned

income from either the commercial or sports fishing industries, including the processing and distribution of seafood.

(b) Residential Qualifications. – For purposes of providing regional representation on the Commission, the following three coastal regions of the State are designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of subsection (a) of this section shall be residents of one of the coastal regions of the State. The membership of the Commission shall include at least one person who is a resident of each of the three coastal regions of the State.

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

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

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

(f) Oath of Office. – Each member of the Commission, before assuming the duties of office, shall take an oath of office as provided in Chapter 11 of the General Statutes.

(g) Ethical Standards. –

(1) Disclosure statements. – Any person under consideration for appointment to the Commission shall provide both a financial disclosure statement and a potential bias disclosure statement to the Governor. A financial disclosure statement shall include statements of the nominee's financial interests in and related to State fishery resources use, licenses issued by the Division of Marine Fisheries held by the nominee or any business in which the nominee has a financial interest, and uses made by the nominee or by any business in which the nominee has a financial interest of the regulated resources. A potential bias disclosure statement shall include a statement of the nominee's membership or other affiliation with, including offices held, in societies, organizations, or advocacy groups pertaining to the management and use of the State's coastal fishery resources. Disclosure statements shall be treated as public records under Chapter 132 of the General Statutes and shall be updated on an annual basis.

(2) Voting/conflict of interest. – A member of the Commission shall not vote on any issue before the Commission that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link

between the decision of the Commission and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Commission shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Commission shall not use the member's official position as a member of the Commission to secure any special privilege or exemption of substantial value for any person. No member of the Commission shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties.

(3) Regular attendance. – It shall be the duty of each member of the Commission to regularly attend meetings of the Commission.

(h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any member of the Commission for misfeasance, malfeasance, or nonfeasance.

(i) Office May Be Held Concurrently With Others. – The office of member of the Marine Fisheries Commission may be held concurrently with any other elected or appointed office, as authorized by Article VI, Section 9, of the Constitution of North Carolina.

(j) Compensation. – Members of the Commission who are State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same manner as State officers or employees. All other Commission members shall receive per diem compensation and reimbursement in accordance with the compensation rate established in G.S. 93B-5.

(k) Staff. – All clerical and other services required by the Commission shall be supplied by the Fisheries Director and the Department.

(*l*) Legal Services. – The Attorney General shall: (i) act as attorney for the Commission; (ii) at the request of the Commission, initiate actions in the name of the Commission; and (iii) represent the Commission in any appeal or other review of any order of the Commission.

(m) Transparency. – The Commission shall establish official email accounts for all Commission members. These email accounts shall be used for all electronic communications related to the work of the Commission and those communications shall be considered public records under Chapter 132 of the General Statutes. Other than routine communication sent from Division staff to all Commission members, electronic communications among a majority of the Commission shall be an "official meeting" as defined in Article 33C of Chapter 143 of the General Statutes. Failure to comply with this subsection shall be subject to investigation by the State Ethics Commission as unethical conduct and removal under subsection (h) of this section as misfeasance. Nothing in this subsection is intended to limit or eliminate any privilege existing at common law or under statute. (1997-400, s. 2.1; 1998-225, ss. 1.6, 1.7; 2001-213, s. 5; 2013-360, s. 14.7(b); 2017-6, s. 3; 2017-190, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2025-25, s. 29(1).)

§ 143B-289.55. Marine Fisheries Commission – officers; organization; seal.

(a) The Governor shall appoint a member of the Commission to serve as Chair. The Chair shall serve at the pleasure of the Governor. The Commission shall elect one of its members to serve

as Vice-Chair. The Vice-Chair shall serve a one-year term beginning 1 July and ending 30 June of the following year. The Vice-Chair may serve any number of consecutive terms.

(b) The Chair shall guide and coordinate the activities of the Commission in fulfilling its duties as set out in this Article. The Chair shall report to and advise the Governor and the Secretary on the activities of the Commission, on marine and estuarine conservation matters, and on all marine fisheries matters.

(c) The Commission shall determine its organization and procedure in accordance with the provisions of this Article. The provisions of the most recent edition of Robert's Rules of Order shall govern any procedural matter for which no other provision has been made.

(d) The Commission may adopt a common seal and may alter it as necessary. (1997-400, s. 2.1.)

§ 143B-289.56. Marine Fisheries Commission – meetings; quorum.

(a) The Commission shall meet at least once each calendar quarter and may hold additional meetings at any time and place within the State at the call of the Chair or upon the written request of at least four members. At least three of the four quarterly meetings of the Commission shall be held in one of the coastal regions designated in G.S. 143B-289.54.

(b) (1) Six members of the Commission shall constitute a quorum for the transaction of business.

(2) A quorum of the Commission may transact business only if one member, other than the Chair, appointed pursuant to subdivision (1), (2), or (3) of G.S. 143B-289.54(a) and one member, other than the Chair, appointed pursuant to subdivision (4), (5), or (6) of G.S. 143B-289.54(a) are present.

(c) If the Commission is unable to transact business because the requirements of subdivision (2) of subsection (b) of this section are not met, the Chair shall call another meeting of the Commission within 30 days and shall place on the agenda for that meeting every matter with respect to which the Commission was unable to transact business. Five members of the Commission shall constitute a quorum for the transaction of business at a meeting called under this subsection. The requirements of subdivision (2) of subsection (b) of this section shall not apply to a meeting called under this subsection. (1997-400, s. 2.1; 1998-225, s. 1.8.)

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

(a) The Commission shall be assisted in the performance of its duties by four standing advisory committees and four regional advisory committees. Each standing and regional advisory committee shall consist of no more than 11 members. The Chair of the Commission shall designate one member of each advisory committee to serve as Chair of the committee. Members shall serve staggered three-year terms as determined by the Commission. The Commission shall establish other policies and procedures for standing and regional advisory committees that are consistent with those governing the Commission as set out in this Part.

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

(1) The Finfish Committee, which shall consider matters concerning finfish.

(2), (3) Repealed by Session Laws 2012-190, s. 4(a), and Session Laws 2012-200, s. 16(a), effective July 1, 2012.

(3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and crabs.

(4) The Habitat and Water Quality Committee, which shall consider matters concerning habitat and water quality that may affect coastal fisheries resources.

(c) Each standing advisory committee shall be composed of commercial and recreational fishermen, scientists, and other persons who have expertise in the matters to be considered by the advisory committee to which they are appointed. In making appointments to advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented and shall consider for appointment persons who are recommended by groups representing commercial fishing interests, recreational fishing interests, environmental protection and conservation interests, and other groups interested in coastal fisheries management.

(d) Each standing advisory committee shall review all matters referred to the committee by the Commission and shall make findings and recommendations on these matters. A standing advisory committee may, on its own motion, make findings and recommendations as to any matter related to its subject area. The Commission, in the performance of its duties, shall consider all findings and recommendations submitted by standing advisory committees.

(e) The Chair of the Commission shall appoint a Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented.

(f) Repealed by Session Laws 2026-11, s. 21(a), effective June 22, 2026, and applicable to contested cases filed on or after that date. (1997-400, s. 2.1; 2012-190, s. 4(a); 2012-200, s. 16(a); 2019-37, s. 6(a); 2026-11, s. 21(a).)

§ 143B-289.58: Repealed by Session Laws 2013-360, s. 14.10, effective July 1, 2013.

§ 143B-289.59. Conservation Fund; Commission may accept gifts.

(a) The Marine Fisheries Commission may accept gifts, donations, or contributions from any sources. These funds shall be held in a separate account and used solely for the purposes of marine and estuarine conservation and management. These funds shall be administered by the Marine Fisheries Commission and shall be used for marine and estuarine resources management, including education about the importance of conservation, in a manner consistent with marine and estuarine conservation management principles.

(b) The Marine Fisheries Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special marine and estuarine resources Conservation Fund that shall be made available to the Marine Fisheries Commission for conservation, protection, enhancement, preservation, and perpetuation of marine and estuarine species that may be endangered or threatened with extinction and for education about these issues. The special Conservation Fund is subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). Emblems of different sizes, shapes, types, or designs may be used to recognize contributions in different amounts, but no emblem shall be

issued for a contribution amounting in value to less than five dollars ($5.00). (1997-400, s. 2.1; 2014-100, s. 14.21(a).)

§ 143B-289.60. Article subject to Chapter 113.

Nothing in this Article shall be construed to affect the jurisdictional division between the Marine Fisheries Commission and the Wildlife Resources Commission contained in Subchapter IV of Chapter 113 of the General Statutes or in any way to alter or abridge the powers and duties of the two agencies conferred in that Subchapter. (1997-400, s. 2.1.)

§ 143B-289.61. Jurisdictional questions.

In the event of any question arising between the Wildlife Resources Commission and the Marine Fisheries Commission or between the Department of Environmental Quality and the Marine Fisheries Commission as to any duty, responsibility, or authority imposed upon any of these bodies by law or with respect to conflict involving rules or administrative practices, the question or conflict shall be resolved by the Governor, whose decision shall be binding. (1997-400, s. 2.1; 1997-443, s. 11A.123; 1997-443, s. 11A.123; 2015-241, s. 14.30(u).)

§§ 143B-289.62 through 143B-289.65. Reserved for future codification purposes.

Part 6. North Carolina Mining Commission.

§ 143B-290. North Carolina Mining Commission – creation; powers and duties.

There is hereby created the North Carolina Mining Commission of the Department of Environmental Quality with the power and duty to promulgate rules for the enhancement of the mining resources of the State.

(1) The North Carolina Mining Commission shall have the following powers and duties:
   a. To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.
   b. Repealed by Session Laws 2002-165, s. 1.10, effective October 23, 2002.
   c. To hear permit appeals, conduct a full and complete hearing on such controversies and affirm, modify, or overrule permit decisions made by the Department pursuant to G.S. 74-61.
   d. To promulgate rules necessary to administer the Mining Act of 1971, pursuant to G.S. 74-63.
   e. To promulgate rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983, pursuant to G.S. 74-86.

(2) The Commission is authorized to make such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(3) The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(4) Recodified as § 74-54.1 by c. 1039, s. 16, effective July 24, 1992. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a); 2015-241, s. 14.30(u).)

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

(a) Repealed by 2014-4, s. 5(a), effective July 31, 2015.

(a1) Members, Selection. – The North Carolina Mining Commission shall consist of eight members appointed as follows:

(1) One member who is the executive director of the North Carolina State University Minerals Research Laboratory, or the executive director's designee, ex officio and nonvoting.

(2) The State Geologist, ex officio and nonvoting.

(3) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(4) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(5) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(6) One member appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who is a representative of the mining industry.

(7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who is a representative of a nongovernmental conservation interest.

(8) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who is a representative of a nongovernmental conservation interest.

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Terms. – The term of office of a member of the Commission is four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. At the expiration of each member's term, the appointing authority shall replace the

member with a new member of like qualifications for a term of four years. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:

(1) The initial appointments made by the Governor:
   a. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2020.
   b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.
   c. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2019.
   d. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(2) The initial appointment made by the General Assembly upon recommendation of the Speaker of the House of Representatives pursuant to subdivision (a1)(7) of this section shall expire December 31, 2018.

(3) The initial appointment made by the General Assembly upon recommendation of the President Pro Tempore of the Senate pursuant to subdivision (a1)(8) of this section shall expire December 31, 2018.

(c) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in accordance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(d) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13, or for good cause.

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

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

(g) Staff. – All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality. The Commission staff shall be housed in the Department of Environmental Quality and supervised by the Secretary of Environmental Quality. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 2006-79, ss. 3 and 4; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a); 2015-241, s. 14.30(v); 2016-95, s. 6(a); 2021-180, s. 12.23(c).)

§ 143B-292. North Carolina Mining Commission – officers.

(a) Officers. – The North Carolina Mining Commission shall have a chair and a vice-chair. The chair shall be designated by the Governor from among the members of the Commission to

serve as chair at the pleasure of the Governor. The vice-chair shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of the vice-chair's regularly appointed term.

(b) Alternate Leadership in Absence of Chair Designation. – If the Governor has not designated a chair by July 1 of the year following the expiration of the term of the previous chair, then the vice-chair shall exercise the powers and duties of the chair until the Governor designates a chair or the expiration of the vice-chair's regularly appointed term, whichever first occurs. Upon the expiration of the vice-chair's regularly appointed term, the Commission shall elect a new vice-chair in the manner described in subsection (a) of this section who shall act as chair as set forth in this subsection until the Governor designates a chair as set forth in subsection (a) of this section. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 2006-79, s. 5; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a); 2021-180, s. 12.23(a).)

§ 143B-293. North Carolina Mining Commission – meetings.

The North Carolina Mining Commission shall meet at least semiannually and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least four members. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443-11A.119(a); 2002-165, s. 1.10; repealed by 2012-143, s. (1)(a), effective August 1, 2012; reenacted by 2014-4, s. 5(a).)

Part 6A. North Carolina Oil and Gas Commission.

§ 143B-293.1. North Carolina Oil and Gas Commission – creation; powers and duties.

(a) There is hereby created the North Carolina Oil and Gas Commission of the Department of Environmental Quality with the power and duty to adopt rules necessary to administer the Oil and Gas Conservation Act pursuant to G.S. 113-391 and for the development of the oil and gas resources of the State. The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; (iii) classify wells for taxing purposes; and (iv) require integration of interests as provided in G.S. 113-393.

(c) The Commission shall submit annual written reports as to its operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due. (1973, c. 1262, s. 29; 1977, c. 771, s. 4; 1983, c. 279, s. 2; 1989, c. 727, s. 193; 1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1997-443, s. 11A.119(a); 2002-165, s. 1.10; 2012-143, s. 1(b); 2014-4, ss. 4(a), 7(b); 2015-241, s. 14.30(u).)

§ 143B-293.2. North Carolina Oil and Gas Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by Session Laws 2014-4, s. 4(a), effective July 31, 2015.

(a1) Members Selection. – The North Carolina Oil and Gas Commission shall consist of nine members appointed as follows:

(1) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who, at the time of initial appointment, is an elected official of a municipal government located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as an elected official of a municipal government but may not be reappointed to a subsequent term.

(2) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who shall be a geologist with experience in oil and gas exploration and development.

(3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who is a member of a nongovernmental conservation interest.

(4) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who, at the time of initial appointment, is a member of a county board of commissioners of a county located in a region of North Carolina that has oil and gas potential. A person serving in this seat may complete a term on the Commission even if the person is no longer serving as county commissioner but may not be reappointed to a subsequent term.

(5) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who is a member of a nongovernmental conservation interest.

(6) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who shall be an engineer with experience in oil and gas exploration and development.

(7) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a representative of a publicly traded natural gas company.

(8) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

(9) One appointed by the Governor subject to confirmation in conformance with Section 5(8) of Article III of the North Carolina Constitution, with experience in matters related to public health.

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this

subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Terms. – The term of office of members of the Commission is four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. A member may be reappointed to no more than two consecutive four-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a1) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:

(1) The initial appointments made by the Governor:
   a. Pursuant to subdivision (a1)(1) of this section shall expire December 31, 2020.
   b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.
   c. Pursuant to subdivision (a1)(7) of this section shall expire December 31, 2020.
   d. Pursuant to subdivision (a1)(8) of this section shall expire December 31, 2019.
   e. Pursuant to subdivision (a1)(9) of this section shall expire December 31, 2019.

(2) The initial appointments made by the General Assembly upon recommendation of the Speaker of the House of Representatives:
   a. Pursuant to subdivision (a1)(2) of this section shall expire December 31, 2018.
   b. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2019.

(3) The initial appointments made by the General Assembly upon recommendation of the President Pro Tempore of the Senate:
   a. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2018.
   b. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(c) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in conformance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not in session and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General

Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(c1) Removal. – The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973, or for good cause.

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

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

(f) Staff. – All staff support required by the Commission shall be supplied by the Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey, and supervised by the Secretary of Environmental Quality.

(g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be established under G.S. 143B-293.6, the chair may establish other committees from members of the Commission to address specific issues as appropriate. No member of a committee may hear or vote on any matter in which the member has an economic interest. A majority of a committee shall constitute a quorum for the transaction of business.

(h) Office May Be Held Concurrently With Others. – Membership on the Oil and Gas Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1. (1973, c. 1262, s. 30; 1997-496, s. 8; 2006-79, ss. 3, 4; 2012-143, s. 1(b); 2012-187, s. 1.1; 2013-365, s. 3(a); 2014-4, s. 4(a); 2016-95, s. 7(a); 2017-212, s. 4.8(a).)

§ 143B-293.3: Reserved for future codification purposes.

§ 143B-293.4. North Carolina Oil and Gas Commission – officers.

The Oil and Gas Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve one-year terms beginning August 1 and ending July 31 of the following year. The chair and vice-chair may serve any number of terms, but not more than two terms consecutively. (1973, c. 1262, s. 31; 2006-79, s. 5; 2012-143, s. 1(b); 2014-4, s. 4(a).)

§ 143B-293.5. North Carolina Oil and Gas Commission – meetings.

The Oil and Gas Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least five members. (1973, c. 1262, s. 32; 2006-79, s. 6; 2012-143, s. 1(b); 2014-4, s. 4(a).)

§ 143B-293.6. North Carolina Oil and Gas Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Oil and Gas Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary or the Secretary's designee and all of the following factors:

(1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.
(2) Whether the violator promptly abated continuing environmental damage resulting from the violation.
(3) Whether the violation was inadvertent or a result of an accident.
(4) Whether the violator had been assessed civil penalties for any previous violations.
(5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(c) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions. (2012-143, s. 1(b); 2014-4, s. 4(a).)

Part 7. Soil and Water Conservation Commission.

§§ 143B-294 through 143B-297.1: Recodified as Article 71 of Chapter 106, G.S. 106-840 through G.S. 106-844, by Session Laws 2011-145, s. 13.22A(e), effective July 1, 2011.

Part 8. Sedimentation Control Commission.

§ 143B-298. Sedimentation Control Commission – creation; powers and duties.

There is hereby created the Sedimentation Control Commission of the Department of Environmental Quality with the power and duty to develop and administer a sedimentation control program as herein provided.

The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.
(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.
(3) Conduct public hearings pursuant to G.S. 113A-54.
(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.
(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.
(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54. (1973, c. 1262, s. 39; 1977, c. 771, s. 4; 1989, c. 727, s. 218(137); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-299. Sedimentation Control Commission – members; selection; compensation; meetings.

(a) Creation; Membership. – There is hereby created in the Department of Environmental Quality the North Carolina Sedimentation Control Commission, which is charged with the duty of

developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

(1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners.
(2) A person to be nominated by the Board of the North Carolina Home Builders Association.
(3) A person to be nominated by the Carolinas Branch, Associated General Contractors of America.
(4) A representative of a North Carolina public utility company.
(5) The Director of the North Carolina Water Resources Research Institute.
(6) A member of the North Carolina Mining Commission who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b).
(7) A member of the State Soil and Water Conservation Commission.
(8) A member of the Environmental Management Commission.
(9) A soil scientist from the faculty of North Carolina State University.
(10) Two persons who shall be representatives of nongovernmental conservation interests.
(11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc.

(b) Appointment. – The Commission members shall be appointed by the Governor. All Commission members, except the person appointed under subdivision (5) of subsection (a) of this section, shall serve staggered terms of three years and until their successors are appointed and duly qualified. The person appointed under subdivision (5) of subsection (a) of this section shall serve as a member of the Commission, subject to removal by the Governor as hereinafter specified in this section, so long as the person continues as Director of the Water Resources Research Institute. The terms of members appointed under subdivisions (2), (4), (7), and (8) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The terms of members appointed under subdivisions (1), (3), and (10) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (6), (9), and (11) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Except for the person appointed under subdivision (5) of subsection (a) of this section, no member of the Commission shall serve more than two complete consecutive three-year terms. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, or because they no longer possess the required qualifications for membership. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Sec. 9, of the North Carolina Constitution.

(b1) Chair. – The Governor shall designate a member of the Commission to serve as chair.

(c) Compensation. – The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall

receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. – The Commission shall meet at the call of the chair and shall hold special meetings at the call of a majority of the members. (1973, c. 1262, s. 40; 1977, c. 771, s. 4; 1981, c. 248, ss. 1, 2; 1989, c. 727, s. 218(138); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991, c. 551, s. 1; 1997-443, s. 11A.119(a); 2006-79, s. 9; 2010-180, s. 10; 2012-143, s. 1(d); 2014-4, s. 5(c); 2015-241, s. 14.30(u).)

Part 9. Water Pollution Control System Operators Certification Commission.

§ 143B-300. Water Pollution Control System Operators Certification Commission – creation; powers and duties.

(a) There is hereby created the Water Pollution Control System Operators Certification Commission to be located in the Department of Environmental Quality. The Commission shall adopt rules with respect to the certification of water pollution control system operators as provided by Article 3 of Chapter 90A of the General Statutes.

(b) The Commission shall adopt such rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for programs concerned with the certification of water pollution control system operators which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission may by rule delegate any of its powers, other than the power to adopt rules, to the Secretary of Environmental Quality or the Secretary's designee. (1973, c. 1262, s. 42; 1977, c. 771, s. 4; 1989, c. 727, s. 195; 1991, c. 623, s. 15; 1997-443, s. 11A.119(a); 2006-79, s. 10; 2015-241, ss. 14.30(u), (v).)

§ 143B-301. Water Pollution Control System Operators Certification Commission – members; selection; removal; compensation; quorum; services.

(a) The Water Pollution Control System Operators Certification Commission shall consist of 11 members. Two members shall be from the animal agriculture industry and shall be appointed by the Commissioner of Agriculture. Nine members shall be appointed by the Secretary of Environmental Quality with the approval of the Environmental Management Commission with the following qualifications:

(1) Two members shall be currently employed as water pollution control facility operators, water pollution control system superintendents or directors, water and sewer superintendents or directors, or equivalent positions with a North Carolina municipality;

(2) One member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;

(3) One member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;

(4) One member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;

(5) One member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment;
(6) One member who is employed by the Department of Environmental Quality and works in the field of water pollution control, who shall serve as Chairman of the Commission;
(7) One member who is employed by a commercial water pollution control system operating firm; and
(8) One member shall be currently employed as a water pollution control system collection operator, superintendent, director, or equivalent position with a North Carolina municipality.

(b) Appointments to the Commission shall be for a term of three years. Terms shall be staggered so that three terms shall expire on 30 June of each year, except that members of the Commission shall serve until their successors are appointed and duly qualified as provided by G.S. 128-7.

(c) The Commission shall elect a Vice-Chairman from among its members. The Vice-Chairman shall serve from the time of his election until 30 June of the following year, or until his successor is elected.

(d) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(e) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

(f) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15.

(g) A majority of the Commission shall constitute a quorum for the transaction of business.

(h) All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality. (1973, c. 1262, s. 43; 1977, c. 771, s. 4; 1989, c. 372, s. 10; c. 727, s. 196, 197; 1989 (Reg. Sess., 1990), c. 850, s. 1; c. 1004, s. 19(b); 1991, c. 623, ss. 1, 16; 1995 (Reg. Sess., 1996), c. 626, s. 5; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

§ 143B-301.1. Definitions.

The definitions set out in G.S. 90A-46 shall apply throughout this Part. (1991, c. 623, s. 17; 1991 (Reg. Sess., 1992), c. 890, s. 21.)

§§ 143B-301.2 through 143B-301.9. Reserved for future codification purposes.

Part 9A. Well Contractors Certification Commission.

§ 143B-301.10. Recodified as G.S. 87-99 by Session Laws 2021-180, s. 9G.7(b), effective July 1, 2021. (1997-358, s. 1; recodified as N.C. Gen. Stat. 87-99 by 2021-180, s. 9G.7(b).)

§ 143B-301.11. Recodified as G.S. 87- 99.1 by Session Laws 2021-180, s. 9G.7(b), effective July 1, 2021. (1997-358, s. 1; recodified as N.C. Gen. Stat. 87-99.1 by 2021-180, s. 9G.7(b).)

§ 143B-301.12. Recodified as G.S. 87-99.2 by Session Laws 2021-180, s. 9G.7(b), effective July 1, 2021. (1997-358, s. 1; 2002-165, s. 1.11; recodified as N.C. Gen. Stat. 87-99.2 by 2021-180, s. 9G.7(b).)

Part 10. Earth Resources Council.

§§ 143B-302 through 143B-304: Repealed by Session Laws 1983, c. 667, s. 1.

Part 11. Community Development Council.

§§ 143B-305 through 143B-307: Recodified as §§ 143B-437.1 through 143B-437.3 by Session Laws 1989, c. 727, s. 199.

Part 12. Forestry Council.

§§ 143B-308 through 143B-310: Recodified as G.S. 143A-66.1 through 143A-66.3, in Article 7 of Chapter 143A, by Session Laws 2011-145, s. 13.25(f), effective July 1, 2011.

Part 13. Parks and Recreation Council.

§§ 143B-311 through 143B-313: Repealed by Session Laws 1995, c. 456, s. 4.

Part 13A. North Carolina Parks and Recreation Authority.

§ 143B-313.1: Recodified as G.S. 143B-135.200 by Session Laws 2015-241, s. 14.30(h), effective July 1, 2015.

§ 143B-313.2: Recodified as G.S. 143B-135.202 by Session Laws 2015-241, s. 14.30(h), effective July 1, 2015.

Part 14. North Carolina Water Safety Council.

§§ 143B-314 through 143B-316: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 12.

Part 15. Small Business Environmental Advisory Panel.

§ 143B-317: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

§ 143B-318: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

§ 143B-319: Repealed by Session Laws 2011-266, ss. 1.35(a) and 3.3(a), effective July 1, 2011.

Part 16. Water Quality Council.

§§ 143B-320 through 143B-321: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 14.

Part 17. North Carolina National Park, Parkway and Forests Development Council.

§§ 143B-322 through 143B-324: Recodified as §§ 143B-446 through 143B-447.1 by Session Laws 1977, c. 198, s. 26.

Part 17A. Western North Carolina Public Lands Council.

§ 143B-324.1. Western North Carolina Public Lands Council creation; powers; duties.

The Western North Carolina Public Lands Council is created within the Department of Environmental Quality. The North Carolina National Park, Parkway and Forests Development [Western North Carolina Public Lands Council] Council shall:

(1) Endeavor to promote the development of that part of the Smoky Mountains National Park lying in North Carolina, the completion and development of the Blue Ridge Parkway in North Carolina, the development of the Nantahala and Pisgah national forests, and the development of other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway or the Pisgah or Nantahala national forests.

(2) Study the development of these areas and to recommend a policy that will promote the development of the entire area generally designated as the mountain section of North Carolina, with particular emphasis upon the development of the scenic and recreational resources of the region, and the encouragement of the location of tourist facilities along lines designed to develop to the fullest these resources in the mountain section.

(3) Confer with the various departments, agencies, commissioners and officials of the federal government and governments of adjoining states in connection with the development of the federal areas and projects named in this section.

(4) Advise and confer with the various officials, agencies or departments of the State of North Carolina that may be directly or indirectly concerned in the development of the resources of these areas.

(5) Advise and confer with the various interested individuals, organizations or agencies that are interested in developing this area.

(6) Use its facilities and efforts in formulating, developing and carrying out overall programs for the development of the area as a whole.

(7) Study the need for additional entrances to the Great Smoky Mountains National Park, together with the need for additional highway approaches and connections.

(8) File its findings in this connection as recommendations with the National Park Service of the federal government, and the North Carolina Department of Transportation.

(9) Advise the Secretary of Environmental Quality upon any matter the Secretary of Environmental Quality may refer to it. (1973, c. 1262, s. 66; 1977, c. 198, ss. 5, 26; 1989, c. 751, s. 9(c); 1991 (Reg. Sess., 1992), c. 959, s. 85; 1997-443, ss. 11A.123, 15.36(b), (c); 2010-180, s. 7(b); 2015-241, ss. 14.30(u), (v).)

§ 143B-324.2. Western North Carolina Public Lands Council members; selection; officers; removal; compensation; quorum; services.

(a) Members; Selection; and Terms of Service. – The Western North Carolina Public Lands Council within the Department of Environmental Quality shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows:

(1) One member shall be a resident of Buncombe County.

(2) One member shall be a resident of Haywood County.

(3) One member shall be a resident of Jackson County.

(4) One member shall be a resident of Swain County.

(5) One member shall be a resident of Cherokee County.

(6) Two members shall be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests.

The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(b) Officers. – The Council shall elect a chair, a vice-chair, and a secretary. The chair and vice-chair shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

(c) Removal. – The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) Compensation. – Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(e) Quorum. – Five members of the Council shall constitute a quorum for the transaction of business. (1973, c. 1262, s. 67; 1977, c. 198, ss. 5, 26; 1997-443, ss. 11A.123, 15.36(b), (d); 2010-180, s. 7(c); 2015-241, s. 14.30(u).)

§ 143B-324.3. Western North Carolina Public Lands Council meetings.

The Western North Carolina Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the chair or upon written request of at least a majority of the members. (1973, c. 1262, s. 68; 1977, c. 198, s. 26; 1997-443, s. 15.36(b); 2010-180, s. 7(d).)

Part 18. Commercial and Sports Fisheries Advisory Committee.

§§ 143B-325 through 143B-327: Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 11.

Part 19. John H. Kerr Reservoir Committee.

§§ 143B-328 through 143B-330: Repealed by Session Laws 1985 (Regular Session 1986), c. 1028, s. 30.

Part 20. Science and Technology Committee.

§§ 143B-331 through 143B-332: Recodified as §§ 143B-440, 143B-441 by Session Laws 1977, c. 198, s. 26.

Part 21. North Carolina Trails Committee.

§ 143B-333: Recodified as G.S. 143B-135.130 by Session Laws 2015-241, s. 14.30(f), effective July 1, 2015.

§ 143B-334: Recodified as G.S. 143B-135.132 by Session Laws 2015-241, s. 14.30(f), effective July 1, 2015.

Part 22. North Carolina Zoological Park Council.

§§ 143B-335 through 143B-336.1: Recodified as G.S. 143B-135.205 through 143B-135.209 by Session Laws 2015-241, s. 14.30(i), effective July 1, 2015.

Part 23. Governor's Law and Order Commission.

§§ 143B-337 through 143B-339: Recodified as §§ 143B-478 to 143B-480.

Part 24. North Carolina Employment and Training Council.

§§ 143B-340 through 143B-341. Repealed by Session Laws 1985, c. 543, s. 6, effective July 1, 1985.

Part 25. Triad Park Commission.

§§ 143B-342 through 143B-344.2. Repealed by Session Laws 1983 (Regular Session 1984), c. 995, s. 13, effective June 27, 1984.

Part 26. Economic Opportunity Agencies.

§§ 143B-344.3 through 143B-344.10. Repealed by Session Laws 1981, c. 1127, s. 70.

Part 27. Employment and Training Act of 1985.

§§ 143B-344.11 through 143B-344.15: Recodified as §§ 143B-438.1 to 143B-438.5 by Session Laws 1989, c. 727, s. 202.

Part 28. North Carolina Aquariums Commission.

§§ 143B-344.16 through 143B-344.17: Repealed by Session Laws 1997, c. 286, s. 1.

Part 29. Advisory Commission for North Carolina State Museum of Natural Sciences.

§§ 143B-344.18 through 143B-344.23: Recodified as G.S. 143B-135.215 through 143B-135.229 by Session Laws 2015-241, s. 14.30(k), effective July 1, 2015.

§§ 143B-344.24 through 143B-344.29. Reserved for future codification purposes.

Part 30. State Infrastructure Council.

§§ 143B-344.30 through 143B-344.33: Repealed by Session Laws 2005-454, s. 9, effective January 1, 2006.

Part 31. North Carolina Sustainable Communities Task Force.

§§ 143B-344.34 through 143B-344.38: Expired pursuant to Session Laws 2010-31, s. 13.5(e), as amended by Session Laws 2013-360, s. 14.2, effective July 31, 2013.

§ 143B-344.39: Reserved for future codification purposes.

§ 143B-344.40: Reserved for future codification purposes.

§ 143B-344.41: Reserved for future codification purposes.

Part 32. Energy Loan Fund.

§ 143B-344.42. Short title.

This Part shall be known as the Energy Loan Fund. (2000-140, s. 76(i); 2001-338, s. 1; 2009-475, s. 13; 2010-96, s. 21; 2013-360, s. 15.22(b).)

§ 143B-344.43. Legislative findings and purpose.

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. (2000-140, s. 76(i); 2001-338, s. 1; 2010-96, s. 21; 2013-360, s. 15.22(b).)

§ 143B-344.44. Lead agency; powers and duties.

(a) For the purposes of this Part, the Department of Environmental Quality, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency.

(b) The Department shall have the following powers and duties with respect to this Part:

(1) To provide industrial and commercial concerns doing business in North Carolina, local governmental units, nonprofit organizations, and residents in North Carolina with information and assistance in undertaking energy conserving capital improvement projects to enhance efficiency.

(2) To establish one or more revolving funds within the Department for the purpose of providing secured loans in amounts not greater than one million dollars ($1,000,000) per entity to install or to an entity that installs energy-efficient and renewable energy improvements (i) within business or nonprofit organizations located within or translocating to North Carolina, (ii) within local governmental units, (iii) within buildings classified as multifamily residential, (iv) within buildings designated as multiuse that include residential units, and (v) within single family residences, however, in this instance the amount of the loan shall not exceed fifty thousand dollars ($50,000). In providing these loans, priority shall be given to entities already located in the State.

(3) To develop and adopt rules to allow State-regulated financial institutions to provide secured loans to corporate entities, nonprofit organizations, and local governmental units and residents in accordance with terms and criteria established by the State Energy Office.

(4) To work with appropriate State and federal agencies to develop and implement rules and regulations to facilitate this program.

(5) To contract with persons or entities, including other State agencies and United States Treasury certified Community Development Financial Institutions (CDFI), to administer the Energy Loan Fund. Contracts for the procurement of services to manage, administer, and operate the Energy Loan Fund shall be awarded on a competitive basis through the solicitation of proposals and through the procedures established by statute and the Division of Purchase and Contract.

(c) The annual interest rate charged for the use of the funds from the revolving fund established pursuant to subdivision (b)(2) of this section shall be a percentage not to exceed three percent (3%) per annum, to be established by the State Energy Office, excluding other fees

required for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(d) Notwithstanding subsection (c) of this section, the State Energy Office shall adopt rules to allow loans to be made from the revolving loan fund and by State-regulated financial institutions at interest rates as low as zero percent (0%) per annum for certain renewable energy, recycling, and energy efficient and conservation projects to encourage their development and use.

(e) In accordance with the terms of the Stripper Well Settlement, administrative expenses for activities under this section that are subject to the Stripper Well Settlement shall be limited to five percent (5%) of funds allocated for this purpose. In accordance with the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5), administrative expenses for activities under this section that are subject to the ARRA shall be limited to ten percent (10%) of funds allocated for this purpose.

(f) For purposes of this section:

(1) "Local governmental unit" means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.

(2) "Nonprofit organization" means an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. (2000-140, s. 76(i); 2001-338, s. 1; 2009-446, s. 1(b); 2009-475, s. 13; 2010-96, s. 21; 2013-360, s. 15.22(b), (c); 2015-241, s. 14.30(u).)

§ 143B-344.45: Reserved for future codification purposes.

Part 33. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

§ 143B-344.46. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

The State Energy Office within the Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program. (2003-284, s. 10.3; 2013-360, s. 15.22(h), (i).)

§ 143B-344.47: Reserved for future codification purposes.

Part 34. North Carolina Energy Assistance Act for Low-Income Persons.

§ 143B-344.48. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) Maintaining the general health, welfare, and prosperity of the people of this State requires that all citizens receive essential levels of heat and electric service regardless of their economic circumstances.

(2) Serving the State's most vulnerable citizens, its low-income elderly, persons with disabilities, families with children, high residential energy users, and households with a high-energy burden, is a priority.

(3) Conserving energy benefits all citizens and the environment.

(4) Ensuring proper payment to public utilities and other entities providing energy services actually rendered is a responsibility of this State.
(5) Declining federal low-income energy assistance funding necessitates a State response to ensure the continuity and further development of energy assistance and related policies and programs in this State.
(6) Current energy assistance policies and programs have benefited North Carolina citizens and should be continued with the modifications provided in this Part.

(b) The General Assembly declares that it is the policy of this State that weatherization, replacement of heating and cooling systems, and other energy-related assistance programs be utilized to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety. The State shall utilize all appropriate and available means to fund the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program under G.S. 143B-344.46, and any other energy-related assistance program for low-income persons while, to the extent possible, identifying and utilizing sources of funding to achieve the objectives of this Part. (2006-206, s. 2; 2009-446, s. 2(a); 2013-360, s. 15.22(j).)

§ 143B-344.49. Definitions.

The following definitions apply to this Part:

(1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.
(2) Department. – The Department of Environmental Quality.
(3) Secretary. – The Secretary of the Department of Environmental Quality.
(4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.
(5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors. (2006-206, s. 2; 2009-446, ss. 2(a), (b); 2013-360, ss. 15.22(j), (k); 2015-241, s. 14.30(mmm).)

§ 143B-344.50. The State Energy Office designated agency; powers and duties.

(a) The State Energy Office in the Department of Environmental Quality shall administer the Weatherization Assistance Program for Low-Income Families established by 42 U.S.C. § 6861, et seq., and 42 U.S.C. § 7101, et seq.; the Heating/Air Repair and Replacement Program established by the Secretary under G.S. 143B-344.46; and any other energy-related assistance program for the benefit of low-income persons in existing housing. The State Energy Office shall exercise the following powers and duties:

(1) Establish standards and criteria to carry out the provisions and purposes of this Part.
(2) Develop policy, criteria, and standards for receiving and processing applications for weatherization assistance.
(3) Make decisions and pursue appeals from decisions to accept or deny applications for weatherization, replacement of heating and cooling systems,

and other energy-related assistance programs or otherwise participate in the State plan as a subgrantee or contractor.

(4) Adopt rules, consistent with the laws of this State, that may be required by the federal government for grants-in-aid for the Weatherization Assistance Program for Low-Income Families, the Heating/Air Repair and Replacement Program, or other energy-related assistance programs for the benefit of low-income residents in existing housing. This section shall be liberally construed in order that this State and its citizens may benefit from such grants-in-aid.

(5) Establish procedures for the submission of periodic reports by any community action agency or other agency or entity authorized to manage a weatherization project, replacement of heating and cooling systems, or other energy-related assistance project.

(6) Implement criteria for periodic review of weatherization, replacement of heating and cooling systems, or other energy-related programs in existing housing for low-income households.

(7) Solicit, accept, hold, and administer on behalf of this State any grants or devises of money, securities, or property for the benefit of low-income residents in existing housing for use by the Department or other agencies in the administration of this Part.

(8) Create a Policy Advisory Council within the State Energy Office that shall advise the State Energy Office with respect to the development and implementation of a Weatherization Program for Low-Income Families, the Heating/Air Repair and Replacement Program, and any other energy-related assistance program for the benefit of low-income persons in existing housing.

(b) The Secretary shall have final decision-making authority with regard to all functions described in this Part. (2006-206, s. 2; 2009-446, s. 2(a); 2011-284, s. 101; 2013-360, ss. 15.22(j), 15.22(k); 2015-241, s. 14.30(u).)

Part 35. (Repealed) Energy Policy Council.

§ 143B-344.55. Repealed by Session Laws 2024-57, s. 3F.2(f), effective December 11, 2024.

§§ 143B-344.56 through 143B-344.59. Reserved for future codification purposes.

Part 36. North Carolina Youth Outdoor Engagement Commission.

§ 143B-344.60. North Carolina Youth Outdoor Engagement Commission.

(a) The North Carolina Youth Outdoor Engagement Commission (hereinafter "Commission") is established within the North Carolina Wildlife Resources Commission for organizational and budgetary purposes only. The Commission shall exercise all of its statutory powers independent of control by the Executive Director of the Wildlife Resources Commission. The Commission shall (i) advise State agencies and the General Assembly on the promotion of outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to preserve North Carolina's outdoor heritage for future generations and (ii) use grants and programming to promote the outdoor recreational activities described in this subsection.

(b) The Commission shall consist of 13 members, appointed as follows:

(1) Four members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate.
(2) Four members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives.
(3) Three members appointed by the Governor.
(4) One member appointed by the Commissioner of Agriculture.
(5) One member appointed by the chair of the Wildlife Resources Commission.

All members of the Commission shall have knowledge and experience in outdoor recreational activities and have a demonstrated interest in promoting outdoor heritage.

(c) The terms of the initial members of the Commission shall commence October 1, 2015. Of the Governor's initial appointments, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the President Pro Tempore of the Senate, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the Speaker of the House of Representatives, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. The members appointed by the Commissioner of Agriculture and the chair of the Wildlife Resources Commission shall each serve an initial term of four years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years.

Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(d) The initial chair of the Commission shall be designated by the Governor from the Commission members. Subsequent chairs shall be elected by the Commission for terms of two years.

(e) The Commission shall meet quarterly and at other times at the call of the chair. A majority of members of the Commission shall constitute a quorum.

(f) Commission members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable. The reimbursements authorized by this subsection may be provided from the North Carolina Youth Outdoor Engagement Fund.

(g) The Executive Director of the Wildlife Resources Commission shall provide clerical and other assistance as needed, including, but not limited to, office space, transportation support, and support for equipment and information technology needs of the Commission.

(h) The Commission shall be exempt from Article 3 of Chapter 143 of the General Statutes but may use the services of the Department of Administration in procuring goods and services for the Commission. (2015-144, s. 2(a); 2016-94, s. 14A.1(a); 2018-5, s. 13A.1(a); 2019-177, s. 10; 2023-51, s. 1.)

§ 143B-344.62. North Carolina Youth Outdoor Engagement Commission – executive director; staff.

The Commission may, subject to appropriations or other funds that accrue to it, employ an executive director to carry out the day-to-day responsibilities and business of the Commission. The executive director shall serve at the pleasure of the Commission. The executive director, also

subject to appropriations or other funds that accrue to the Commission, may hire additional staff and consultants to assist in the discharge of the executive director's responsibilities, as determined by the Commission. (2017-212, s. 4.5(b); 2023-51, s. 1.)

§ 143B-344.64. North Carolina Youth Outdoor Engagement Commission – report.

On or before December 1, 2019, and at least annually thereafter, the Commission shall submit a report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division regarding its activities, initiatives, partnerships, and use of donated and appropriated funds. (2018-5, s. 13A.1(b); 2023-51, s. 1.)