

NORTH CAROLINA GENERAL ASSEMBLY



ENVIRONMENTAL REVIEW COMMISSION

REPORT TO THE 2010 SESSION of the 2009 GENERAL ASSEMBLY

MAY 11, 2010

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TRANSMITTAL LETTER

May 11, 2010

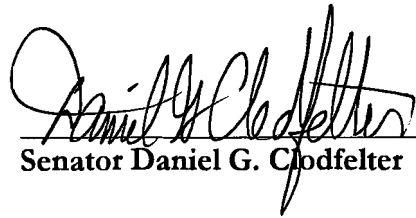
TO THE MEMBERS OF THE 2010 REGULAR SESSION
OF THE 2009 GENERAL ASSEMBLY

Pursuant to Article 12D of Chapter 120 of the General Statutes, the Environmental Review Commission submits its report and recommendations to the 2010 Regular Session of the 2009 General Assembly.

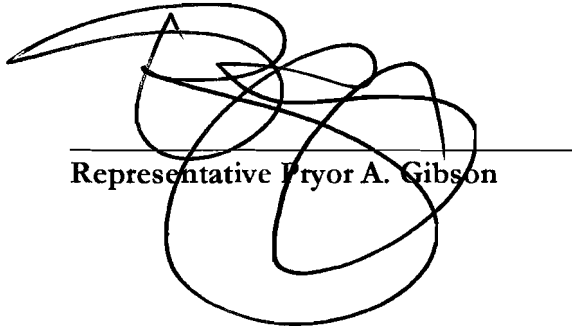
Respectfully submitted,



Senator Robert C. Atwater



Senator Daniel G. Clodfelter



Representative Pryor A. Gibson



Representative Pricey T. Harrison

Co-Chairs
Environmental Review Commission

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STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES ARTICLE 12D.

Environmental Review Commission.

§ 120-70.41. Commission established.

The Environmental Review Commission is hereby established.

§ 120-70.42. Membership; cochairs; vacancies; quorum.

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair or a Cochair of the Senate Committee on Agriculture, Environment, and Natural Resources or the equivalent committee, the Chair or a Cochair of the House of Representatives Committee on Environment and Natural Resources or the equivalent committee, the Chair or a Cochair of the Senate Committee on Appropriations – Natural and Economic Resources or the equivalent committee, and the Chair or a Cochair of the House of Representatives Committee on Appropriations – Natural and Economic Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of nine members.

§ 120-70.43. Powers and duties.

(a) The Environmental Review Commission shall have the following powers and duties:

- (1) To evaluate actions of all boards, commissions, departments, and other agencies of the State and local governments as such actions relate to the environment or protection of the environment, including but not limited to an evaluation of:
 - a. Benefits of each program relative to costs;

- b. Achievement of program goals;
 - c. Use of measures by which the success or failure of a program can be measured; and
 - d. Conformity with legislative intent;
- (2) To study on a continuing basis the organization of State government as it relates to the environment or to the protection of public health and the environment, including but not limited to:
- a. Improvements in administrative structure, practices, and procedures;
 - b. Increased integration and coordination of programs and functions;
 - c. Increased efficiency in budgeting and use of resources;
 - d. Efficient administration of licensing, permitting, and grant programs;
 - e. Prompt, effective response to environmental emergencies;
 - f. Opportunities for effective citizen participation; and
 - g. Broadening of career opportunities for professional staff;
- (3) To make any recommendations it deems appropriate regarding the reorganization and consolidation of environmental regulatory agencies and the recodification of statutes relating to the environment, including but not limited to:
- a. Ways in which agencies may operate more efficiently and economically;
 - b. Ways in which agencies can provide better services to the State and to the people; and
 - c. Instances in which functions of agencies are duplicative, overlapping, incomplete in scope or coverage, fail to accomplish legislative objectives, or for any other reason should be redefined or redistributed;
- (4) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the environment or protection of the environment;
- (5) To review existing and proposed State law and rules affecting the environment or protection of the environment and to determine whether any modification of law or rules is in the public interest;
- (6) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and
- (7) To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Utility Review Committee, or the Joint Select Committee on Low-Level Radioactive Waste and to make such reports and recommendations to the General Assembly regarding such studies as it

deems appropriate; provided that the Environmental Review Commission shall not undertake any study which the General Assembly has assigned to another legislative commission or committee.

(b) The Environmental Review Commission may continue the study of environmental agency consolidation and reorganization. The study of environmental agency consolidation shall include, but is not limited to:

- (1) Monitoring the implementation of Session Laws 1989, c. 727;
- (2) Evaluation of the organization, programs, and operation of the Department of Environment and Natural Resources;
- (3) Evaluation of the organization, functions, powers, and duties of the components of the Department of Environment and Natural Resources, including boards, commissions, councils, and regional offices; and
- (4) Recodification of the General Statutes relating to the environment and environmental agencies.

(c) In addition to its general powers and duties, the Environmental Review Commission shall have the following powers and duties with respect to hazardous waste management:

- (1) To study the current and projected need for hazardous waste treatment, storage, and disposal capacity in the State in light of anticipated generation of hazardous waste and alternatives for hazardous waste treatment and disposal;
- (2) To evaluate the potential for the development of additional hazardous waste treatment, storage, and disposal capacity by the private sector;
- (3) To study the necessity for and scope of hazardous waste treatment, storage, and disposal facilities which are sited, owned, or operated by the State;
- (4) To review progress in securing a volunteer county to host a hazardous waste treatment facility;
- (5) To study incentives and compensation for the community which hosts, either voluntarily or involuntarily, a hazardous waste treatment facility, including any additional incentives and compensation which may be needed, whether there should be differential compensation for a volunteer county, options for use of funds by local governments, distribution of compensation among local governments, and methods of providing flexibility in the development of an incentives and compensation package for a particular local community;
- (6) To review progress in developing interstate agreements for the treatment, storage, and disposal of hazardous waste;
- (7) To assist in the development of cooperative, comprehensive regional approach to hazardous waste treatment and disposal;
- (8),(9) Repealed by Session Laws 2001-474, s. 12.
- (10) To study the capacity assurance requirement under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986,

Pub. L. No. 99-499, 100 Stat. 1613, as amended as it relates to the continued eligibility of North Carolina for remedial actions under Superfund;

- (11) To study alternatives available to the State for dealing with hazardous waste and the ramifications of those alternatives; and
- (12) To receive and evaluate reports of every State agency, board, and commission which has any power or duty with respect to hazardous waste management.

§ 120-70.44. Additional powers.

The Environmental Review Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Environmental Review Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Environmental Review Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation of the Environmental Review Commission regarding any study the Environmental Review Commission is authorized to undertake or any report authorized or required to be made by or to the Environmental Review Commission may be introduced and considered during any session of the General Assembly.

§ 120-70.45. Compensation and expenses of members.

Members of the Environmental Review Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

§ 120-70.46. Staffing.

The Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission.

§ 120-70.47. Funding.

From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the work of the Environmental Review Commission.

COMMISSION MEMBERSHIP

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COMMISSION PROCEEDINGS

The Environmental Review Commission met seven times during the interim between the 2009 and the 2010 Regular Sessions of the General Assembly.

October 15, 2009 – 9:00 AM

Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Representative Lucy T. Allen, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Lucy T. Allen
Representative Pryor A. Gibson
3. Report to the Commission, explanation of agenda items, and a discussion of studies that the Commission is authorized to undertake
Jeff W. Hudson: Commission Counsel
4. [Report to the Commission on environmental legislation enacted during the 2009 Regular Session and pending for the 2010 Regular Session](#)
[Jennifer L. McGinnis: Commission Counsel, Research Division, NCGA](#)
[Jennifer R.F. Mundt: Commission Analyst, Research Division, NCGA](#)
5. Report from the Secretary of Environment and Natural Resources
Dee A. Freeman: Secretary of Environment and Natural Resources
6. [Quarterly reports by the Environmental Management Commission \(EMC\) as to its operations, activities, programs, and progress for the period from January 2009 through September 2009 \(G.S. 143B-282\(b\)\); and annual report on the desirability of requiring and the feasibility of obtaining reductions in emissions of NO_x and SO₂ beyond those required by the "Clean Smokestacks Act" \(S.L. 2002-4, Sec. 11\)](#)
[Stephen T. Smith: Chairman, Environmental Management Commission](#)
7. Commission discussion and announcements
8. Adjournment

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November 12, 2009 – 9:00 AM
Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
 Senator Robert C. Atwater, Presiding
2. Introductory remarks by Cochairs
 Senator Robert C. Atwater
 Senator Daniel G. Clodfelter
 Representative Lucy T. Allen
 Representative Pryor A. Gibson
3. Report to the Commission and explanation of agenda items
 Jeff Hudson: Commission Counsel
4. [Report on recent federal actions related to climate change](#)
 Victor Flatt: Tom & Elizabeth Taft Distinguished Professor of
 Environmental Law, School of Law, University of North Carolina at
 Chapel Hill
5. [Report on the U.S. Environmental Protection Agency's reconsideration of the
ground level ozone standard](#)
 Keith Overcash: Director, Division of Air Quality (DAQ), Department of
 Environment and Natural Resources (DENR)
6. [Report on ozone control strategy options](#)
 Sheila Holman: Deputy Director, DAQ, DENR
7. [Report on the Status of North Carolina's Idle Reduction Rule](#)
 Michael Abraczinskas: Supervisor, Rules Development Branch, DAQ,
 DENR
8. [Report on diesel emission reduction grants](#)
 Heather Hildebrandt: Environmental Engineer, DAQ, DENR
9. [Report on climate initiatives within the Division of Air Quality of the Department of
Environment and Natural Resources](#)
 Sushma Masemore: Supervisor: Allied Programs Branch, DAQ, DENR
10. Commission discussion and announcements
11. Adjournment

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December 17, 2009 – 11:00 AM

Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Representative Pryor A. Gibson, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Lucy T. Allen
Representative Pryor A. Gibson
3. Report to the Commission and explanation of agenda items
Jeff Hudson: Commission Counsel
4. [Report on the 2008 Agriculture Water Use Survey \(G.S. 106-24\(b\)\)](#)
[Herb Vanderberry: Director, United States Department of Agriculture,](#)
[National Agricultural Statistics Service, North Carolina Field Office](#)
5. [Report on implementation of the State Water Supply Plan \(G.S. 143-355\(n\)\)](#)
[Thomas A. Reeder: Director, Division of Water Resources \(DWR\),](#)
[Department of Environment and Natural Resources \(DENR\)](#)
6. [Report on Basinwide Water Quality Management Plans \(G.S. 143-215.8B\(d\)\)](#)
[Dianne M. Reid: Basinwide Planning Unit Supervisor, Division of Water](#)
[Quality \(DWQ\), DENR](#)
7. [Discussion of stream and wetland mitigation issues, including treatment of projects](#)
[with multiple environmental benefits](#)
Robin W. Smith: Assistant Secretary for the Environment, DENR
8. [Report on the progress of efforts to develop a nutrient management strategy for the](#)
[Upper Neuse River Basin, including Falls Lake \(S.L. 2009-486\)](#)
John W. Huisman: Environmental Senior Specialist, NonPoint Source
Planning Unit, DWQ, DENR
9. [Update on the Neuse River fish kill, presented in conjunction with the annual report](#)
[on fish kills occurring during the preceding year \(G.S. 143B-279.7 \(c\)\)](#)
[Jason C. Green: Environmental Senior Specialist, Neuse River Rapid](#)
[Response Team, DWQ, DENR](#)

10. [Annual report on activities associated with the Sedimentation Pollution Control Act of 1973 \(G.S. 113A-67\)](#)
[James D. Simons: Director and State Geologist, Division of Land Resources, DENR](#)
11. Commission discussion and announcements
12. Adjournment

February 18, 2010 – 10:00 AM

Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Senator Daniel G. Clodfelter, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Lucy T. Allen
Representative Pryor A. Gibson
3. Report to the Commission and explanation of agenda items
Jennifer McGinnis: Commission Counsel

Approval of the minutes for the [October 15](#) and [November 12, 2009](#) meetings of the Commission
4. [Annual report on the status of leaking petroleum underground storage tanks, the State cleanup fund, and the Groundwater Protection Loan Fund \(G.S. 143-215.94M\)](#)
Grover Nicholson: Chief, Underground Storage Tank Section, Division of Waste Management (DWM), Department of Environment and Natural Resources (DENR)
5. Solid Waste Management

[Presentation of the findings of the annual solid waste management report \(G.S. 130A-309.12\(c\), G.S. 130A-309.14, G.S. 130A-309.06\(c\)\(6\), G.S. 130A-309.06\(c\)\(8\), G.S. 130A-309.06\(c\)\(9\), G.S. 130A-309.06\(c\)\(10\), G.S. 130A-309.06\(c\)\(11\), G.S. 130A-309.06\(c\)\(12\), G.S. 130A-309.06\(c\)\(13\), G.S. 130A-309.63\(e\), G.S. 130A-309.85, G.S. 136-28.8\(g\), G.S. 143-58.2\(f\)\)](#)
[Ellen Lorscheider: Head, Solid Waste Planning and Program Management Branch, Solid Waste Section, DWM, DENR](#)

[Presentation on the status of recycling and recycling markets in North Carolina](#)
Scott B. Mouw: Chief, Community and Business Assistance Section, Division of Pollution Prevention and Environmental Assistance, DENR

[Presentation from Clear Path Recycling, LLC](#)

Ron Salati: Vice President and General Manager, Clear Path Recycling, LLC

6. [Annual report on the Inactive Hazardous Sites Program \(G.S. 130A-310.10\)](#)
Charlotte Jesneck: Head, Inactive Hazardous Sites Branch, Superfund Section
DWM, DENR
7. [Annual report on the effectiveness of the Brownfields Property Reuse Act \(G.S. 130A-310.40\)](#)
[Bruce Nicholson: Brownfields Program Manager](#)
[DWM, DENR](#)
8. Commission discussion and announcements
9. Adjournment

March 18, 2010 – 10:00 AM

Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Representative Lucy T. Allen, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Lucy T. Allen
Representative Pryor A. Gibson
3. Report to the Commission and explanation of agenda items
Jennifer McGinnis: Commission Counsel

Approval of the minutes for the [December 17, 2009](#) meeting of the Commission
4. [Report on the implementation of the North Carolina Renewable Energy and Energy Efficiency Portfolio Standards and subsequent proceedings \(S.L. 2007-397; Senate Bill 3\)](#)
[Edward S. Finley, Jr.: Chairman, North Carolina Utilities Commission](#)
5. [Quarterly reports by the Environmental Management Commission \(EMC\) as to its operations, activities, programs, and progress for the periods from October 2009 through December 2009 and January 2010 through March 2010 G.S. 143B-282\(b\)\); and update on the status of the rulemaking process to implement the nutrient management strategy and the turbidity strategy for Upper Falls Lake \(S.L. 2009-486, Sec. 1\(c\)\)](#)
Stephen T. Smith: Chairman, Environmental Management Commission
6. [Annual report on activities associated with the Sedimentation Pollution Control Act of 1973 \(G.S. 113A-67\)](#)
[James D. Simons: Director and State Geologist, Division of Land Resources, DENR](#)
7. Commission discussion and announcements
8. Adjournment

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April 15, 2010 – 10:00 AM

Legislative Office Building, Room 544
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Representative Pryor A. Gibson, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Pryor A. Gibson
3. Report to the Commission and explanation of agenda items
Jennifer McGinnis: Commission Counsel

Approval of the minutes for the [February 18, 2010](#) and [March 18, 2010](#) meetings of the Commission
4. Division of Parks and Recreation

Video -- Conservation, Innovation: North Carolina State Parks

[Annual report on the Parks and Recreation Trust Fund, Fiscal Year 2008-2009 \(G.S. 113-44.15\(c\)\)](#)
[Lewis R. Ledford: Director, Division of Parks and Recreation, Department of Environment and Natural Resources \(DENR\)](#)
5. [Annual report on awards from the North Carolina Natural Heritage Trust Fund, Fiscal Year 2008-2009 \(G.S. 113-77.9\(e\)\)](#)
[Lisa D. Riegel: Executive Director, North Carolina Natural Heritage Trust Fund, DENR](#)
6. [Annual report on the implementation of the Clean Water Management Trust Fund \(G.S. 113A-257\)](#)
[Richard E. Rogers, Jr.: Executive Director, Clean Water Management Trust Fund](#)
7. [Annual report on the activities of the North Carolina Development and Farmland Preservation Trust Fund Committee \(G.S. 106-744\(i\)\)](#)
[D. Dewitt Hardee: Environmental Program Manager, Department of Agriculture and Consumer Services](#)

8. [Update on Land for Tomorrow](#)
Tom Cors: Director of Government Relations, The Nature Conservancy,
North Carolina Chapter
9. Commission discussion and announcements
10. Adjournment

May 11, 2010 – 10:00 AM

Legislative Office Building, Room 643
300 North Salisbury
Raleigh, North Carolina
Agenda

1. Call to order
Representative Pryor A. Gibson, Presiding
2. Introductory remarks by Cochairs
Senator Robert C. Atwater
Senator Daniel G. Clodfelter
Representative Pryor A. Gibson
Representative Pricey Harrison
3. Report to the Commission and explanation of agenda items
Jennifer McGinnis, Commission Counsel

Approval of the minutes for the [April 15, 2010](#) meeting of the Commission
4. [Interim Report of continuing Water Allocation Study](#)
Richard B. Whisnant, Associate Professor of Public Law and Government
University of North Carolina Institute of Government
5. Consideration of legislative proposals
 - a. [Improve River Basin Modeling](#)
 - b. [Amend IBT Enforcement and Notice](#)
 - c. [Clean Marinas Amendments](#)
 - d. [UST Operator Training Program](#)
 - e. [Amend Electronics Recycling Requirements](#)
 - f. [Extend Zoological Park Funding and Organization Study Committee](#)
 - g. [Environmental Technical Corrections](#)
 - h. [Environmental Reports Consolidation](#)
 - i. [Amend Environmental Laws](#)
6. [Consideration of draft Commission report to the 2010 Regular Session](#)

7. Commission discussion and announcements
8. Adjourn

1

2

LEGISLATIVE PROPOSALS

3

A BILL TO BE ENTITLED

4

AN ACT TO IMPROVE THE DEVELOPMENT OF BASINWIDE HYDROLOGIC
5 MODELS, TO IMPROVE PUBLIC ACCESS TO WATER AND WATER
6 RESOURCES FUNDING INFORMATION, AND TO PROVIDE FOR
7 REPORTING ON WATER USE EFFICIENCY IN THE STATE, AS
8 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

9

The General Assembly of North Carolina enacts:

10

SECTION 1. G.S. 143-350 reads as rewritten:

11

"§ 143-350. Definitions.

12

As used in this Article:

13

(1) "Commission" means the Environmental Management Commission.

14

(2) "Department" means the Department of Environment and Natural
15 Resources.

15

16

(2a) "Ecological flow" means the stream flow necessary to protect
17 ecological integrity.

17

18

(2b) "Ecological integrity" means the ability of an aquatic system to
19 support and maintain a balanced, integrated, adaptive community of
20 organisms having a species composition, diversity, and functional
21 organization comparable to natural conditions and, when subject to
22 disruption, to recover and continue to provide the natural goods and
23 services that normally accrue from the system.

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(3) "Essential water use" means the use of water necessary for
25 firefighting, health, and safety; water needed to sustain human and
26 animal life; and water necessary to satisfy federal, State, and local
27 laws for the protection of public health, safety, welfare, the
28 environment, and natural resources; and a minimum amount of water
29 necessary to maintain the economy of the State, region, or area.

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(3a) "Groundwater resource" means any water flowing or lying under the
31 surface of the earth or contained within an aquifer.

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(4) "Large community water system" means a community water system,
35 as defined in G.S. 130A-313(10), that regularly serves 1,000 or more
36 service connections or 3,000 or more individuals.

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(4a) "Surface water resource available yield" means the amount of surface
37 water that can be withdrawn at a given location without violating the
38 ecological integrity of the river basin in which the water resource is
39 located and without impeding other allocated or permitted withdrawals
40 in the river basin. Surface water resource available yield includes
41 consideration of the connections between surface water and
42 groundwater resources in a given geographic area.

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(4b) "Surface water resource" means any lake, pond, river, stream, creek,
42 run, spring, or other water flowing or lying on the surface of the earth.

- 1 (5) "Unit of local government" means a county, city, consolidated
2 city-county, sanitary district, or other local political subdivision or
3 authority or agency of local government.
- 4 (6) "U.S. Drought Monitor" means the national drought map that
5 designates areas of drought using the following categories
6 D0-Abnormally Dry, D1-Moderate, D2-Severe, D3-Extreme, and
7 D4-Exceptional. The U.S. Drought Monitor is developed and
8 maintained by the Joint Agricultural Weather Facility, the Climate
9 Prediction Center, the National Climatic Data Center, and the National
10 Drought Mitigation Center with input from the United States
11 Geological Survey, the National Water and Climate Center, the
12 Climate Diagnostics Center, the National Weather Service, state
13 climatologists, and state water resource agencies.
- 14 (7) "Water shortage emergency" means a water shortage resulting from
15 prolonged drought, contamination of the water supply, damage to
16 water infrastructure, or other unforeseen causes that presents an
17 imminent threat to public health, safety, and welfare or to the
18 environment."

19 **SECTION 2.** G.S. 143-355 is amended by adding three new subsections to
20 read:

21 "(o) Basinwide Hydrologic Models. – The Department shall develop a basinwide
22 hydrologic model for each of the 17 major river basins in the State as provided in this
23 subsection.

- 24 (1) Schedule. – The Department shall develop a schedule for basinwide
25 hydrologic model development. In developing the schedule, the
26 Department shall consider the need to give priority to river basins or
27 portions of river basins that the Department determines are likely to
28 have an unacceptable risk of water shortages.
- 29 (2) Model. – Each basinwide hydrologic model shall:
- 30 a. Include surface water resources within the river basin,
31 groundwater resources within the river basin to the extent
32 known by the Department, transfers into and out of the river
33 basin that are required to be registered under
34 G.S. 143-215.22H, other withdrawals, ecological flow and
35 other instream flow requirements, projections of future
36 withdrawals, an estimate of return flows within the river basin,
37 inflow data, local water supply plans, and other scientific and
38 technical information the Department deems relevant.
- 39 b. Be designed to predict the flows and available yield of each
40 surface water resource within the basin that serves as a source
41 of water for a withdrawal registered under G.S. 143-215.22H.
- 42 c. Be based solely on data that is of public record and open to
43 public review and comment.
- 44 (3) Determination of unacceptable risk of water shortage. – The
45 Department shall determine whether any river basin or portion of a
46 river basin faces an unacceptable risk of water shortage. The

1 Department shall develop risk criteria for the determination of
2 unacceptable risk of water shortages. One of the risk criteria shall be
3 whether the river basin hydrologic model demonstrates or projects that
4 the river basin or portion of the river basin does not or will not have
5 sufficient surface water resource available yield to meet the needs of
6 water withdrawers and instream water uses, including ecological flow.
7 This risk determination may consider any approved water shortage
8 response plans and permitted alternative water sources. The risk
9 determination shall project water supply and demand at each model
10 node for a period to be determined by the Department, but in no event
11 less than 30 years.

12 (4) Protection of ecological integrity. – The Department shall develop, in
13 consultation with the North Carolina Wildlife Resources Commission,
14 the North Carolina Marine Fisheries Commission, the United States
15 Fish and Wildlife Service, and the National Marine Fisheries Service,
16 ecological criteria that will protect the ecological integrity of each
17 river basin and each river subbasin in the State.

18 (5) Interstate cooperation. – To the extent practicable, the Department
19 shall work with neighboring states to develop basinwide hydrologic
20 models for each river basin shared by North Carolina and another
21 state.

22 (6) Report. – The Department shall report to the Environmental Review
23 Commission on the development of basinwide hydrologic models no
24 later than November 1 of each year.

25 (p) Public Access to Water Resource and Water Infrastructure Funding
26 Information. – The Department, in conjunction with the North Carolina League of
27 Municipalities, the North Carolina Association of County Commissioners, and interested
28 private water systems, and with the assistance of the Environmental Finance Center of the
29 University of North Carolina at Chapel Hill, shall develop and implement a plan to
30 provide greater public access to water resource and water infrastructure funding
31 information.

32 (q) Water Efficiency Report. – The Department and the Department of
33 Agriculture and Consumer Services shall jointly report to the Environmental Review
34 Commission no later than April 1 of each year on implementation of water efficiency
35 measures required under Section 9 of S.L. 2008-143 and other water efficiency efforts
36 that are being implemented in the State."

37 **SECTION 3.** The first report required by G.S. 143-355(o), as enacted by
38 Section 2 of this act, is due no later than November 1, 2011. The first report shall include
39 the Department's recommended schedule for river basin model development, the
40 recommended criteria for determining unacceptable risk of water shortage, the
41 recommended criteria for ensuring that the ecological integrity of river basins is
42 protected, and a schedule to integrate river basin hydrologic models and river basin water
43 quality plans. The first report shall also include an assessment of the resources needed to
44 implement the provisions of this act.

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

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"§ 143-215.6C. Enforcement procedures; injunctive relief.

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information;~~ any of the terms of any permit issued pursuant to ~~this Part, Part 1, Part 1A, or Part 2A of this Article;~~ or a rule implementing ~~this Part, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information,~~ the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this Part or the regulations of the Commission has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information.~~ For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information."

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental documents for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay

1 the costs associated with the notice and public hearing on the draft environmental
2 document."

3 **SECTION 3.** G.S. 143-215.22L(j) reads as rewritten:

4 "(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance
5 of the draft determination as provided in subsection (i) of this section, the Commission
6 shall hold public hearings on the draft determination. At least one hearing shall be held in
7 the affected area of the source river basin, and at least one hearing shall be held in the
8 affected area of the receiving river basin. In determining whether more than one public
9 hearing should be held within either the source or receiving river basins, the Commission
10 shall consider the differing or conflicting interests that may exist within the river basins,
11 including the interests of both upstream and downstream parties potentially affected by
12 the proposed transfer. The public hearings shall be conducted by one or more hearing
13 officers appointed by the Chair of the Commission. The hearing officers may be members
14 of the Commission or employees of the Department. The Commission shall give at least
15 30 days' written notice of the public hearing as provided in subsection (c) of this section.
16 The Commission shall accept written comment on the draft determination for a minimum
17 of 30 days following the last public hearing. The Commission shall prepare a record of all
18 comments and written responses to questions posed in writing. The record shall include
19 complete copies of scientific or technical comments related to the potential impact of the
20 interbasin transfer. The applicant who petitions the Commission for a certificate under
21 this section shall pay the costs associated with the notice and public hearing on the draft
22 determination."

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

1 A BILL TO BE ENTITLED
2 AN ACT TO DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER
3 AND VESSEL ACT FROM JULY 1, 2010, TO DECEMBER 1, 2010, AND TO
4 LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE
5 DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES
6 ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE
7 ENVIRONMENTAL REVIEW COMMISSION.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 77-131 reads as rewritten:

10 "**§ 77-131. Application of Article.**

11 The provisions of this Article apply only to the following:

- 12 (1) A large vessel marina that is located on coastal waters designated by
13 the Environmental Protection Agency as a no discharge zone or that is
14 located in a county or municipality that has adopted a resolution to
15 petition the Environmental Protection Agency for a no discharge zone
16 designation.
- 17 (2) A vessel in coastal waters that ~~are either~~ is designated as a no
18 discharge zone ~~or are included in a petition to the Environmental~~
19 ~~Protection Agency to be designated as a no discharge zone unless the~~
20 ~~petition has been denied by the Environmental Protection Agency."~~

21 **SECTION 2.** Section 3 of S.L. 2009-345 reads as rewritten:

22 "**SECTION 3.** Section 1 of this act becomes effective ~~July~~ December 1, 2010, and
23 applies to offenses committed on or after that date. The remainder of this act is effective
24 when it becomes law."

25 **SECTION 3.** This act is effective when it becomes law.

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1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND
3 STORAGE TANKS (USTS) IN ORDER TO COMPLY WITH A REQUIREMENT
4 OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY
5 THE ENVIRONMENTAL REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143-215.94KK through G.S. 143-215.94MM are reserved
8 for future codification purposes.

9 **SECTION 2.** Article 21A of Chapter 143 of the General Statutes is amended
10 by adding a new Part to read:

11 "Part 2D. Training of Underground Storage Tank Operators.

12 **"§ 143-215.94NN. Applicability.**

13 The requirements of this Part apply to underground storage tank systems regulated
14 under Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580,
15 90 Stat. 2795, 42 United States Code § 6901, et seq. as amended, except those excluded
16 by regulation at 40 Code of Federal Regulations 280.10(b) and those deferred by
17 regulation at 40 Code of Federal Regulations 280.10(c).

18 **"§ 143-215.94OO. Definitions.**

19 Unless a different meaning is required by the context or unless a different meaning is
20 set out in this section, the definitions in G.S. 143-212, 143-215.94A and 143-215.94L
21 apply in this Part.

- 22 (1) "Primary operator" means a person having primary responsibility for
23 the daily on-site operation and maintenance of an underground storage
24 tank system.
- 25 (2) "Emergency response operator" means an on-site employee whose
26 responsibilities include addressing emergencies presented by a spill or
27 release, or responding to alarms or releases from an underground
28 storage tank system. For an unmanned facility, "emergency response
29 operator" means the person responsible for responding to emergencies
30 or alarms or releases at the facility.
- 31 (3) "Underground storage tank" means any one or combination of tanks
32 (including underground pipes connected thereto) that is used to contain
33 an accumulation of regulated substances, and the volume of which
34 (including the volume of the underground pipes connected thereto) is
35 ten percent (10%) or more beneath the surface of the ground.
- 36 (4) "Underground storage tank system" or "tank system" means an
37 underground storage tank, connected underground piping,
38 underground ancillary equipment, dispenser, and containment system,
39 if any.

40 **"§ 143-215.94PP. Designation of operators to be trained.**

41 (a) The owner of an underground storage tank system shall designate the primary
42 operator of the underground storage tank system. The person designated shall be the
43 underground storage tank operator, as defined in 40 Code of Federal Regulations Part
44 280, or the employee of the underground storage tank operator. There shall be a
45 designated primary operator of the underground storage tank system at all times, until the
46 underground storage tank system has been permanently closed. If the owner fails to

1 designate a primary operator, the owner shall be deemed to be the primary operator of the
2 underground storage tank system for purposes of this Part.

3 (b) The primary operator shall designate one or more emergency response
4 operators. There shall be at least one emergency response operator at the site and at all
5 times during which a regulated substance is being withdrawn from, or is capable of being
6 withdrawn from, the underground storage tank system. For an unmanned facility, the
7 primary operator shall designate the person who is on-call to respond to emergencies or
8 alarms at the facility. The unmanned facility shall have an automated notification system
9 in place that will alert the designated emergency response operator of an emergency or
10 activated alarm at the facility. If the primary operator fails to designate one or more
11 emergency response operators, the primary operator shall be deemed to be the emergency
12 response operator of the underground storage tank system.

13 (c) A person may act as both the primary operator and the emergency response
14 operator of the underground storage tank system.

15 **"§ 143-215.94QQ. Training requirements for primary operators.**

16 (a) The Department shall develop and implement a training program for primary
17 operators. The training program shall provide instruction on the proper operation and
18 maintenance of the underground storage tank system at the facility, principles of
19 construction and safety, and all regulatory requirements associated with the underground
20 storage tank system. The training may consist of a combination of on-site evaluation and
21 testing, as well as in-class or online instruction and testing. At a minimum, the training
22 shall require the primary operator to demonstrate all of the following:

- 23 (1) Knowledge of the requirements for spill prevention, overfill
24 prevention, release detection, corrosion protection, emergency
25 response, and product compatibility.
- 26 (2) Site-specific knowledge of the equipment used at the facility and the
27 components of the underground storage tank system, and the methods
28 of release detection and release prevention applied to the underground
29 storage tank components.
- 30 (3) Knowledge of the requirements for demonstrating financial
31 responsibility.
- 32 (4) Understanding of notification requirements associated with the
33 underground storage tank system, and the requirements for reporting
34 releases and suspected releases.
- 35 (5) Understanding of the requirements for the temporary and permanent
36 closure of underground storage tank systems.
- 37 (6) Knowledge of the emergency response operator training requirements,
38 and the actions to be taken in response to emergencies and alarms.

39 (b) A primary operator shall be retrained if an inspection at the facility reveals
40 that the underground storage tank system is not in substantial compliance with the
41 requirements for: release detection, release prevention, financial responsibility,
42 emergency response, suspected release reporting and investigation, the proximity of the
43 underground storage tank system to water supply wells and surface water, and permitting.
44 A primary operator who is required to be retrained shall complete the retraining within a
45 reasonable time as determined by the Department. The retraining shall include training in
46 the areas for which the underground storage tank system was not in compliance.

1 (c) The primary operator shall maintain documentation to show that the operator
2 has satisfactorily completed all training required by this section.

3 **"§ 143-215.94RR. Training requirements for emergency response operators.**

4 (a) The Department shall develop a training program for emergency response
5 operators. At a minimum, the training shall require the primary operator to demonstrate
6 all of the following:

7 (1) General understanding of the underground storage tank system at the
8 facility, and knowledge of the location and proper operation of the
9 safety and emergency response equipment.

10 (2) Understanding of the actions to be taken in response to an emergency,
11 including situations posing an immediate danger or threat to the public
12 or to the environment and requiring immediate action.

13 (3) Understanding of leak detection alarms and preparations needed to
14 respond to alarms before a release has occurred.

15 (4) Recognition of unusual operating conditions, equipment failures, or
16 environmental conditions that may indicate a release, and knowledge
17 of the steps to take in response to a suspected release.

18 (5) Knowledge of immediate steps to take in response to a confirmed
19 release to stop further release and to contain spills before they reach
20 the environment.

21 (b) The primary operator is responsible for implementing the training program
22 developed by the Department for emergency response operators. The primary operator
23 shall train each emergency response operator of the underground storage tank system at
24 the facility. Prior to training an emergency response operator, the primary operator shall
25 have satisfactorily completed all training required by this section. The primary operator
26 shall maintain documentation of training provided to emergency response operators.

27 **"§ 143-215.94SS. Enforcement.**

28 This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and
29 G.S. 143-215.94Y.

30 **"§ 143-215.94TT. Effect on other laws.**

31 The requirements of this Part are in addition to, and not in lieu of, any other
32 requirements applicable to underground storage tank owners or operators, as defined in
33 40 Code of Federal Regulations Part 280, under law."

34 **SECTION 3.** Each designated primary operator and emergency response
35 operator shall complete the training required by this section no later than August 8, 2012.
36 For primary operators designated after August 8, 2012, the owner shall notify the
37 Department of the designation, and the primary operator shall be trained within 30 days
38 after assuming operation and maintenance responsibilities for the underground storage
39 tank system. After August 8, 2012, no person may assume the responsibilities of
40 emergency response operator without having first satisfactorily completed emergency
41 response operator training, and the primary operator shall ensure that no person assumes
42 the responsibilities of emergency response operator, unless the person has satisfactorily
43 completed emergency response operator training.

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

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A BILL TO BE ENTITLED

AN ACT TO: (1) MODIFY THE COMPUTER EQUIPMENT RECYCLING PLAN REQUIREMENTS AND ASSOCIATED FEE IMPOSED ON MANUFACTURERS; AND (2) MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2E of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 2. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2H. Discarded Computer Equipment and Television Management.

"§ 130A-309.130. Findings.

The General Assembly makes the following findings:

- (1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interests of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment and televisions.
- (3) Collection programs operated by manufacturers and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment and televisions.
- (5) No comprehensive system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment and televisions take part in a solution to the electronic waste problem.
- (7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.
- (8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products, including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.

1 (9) For the products covered by this Part, differences in product life
2 expectancy, market economics, residual value, and product portability
3 necessitate different approaches to recycling.

4 (10) In order to ensure that end-of-life computer equipment and televisions
5 are responsibly recycled, to promote conservation, and to protect
6 public health and the environment, a comprehensive and convenient
7 system for recycling and reuse of certain electronic equipment should
8 be established on the basis of shared responsibility among
9 manufacturers, retailers, consumers, and the State.

10 **"§ 130A-309.131. Definitions.**

11 As used in this Part, the following definitions apply:

12 (1) Business entity. – Defined in G.S. 55-1-40(2a).

13 (2) Computer equipment. – Any desktop computer, notebook computer,
14 monitor or video display unit for a computer system, and the keyboard,
15 mice, other peripheral equipment, and a printing device such as a
16 printer, a scanner, a combination print-scanner-fax machine, or other
17 device designed to produce hard paper copies from a computer.
18 Computer equipment does not include an automated typewriter,
19 professional workstation, server, ICI device, ICI system, mobile
20 telephone, portable handheld calculator, portable digital assistant
21 (PDA), MP3 player, or other similar device; an automobile; a
22 television; a household appliance; a large piece of commercial or
23 industrial equipment, such as commercial medical equipment, that
24 contains a cathode ray tube, a cathode ray tube device, a flat panel
25 display, or similar video display device that is contained within, and is
26 not separate from, the larger piece of equipment, or other medical
27 devices as that term is defined under the federal Food, Drug, and
28 Cosmetic Act.

29 (3) Computer equipment manufacturer. – A person that manufactures or
30 has manufactured computer equipment sold under its own brand or
31 label; sells or has sold under its own brand or label computer
32 equipment produced by other suppliers; imports or has imported into
33 the United States computer equipment that was manufactured outside
34 of the United States; or owns or has owned a brand that it licenses or
35 has licensed to another person for use on computer equipment.
36 Computer equipment manufacturer includes a business entity that
37 acquires another business entity that manufactures or has
38 manufactured computer equipment. Computer equipment
39 manufacturer does not include any existing person that does not and
40 has not manufactured computer equipment of the type that would be
41 used by consumers.

42 (4) Consumer. – An occupant of a single detached dwelling unit or a
43 single unit contained within a multiple dwelling unit who used a
44 covered device primarily for personal or home business use.

- 1 (5) Covered device. – Computer equipment and televisions used by
2 consumers primarily for personal or home business use. The term does
3 not include a device that is:
4 a. Part of a motor vehicle or any component of a motor vehicle
5 assembled by, or for, a vehicle manufacturer or franchised
6 dealer, including replacement parts for use in a motor vehicle.
7 b. (i) Physically a part of or integrated within a larger piece of
8 equipment designed and intended for use in an industrial,
9 governmental, commercial, research and development, or
10 medical setting; (ii) equipment used for diagnostic, monitoring,
11 or other medical products as that term is defined under the
12 federal Food, Drug, and Cosmetic Act; (iii) equipment used for
13 security, sensing, monitoring, antiterrorism purposes, or
14 emergency services purposes.
15 c. Contained within a household appliance, including, but not
16 limited to, a clothes washer, clothes dryer, refrigerator,
17 refrigerator and freezer, microwave oven, conventional oven or
18 range, dishwasher, room air conditioner, dehumidifier, air
19 purifier, or exercise equipment.
20 (6) Desktop computer. – An electronic, magnetic, optical, electrochemical,
21 or other high-speed data processing device that has all of the following
22 features:
23 a. Performs logical, arithmetic, and storage functions for general
24 purpose needs that are met through interaction with a number
25 of software programs contained in the computer.
26 b. Is not designed to exclusively perform a specific type of
27 limited or specialized application.
28 c. Achieves human interface through a stand-alone keyboard,
29 stand-alone monitor or other display unit, and a stand-alone
30 mouse or other pointing device.
31 d. Is designed for a single user.
32 e. Has a main unit that is intended to be persistently located in a
33 single location, often on a desk or on the floor.
34 (7) Discarded computer equipment. – Computer equipment that is solid
35 waste generated by a consumer.
36 (8) Discarded television. – A television that is solid waste generated by a
37 consumer.
38 (9) Discarded computer equipment or television collector. – A municipal
39 or county government, nonprofit agency, recycler, or retailer that
40 knowingly accepts for recycling discarded computer equipment or a
41 television from a consumer.
42 (10) Market share. – A television manufacturer's obligation to recycle
43 discarded televisions. A television manufacturer's market share is the
44 television manufacturer's prior year's sales of televisions as calculated
45 by the Department pursuant to G.S. 130A-309.138(4) divided by all
46 manufacturers' prior year's sales for all televisions as calculated by the

- 1 Department pursuant to G.S. 130A-309.138(4). Market share may be
2 expressed as a percentage, a fraction, or a decimal fraction.
3 (11) Notebook computer. – An electronic, magnetic, optical,
4 electrochemical, or other high-speed data processing device that has all
5 of the following features:
6 a. Performs logical, arithmetic, or storage functions for general
7 purpose needs that are met through interaction with a number
8 of software programs contained in the computer.
9 b. Is not designed to exclusively perform a specific type of
10 limited or specialized application.
11 c. Achieves human interface through a keyboard, video display
12 greater than four inches in size, and mouse or other pointing
13 device, all of which are contained within the construction of
14 the unit that comprises the computer.
15 d. Is able to be carried as one unit by an individual.
16 e. Is able to use external, internal, or batteries for a power source.
17 Notebook computer includes those that have a supplemental
18 stand-alone interface device attached to the notebook computer.
19 Notebook computer does not include a portable handheld calculator, a
20 PDA, or similar specialized device. A notebook computer may also be
21 referred to as a laptop computer.
22 (12) Recover. – The process of reusing or recycling covered devices.
23 (13) Recycle. – The processing, including disassembling, dismantling, and
24 shredding, of covered devices or their components to recover a usable
25 product. Recycle does not include any process that results in the
26 incineration of a covered device.
27 (14) Recycler. – A person that recycles covered devices.
28 (15) Retailer. – A person that sells computer equipment or televisions in the
29 State to a consumer. Retailer includes a computer equipment
30 manufacturer or a television manufacturer that sells directly to a
31 consumer through any means, including transactions conducted
32 through sales outlets, catalogs, the Internet, or any similar electronic
33 means, but does not include a person that sells computer equipment or
34 televisions to a distributor or retailer through a wholesale transaction.
35 (16) Television. – Any electronic device that contains a tuner that locks on
36 to a selected carrier frequency and is capable of receiving and
37 displaying of television or video programming via broadcast, cable, or
38 satellite, including, without limitation, any direct view or projection
39 television with a viewable screen of nine inches or larger whose
40 display technology is based on cathode ray tube (CRT), plasma, liquid
41 crystal display (LCD), digital light processing (DLP), liquid crystal on
42 silicon (LCOS), silicon crystal reflective display (SXR), light
43 emitting diode (LED), or similar technology marketed and intended for
44 use by a consumer primarily for personal purposes. The term does not
45 include computer equipment.

1 (17) Television manufacturer. – A person that: (i) manufactures for sale in
2 this State a television under a brand that it licenses or owns; (ii)
3 manufactures for sale in this State a television without affixing a
4 brand; (iii) resells into this State a television under a brand it owns or
5 licenses produced by other suppliers, including retail establishments
6 that sell a television under a brand that the retailer owns or licenses;
7 (iv) imports into the United States or exports from the United States a
8 television for sale in this State; (v) sells at retail a television acquired
9 from an importer that is the manufacturer as described in
10 sub-subdivision (iv) of this subdivision, and the retailer elects to
11 register in lieu of the importer as the manufacturer of those products;
12 (vi) manufactures a television for or supplies a television to any person
13 within a distribution network that includes wholesalers or retailers in
14 this State and that benefits from the sale in this State of the television
15 through the distribution network; or (vii) assumes the responsibilities
16 and obligations of a television manufacturer under this Part. In the
17 event the television manufacturer is one that manufactures, sells, or
18 resells under a brand it licenses, the licensor or brand owner of the
19 brand shall not be considered to be a television manufacturer under (i)
20 or (iii) of this subdivision.

21 **§ 130A-309.132. Responsibility for recycling discarded computer equipment and**
22 **televisions.**

23 In addition to the specific requirements of this Part, discarded computer equipment
24 and television collectors and computer equipment manufacturers and television
25 manufacturers share responsibility for the recycling of discarded computer equipment and
26 televisions and the education of citizens of the State as to recycling opportunities for
27 discarded computer equipment and televisions.

28 **§ 130A-309.133. Data security.**

29 Computer equipment manufacturers, television manufacturers, discarded computer
30 equipment and television collectors, recyclers, and retailers shall not be liable in any way
31 for data or other information left on a covered device that is collected or recovered
32 pursuant to the provisions of this Part.

33 **§ 130A-309.134. Requirements for computer equipment manufacturers.**

34 (a) Registration Required. – Each computer equipment manufacturer, before
35 selling or offering for sale computer equipment in North Carolina, shall register with the
36 Department.

37 (b) Manufacturer Label Required. – A computer equipment manufacturer shall
38 not sell or offer to sell computer equipment in this State unless a visible, permanent label
39 clearly identifying the manufacturer of that equipment is affixed to the equipment.

40 (c) Computer Equipment Recycling Plan Required. – Each computer equipment
41 manufacturer shall develop, submit to the Department, and implement one of the
42 following plans to provide a free and reasonably convenient recycling program to take
43 responsibility for computer equipment discarded by consumers:

44 (1) Tier I Recycling Plan. – A computer equipment manufacturer shall
45 submit a recycling plan for reuse or recycling of computer equipment
46 discarded by consumers in the State produced by the manufacturer.

1 The manufacturer shall submit a proposed plan to the Department
2 within 120 days of registration as required by subsection (a) of this
3 section. The plan shall:

4 a. Provide that the manufacturer will take responsibility for
5 discarded computer equipment it manufactured.

6 b. Describe any direct take-back program to be implemented by
7 the manufacturer. Collection methods that are deemed to meet
8 the requirements of this subdivision include one or more of the
9 following:

10 1. A process offered by the computer equipment
11 manufacturer or the manufacturer's designee for
12 consumers to return discarded computer equipment by
13 mail.

14 2. A physical collection site operated and maintained by
15 the computer equipment manufacturer or the
16 manufacturer's designee to receive discarded computer
17 equipment from consumers, which is available to
18 consumers during normal business hours.

19 3. A collection event hosted by the computer equipment
20 manufacturer or the manufacturer's designee at which a
21 consumer may return computer equipment.

22 c. Include a detailed description as to how the manufacturer will
23 implement the plan.

24 d. Provide for environmentally sound management practices to
25 transport and recycle discarded computer equipment.

26 e. Include a consumer recycling education program on the laws
27 governing the recycling and reuse of discarded computer
28 equipment under this Part and on the methods available to
29 consumers to comply with those requirements. The
30 manufacturer shall operate a toll-free telephone number to
31 answer questions from consumers about computer recycling
32 options.

33 (2) Tier II Recycling Plan. – A computer equipment manufacturer shall
34 submit a recycling plan for reuse or recycling of computer equipment
35 discarded by consumers in the State produced by the manufacturer and
36 by other manufacturers. The manufacturer shall submit a proposed
37 plan to the Department within 120 days of registration as required by
38 subsection (a) of this section. The plan may offer additional options to
39 collect other types of electronic equipment that do not constitute
40 discarded computer equipment, as that term is defined under
41 G.S. 130A-309.131, and may allow for assessment of a nominal fee
42 for collection of these other types of electronic equipment that are not
43 discarded computer equipment. The plan shall include all of the
44 elements set forth in subdivision (1) of subsection (c) of this section.
45 In addition the plan shall:

- 1 a. Provide that the manufacturer will take responsibility for
2 computer equipment discarded by consumers that was
3 manufactured by other manufacturers, as well as computer
4 equipment that it manufactured.
- 5 b. Provide that the manufacturer shall: (i) maintain physical
6 collection sites to receive discarded computer equipment from
7 consumers in 10 of the most populated municipalities in the
8 State. The physical collection sites shall be available to
9 consumers during normal business hours, at a minimum; and
10 (ii) host at least two collection events annually within the State.
- 11 (3) Tier III Recycling Plan. – A computer equipment manufacturer shall
12 submit a recycling plan for reuse or recycling of computer equipment
13 discarded by consumers in the State produced by the manufacturer and
14 by other manufacturers. The manufacturer shall submit a proposed
15 plan to the Department within 120 days of registration as required by
16 subsection (a) of this section. The plan may offer additional options to
17 collect other types of electronic equipment that do not constitute
18 discarded computer equipment, as that term is defined under
19 G.S. 130A-309.131, and may allow for assessment of a nominal fee
20 for collection of these other types of electronic equipment that are not
21 discarded computer equipment. The plan shall include all of the
22 elements set forth in subdivision (1) of subsection (c) of this section.
23 In addition the plan shall:
- 24 a. Provide that the manufacturer will take responsibility for
25 computer equipment discarded by consumers that was
26 manufactured by other manufacturers, as well as computer
27 equipment that it manufactured.
- 28 b. Provide that the manufacturer shall: (i) maintain physical
29 collection sites to receive discarded computer equipment from
30 consumers in 50 of the State's counties, of which 10 of those
31 counties shall be the most populated counties in the State. The
32 physical collection sites shall be available to consumers during
33 normal business hours, at a minimum; and (ii) host at least two
34 collection events annually within the State.
- 35 (d) Fee Required. – Within 90 days of registration as required in subsection (a) of
36 this section, a computer equipment manufacturer shall pay an initial registration fee to the
37 Department. A computer equipment manufacturer that has registered shall pay an annual
38 renewal registration fee to the Department, which shall be paid each year no later than
39 July 1. The proceeds of these fees shall be credited to the Electronics Management
40 Account established pursuant to 130A-309.137. A manufacturer of computer equipment
41 that sells 1,000 items of computer equipment or fewer per year is exempt from the
42 requirement to pay the registration fee and the annual renewal fee imposed by this
43 subsection. The amount of the fee a computer equipment manufacturer shall pay shall be
44 determined on the basis of the plan the manufacturer develops, submits, and implements
45 pursuant to subsection (c) of this section, as follows:

1 (1) A computer equipment manufacturer who develops, submits, and
2 implements a Tier I recycling plan pursuant to subdivision (1) of
3 subsection (c) of this section shall pay an initial registration fee of
4 fifteen thousand dollars (\$15,000) and an annual renewal fee of fifteen
5 thousand dollars (\$15,000) to the Department.

6 (2) A computer equipment manufacturer who develops, submits, and
7 implements an Tier II recycling plan pursuant to subdivision (2) of
8 subsection (c) of this section shall pay an initial registration fee of ten
9 thousand dollars (\$10,000) and an annual renewal fee of seven
10 thousand five hundred dollars (\$7,500) to the Department.

11 (3) A computer equipment manufacturer who develops, submits, and
12 implements an Tier III recycling plan pursuant to subdivision (3) of
13 subsection (c) of this section shall pay an initial registration fee of ten
14 thousand dollars (\$10,000) and an annual renewal fee of two thousand
15 five hundred dollars (\$2,500) to the Department.

16 (e) Computer Equipment Recycling Plan Revision. – A computer equipment
17 manufacturer may prepare a revised plan and submit it to the Department at any time as
18 the manufacturer considers appropriate in response to changed circumstances or needs.
19 The Department may require a manufacturer to revise or update a plan if the Department
20 finds that the plan is inadequate or out-of-date.

21 (f) Payment of Costs for Plan Implementation. – Each computer equipment
22 manufacturer is responsible for all costs associated with the development and
23 implementation of its plan. A computer equipment manufacturer shall not collect a fee
24 from a consumer or a local government for the management of discarded computer
25 equipment at the time the equipment is discarded.

26 (g) Joint Computer Equipment Recycling Plans. – A computer equipment
27 manufacturer may fulfill the requirements of subsection (c) of this section by
28 participation in a joint recycling plan with other manufacturers. A joint plan shall meet
29 the requirements of subsection (c) of this section.

30 (h) Annual Report. – Each computer equipment manufacturer shall submit a
31 report to the Department by October 1 of each year stating the total weight of all
32 computer equipment collected for recycling or reuse in the previous fiscal year. The
33 report shall also include a summary of actions taken to comply with the requirements of
34 subsection (c) of this section.

35 **§ 130A-309.135. Requirements for television manufacturers.**

36 (a) Registration and Fee Required. – Each television manufacturer, before selling
37 or offering for sale televisions in the State, shall register with the Department and, at the
38 time of registration, shall pay an initial registration fee of two thousand five hundred
39 dollars (\$2,500) to the Department. An initial registration shall be valid from the day of
40 registration through the last day of the fiscal year in which the registration fee was paid.
41 A television manufacturer that has registered shall pay an annual renewal registration fee
42 of two thousand five hundred dollars (\$2,500) to the Department. The annual renewal
43 registration fee shall be paid to the Department each fiscal year no later than June 30 of
44 the previous fiscal year. The proceeds of these fees shall be credited to the Electronics
45 Management Account. A television manufacturer that sells 1,000 televisions or fewer per

1 year is exempt from the requirement to pay the registration fee and the annual renewal
2 fee imposed by this subsection.

3 (b) Manufacturer Label Required. – A television manufacturer shall not sell or
4 offer to sell any television in this State unless a visible, permanent label clearly
5 identifying the manufacturer of that device is affixed to the equipment.

6 (c) Recycling of Market Share Required. – The obligation to recycle televisions
7 shall be allocated to each television manufacturer based on the television manufacturer's
8 market share. A television manufacturer must annually recycle or arrange for the
9 recycling of its market share of televisions pursuant to this section.

10 (d) Due Diligence and Compliance Assessments. – A television manufacturer
11 shall conduct and document due diligence assessments of the recyclers the manufacturer
12 contracts with, including an assessment of compliance with environmentally sound
13 recovery standards adopted by the Department.

14 (e) Contact Information Required. – A television manufacturer shall provide the
15 Department with contact information for the manufacturer's designated agent or
16 employee whom the Department may contact for information related to the
17 manufacturer's compliance with the requirements of this section.

18 (f) Joint Television Recycling Plans. – A television manufacturer may fulfill the
19 requirements of this section either individually or in participation with other television
20 manufacturers.

21 (g) Annual Report. – A television manufacturer shall report to the Department by
22 October 1 of each year the total weight of televisions the manufacturer collected and
23 recycled in the State during the previous fiscal year.

24 **§ 130A-309.136. Requirements applicable to retailers.**

25 (a) A manufacturer must not sell or offer for sale or deliver to retailers for
26 subsequent sale new computer equipment or televisions unless: (i) the covered device is
27 labeled with the manufacturer's brand, which label is permanently affixed and readily
28 visible; and (ii) the manufacturer has filed a registration with the Department and is
29 otherwise in compliance with the requirements of this Part, as indicated on the list
30 developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

31 (b) A retailer is not responsible for an unlawful sale under this section if the
32 manufacturer's registration expired or was revoked and the retailer took possession of the
33 covered device prior to the expiration or revocation of the manufacturer's registration and
34 the unlawful sale occurred within six months after the expiration or revocation.

35 **§ 130A-309.137. Electronics Management Account.**

36 (a) Creation. – The Electronics Management Account is created as a nonreverting
37 account within the Department. The Account consists of revenue credited to the Account
38 from the proceeds of the fee imposed on computer equipment manufacturers under
39 G.S. 130A-309.134 and television manufacturers under G.S. 130A-309.135.

40 (b) Use and Distribution. – Funds in the Account shall be used by the Department
41 to implement the provisions of this Part concerning discarded computer equipment and
42 televisions. The Department may retain up to ten percent (10%) of the fees collected for
43 administration of the requirements of this Part. Funds remaining shall be distributed
44 annually by the Department to eligible local governments designated pursuant to
45 subsection (c) of this section on or before February 15 of each year, based on each local

1 government's pro rata share of the funds to be distributed to all eligible designated local
2 governments.

3 (c) Eligibility. – Except as provided in subsection (d) of this section, no more
4 than one unit of local government per county, including the county itself, may receive
5 funding pursuant to this section for a program to manage discarded computer equipment,
6 televisions, and other electronic devices. In order to be eligible for funding, a unit of local
7 of government shall:

8 (1) Submit a comprehensive solid waste management plan required
9 pursuant to G.S. 130A-309.09A, amended as necessary to include the
10 following criteria:

11 a. Information on existing programs within the jurisdiction to
12 recycle or reuse discarded computer equipment, televisions,
13 and other electronic devices, or information on a plan to begin
14 such a program on a date certain. This information shall
15 include a description of the implemented or planned practices
16 for collection of the equipment; and a description of the types
17 of equipment to be collected and how the equipment will be
18 marketed for recycling.

19 b. Information on a public awareness and education program
20 concerning the recycling and reuse of discarded computer
21 equipment, televisions, and other electronic devices.

22 c. Information on methods to track and report total tonnage of
23 computer equipment, televisions, and other electronic devices
24 collected and recycled in the jurisdiction.

25 d. Information on interactions with other units of local
26 government to provide or receive services concerning disposal
27 of discarded computer equipment, televisions, and other
28 electronic devices.

29 e. Information on how the unit of local government will account
30 for the expenditure of funds received pursuant to this section.

31 (2) Establish a separate local budget account for the receipt and
32 expenditure of funds received pursuant to this section.

33 (3) Contract with a recycler, as defined in G.S. 130A-309.131, to process
34 the discarded computer equipment, televisions, and other electronic
35 devices the unit of local government collects that is certified as
36 adhering to Responsible Recycling ('R2') practices or that is certified
37 as an e-Steward recycler adhering to the e-Stewards Standard for
38 Responsible Recycling and Reuse of Electronic Equipment®.

39 (d) Local Government Designation. – If more than one unit of local government
40 in a county, including the county itself, requests funding pursuant to this section, the units
41 of local government in question may: (i) enter into interlocal agreements for provision of
42 services concerning disposal of discarded computer equipment and televisions, and
43 distribution of funds received pursuant to this section among the parties to the agreement;
44 or (ii) submit separate and distinct comprehensive solid waste management plans
45 pursuant to G.S. 130A-309.09A, with the information set forth in subdivisions (1)
46 through (5) of subsection (c) of this section. In the case of (ii), the Department shall

1 distribute funds to the local governments determined to be eligible based on the
2 percentage of the county's population to be served under each eligible local government's
3 program.

4 (e) Report. – Information regarding permanent recycling programs for discarded
5 computer equipment and televisions for which funds are received pursuant to this section,
6 and information on operative interlocal agreements executed in conjunction with funds
7 received, if any, shall be included in the annual report required under
8 G.S. 130A-309.09A.

9 **"§ 130A-309.138. Responsibilities of the Department.**

10 In addition to its other responsibilities under this Part, the Department shall:

11 (1) Develop and maintain a current list of manufacturers that are in
12 compliance with the requirements of G.S. 130A-309.134 and
13 G.S. 130A-309.135, post the list to the Department's Web site, and
14 provide the current list to the Office of Information Technology
15 Services each time that the list is updated.

16 (2) Develop and implement a public education program on the laws
17 governing the recycling and reuse of discarded computer equipment
18 and televisions under this Part and on the methods available to
19 consumers to comply with those requirements. The Department shall
20 make this information available on the Internet and shall provide
21 technical assistance to manufacturers to meet the requirements of
22 G.S. 130A-309.134(c)(1)(e.). The Department shall also provide
23 technical assistance to units of local government on the establishment
24 and operation of discarded computer equipment and television
25 collection centers and in the development and implementation of local
26 public education programs.

27 (3) Maintain the confidentiality of any information that is required to be
28 submitted by a manufacturer under this Part that is designated as a
29 trade secret, as defined in G.S. 66-152(3) and that is designated as
30 confidential or as a trade secret under G.S. 132-1.2.

31 (4) The Department shall use national televisions sales data available from
32 commercially available analytical sources to calculate the generation
33 of discarded televisions and to determine each television
34 manufacturer's recovery responsibilities for televisions based on the
35 manufacturer's market share. The Department shall extrapolate data for
36 the State from national data on the basis of the State's share of the
37 national population.

38 **"§ 130A-309.139. Enforcement.**

39 This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

40 **"§ 130A-309.140. Annual report.**

41 No later than January 15 of each year, the Department shall submit a report on the
42 recycling of discarded computer equipment and televisions in the State under this Part to
43 the Environmental Review Commission. The report must include an evaluation of the
44 recycling rates in the State for discarded computer equipment and televisions, a
45 discussion of compliance and enforcement related to the requirements of this Part, and

1 any recommendations for any changes to the system of collection and recycling of
2 discarded computer equipment, televisions, or other electronic devices.

3 **§ 130A-309.141. Local government authority not preempted.**

4 Nothing in this Part shall be construed as limiting the authority of any local
5 government to manage computer equipment and televisions that are solid waste."

6 **SECTION 3.(a)** G.S. 130A-309.09A(b)(6) reads as rewritten:

7 "(6) Include an assessment of current programs and a description of
8 intended actions with respect to:

9 ...

10 e. For each county and each municipality with a population in
11 excess of 25,000, collection of discarded computer equipment
12 and televisions, as defined in G.S. 130A-309.131.
13 ~~130A-309.91."~~

14 **SECTION 3.(b)** G.S. 130A-309.09A(d) is amended by adding a new
15 subdivision to read:

16 "(d) In order to assess the progress in meeting the goal set out in
17 G.S. 130A-309.04, each unit of local government shall report to the Department on the
18 solid waste management programs and waste reduction activities within the unit of local
19 government by 1 September of each year. At a minimum, the report shall include:

20 ...

21 (8) Information regarding permanent recycling programs for discarded
22 computer equipment and televisions for which funds are received
23 pursuant to G.S. 130A-309.137, and information on operative
24 interlocal agreements executed in conjunction with funds received, if
25 any."

26 **SECTION 4.(a)** G.S. 130A-309.10(f) reads as rewritten:

27 "(f) No person shall knowingly dispose of the following solid wastes in landfills:

28 (1) Repealed by Session Laws 1991, c. 375, s. 1.

29 (2) Used oil.

30 (3) Yard trash, except in landfills approved for the disposal of yard trash
31 under rules adopted by the Commission. Yard trash that is source
32 separated from solid waste may be accepted at a solid waste disposal
33 area where the area provides and maintains separate yard trash
34 composting facilities.

35 (4) White goods.

36 (5) Antifreeze (ethylene glycol).

37 (6) Aluminum cans.

38 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The
39 prohibition on disposal of whole scrap tires in landfills applies to all
40 whole pneumatic rubber coverings, but does not apply to whole solid
41 rubber coverings.

42 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.

43 (9) Beverage containers that are required to be recycled under
44 G.S. 18B-1006.1.

45 (10) Motor vehicle oil filters.

- 1 (11) Recyclable rigid plastic containers that are required to be labeled as
2 provided in subsection (e) of this section, that have a neck smaller than
3 the body of the container, and that accept a screw top, snap cap, or
4 other closure. The prohibition on disposal of recyclable rigid plastic
5 containers in landfills does not apply to rigid plastic containers that are
6 intended for use in the sale or distribution of motor oil or pesticides.
- 7 (12) Wooden pallets, except that wooden pallets may be disposed of in a
8 landfill that is permitted to only accept construction and demolition
9 debris.
- 10 (13) Oyster shells.
- 11 (14) Discarded computer equipment, as defined in G.S. 130A-309.131.
12 ~~G.S. 130A-309.91~~.
- 13 (15) Discarded televisions, as defined in G.S. 130A-309.131.
14 ~~130A-309.91~~."

15 **SECTION 4.(b)** G.S. 130A-309.10(f) reads as rewritten:

16 "(f1) No person shall knowingly dispose of the following solid wastes by
17 incineration in an incinerator for which a permit is required under this Article:

- 18 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
- 19 (2) Aluminum cans.
- 20 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
- 21 (4) White goods.
- 22 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- 23 (6) Beverage containers that are required to be recycled under
24 G.S. 18B-1006.1.
- 25 (7) Discarded computer equipment, as defined in G.S. 130A-309.131.
26 ~~130A-309.91~~.
- 27 (8) Discarded televisions, as defined in G.S. 130A-309.131.
28 ~~130A-309.91~~."

29 **SECTION 4.(c)** Section 16.6(b) of S.L. 2007-550, as amended by Section
30 16(a) of S.L. 2009-484, reads as rewritten:

31 "**SECTION 16.6.(b)** Section 16.2 of this act becomes effective July 1, 2010.
32 Sections 16.3 and 16.4 of this act become effective ~~January~~ July 1, 2011. Section 16.5 of
33 this act becomes effective July 1, 2010. Subsection (b) of Section 16.1 of this act, Section
34 16.6 of this act, and any other provision of Section 16 of this act for which an effective
35 date is not specified become effective July 1, 2010."

36 **SECTION 5.** G.S. 147-33.104 reads as rewritten:

37 "**§ 147-33.104. Purchase by State agencies and governmental entities of certain**
38 **computer equipment prohibited.**

39 (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

40 (b) No State agency, political subdivision of the State, or other public body shall
41 purchase computer equipment or televisions, as defined in G.S. 130A-309.91,
42 130A-309.131 or enter into a contract with ~~from~~ any manufacturer that the Secretary
43 determines is not in compliance with the requirements of G.S. 130A-309.93
44 130A-309.134 or G.S. 130A-309.93A-130A-309.135 as determined from the list
45 provided by the Department of Environment and Natural Resources pursuant to
46 G.S. 130A-309.95(1)-130A-309.138. The Secretary shall issue written findings upon a

1 determination of noncompliance. A determination of noncompliance by the Secretary is
2 reviewable under Article 3 of Chapter 150B of the General Statutes.

3 (c) The Office of Information Technology Services shall make the list available
4 to political subdivisions of the State and other public bodies. A manufacturer that is not in
5 compliance with the requirements of G.S. ~~130A-309.93~~ 130A-309.134 shall not sell or
6 offer for sale computer equipment or televisions to the State, a political subdivision of the
7 State, or other public body."

8 **SECTION 6.** The Environmental Review Commission, with the assistance of
9 the Department of Environment and Natural Resources, shall conduct a study to
10 determine the feasibility of requiring recycling of: (i) computer equipment discarded by
11 small businesses; and (ii) other electronic equipment, including, but not limited to:
12 automated typewriters, professional workstations, servers, ICI devices, ICI systems,
13 mobile telephones, portable handheld calculators, PDAs, MP3 players, copy machines,
14 VCRs, stereos, radios, tape players, CD players, telephones, fax machines, electronic
15 games, power and network cables, network hubs, switching boxes, controllers, modems,
16 docking stations, CD-ROMs, hard drives, printed circuit boards, uninterruptible power
17 supplies, routers, and rechargeable batteries. The Environmental Review Commission,
18 with the Assistance of the Department of Environment and Natural Resources, shall also
19 study the fee structure for computer manufacturers imposed under this act. The
20 Environmental Review Commission shall report its findings and recommendations,
21 including any legislative proposals, to the 2011 Regular Session of the General Assembly
22 upon its convening.

23 **SECTION 7.** The Environmental Review Commission, with the assistance of
24 the Department of Environment and Natural Resources, shall monitor and review
25 electronic recycling programs in other states on an ongoing basis and shall report its
26 findings and recommendations to the General Assembly periodically.

27 **SECTION 8.** Notwithstanding the provisions of G.S. 130A-309.136, as
28 enacted by Section 2 of this act, during the first year after the effective date of this act, no
29 penalty shall be imposed for a first violation of G.S. 130A-309.136. The Department
30 shall, however, issue a notice of violation to the retailer in conjunction with the first
31 violation.

32 **SECTION 9.** This act is effective when it becomes law, except that: (i)
33 G.S. 130A-309.136, as enacted by Section 2 of this act, is effective July 1, 2011; and (ii) changes
34 required to comprehensive solid waste management plans in accordance with G.S. 130A-309.137,
35 as enacted by Section 2 of this act, shall be submitted to the Department of Environment and
36 Natural Resources on or before December 1, 2010.

37

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1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL
3 AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT,
4 ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE
5 ENVIRONMENTAL REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 114-4.2D reads as rewritten:

8 "§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy
9 Efficiency Program of the Department of Administration Commerce.

10 The Attorney General shall assign an attorney on his staff to work full time with the
11 Energy Policy Council and Energy Efficiency Program of the Department of
12 ~~Administration Commerce~~. Such attorney shall be subject to all provisions of Chapter
13 126 of the General Statutes relating to the State Personnel System. Such attorney shall
14 also perform such additional duties as may be assigned to him by the Attorney General."

15 SECTION 2. The catch line of Article 19 of Chapter 120 of the General
16 Statutes reads as rewritten:

17 "Article 19.

18 Commission on Agriculture and Forestry Awareness Study Commission."

19 SECTION 3. G.S. 120-150 reads as rewritten:

20 "§ 120-150. Creation; appointment of members.

21 There is created an Agriculture and Forestry Awareness Study Commission.
22 Members of the Commission shall be citizens of North Carolina who are interested in the
23 vitality of the agriculture and forestry sectors of the State's economy. Members shall be
24 as follows:

- 25 (1) Three appointed by the ~~Governor~~; Governor.
- 26 (2) Three appointed by the President Pro Tempore of the ~~Senate~~; Senate.
- 27 (3) Three appointed by the Speaker of the ~~House~~; House.
- 28 (4) The ~~chairman~~ chair of the House Agriculture ~~Committee~~; Committee.
- 29 (5) The ~~chairman~~ chair of the Senate ~~Agriculture Committee~~; Committee
30 on Agriculture, Environment, and Natural Resources.
- 31 (6) The Commissioner of Agriculture or the Commissioner's
32 ~~designee~~; designee.
- 33 (7) A member of the Board of Agriculture designated by the ~~chairman~~
34 chair of the Board of ~~Agriculture~~; Agriculture.
- 35 (8) The President of the North Carolina Farm Bureau Federation, Inc., or
36 the President's ~~designee~~; designee.
- 37 (9) The ~~Master~~ President of the North Carolina State Grange or the
38 ~~Master's President's~~ designee; designee.
- 39 (10) The Secretary of Environment and Natural Resources or the
40 Secretary's ~~designee~~; and designee.
- 41 (11) The President of the North Carolina Forestry Association, Inc., or the
42 President's designee.

43 ~~Members shall be appointed for two-year terms beginning October 1 of each~~
44 ~~odd-numbered year. The Chair of the House Agriculture Committee and the Chair of the~~
45 ~~Senate Committee on Agriculture, Environment, and Natural Resources shall serve as~~

1 ~~cochairs. The cochairmen of the Commission shall be the chairmen of the Senate and~~
2 ~~House Agriculture Committees respectively."~~

3 **SECTION 4.** G.S. 130A-309.10(l) reads as rewritten:

4 "(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at
5 least 90 days or until they are removed for recycling. If oyster shells that are stored at a
6 landfill are not removed for recycling within 90 days of delivery to the landfill, then,
7 notwithstanding subdivision ~~(42)~~ (13) of subsection (f) of this section, the oyster shells
8 may be disposed of in the landfill."

9 **SECTION 5.** G.S. 130A-309.12(b) reads as rewritten:

10 "(b) The Solid Waste Management Trust Fund shall consist of the following:

- 11 (1) Funds appropriated by the General Assembly.
- 12 (2) Contributions and grants from public or private sources.
- 13 (3) ~~Five percent (5%)~~ Eight percent (8%) of the proceeds of the scrap tire
14 disposal tax imposed under Article 5B of Chapter 105 of the General
15 Statutes.
- 16 (4) Eight percent (8%) of the proceeds of the white goods disposal tax
17 imposed under Article 5C of Chapter 105 of the General Statutes.
- 18 (5) Twelve and one-half percent (12.5%) of the proceeds of the solid
19 waste disposal tax imposed under Article 5G of Chapter 105 of the
20 General Statutes."

21 **SECTION 6.** G.S. 130A-310.11(b) reads as rewritten:

22 "(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to
23 G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and
24 ~~G.S. 130A-310.5(e).~~ G.S. 130A-310.6(c)."

25 **SECTION 7.** G.S. 143-355.4(b) reads as rewritten:

26 "(b) To be eligible for State water infrastructure funds from the Drinking Water
27 State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of
28 funds allocated by the General Assembly whether the allocation of funds is to a State
29 agency or to a nonprofit organization for the purpose of extending waterlines or
30 expanding water treatment capacity, a local government or large community water
31 system must demonstrate that the system:

32 ..."

33 **SECTION 8.** G.S. 153B-2 reads as rewritten:

34 **"§ 153B-2. Definitions.**

35 The following definitions apply in this ~~Article~~ Chapter:

- 36 (1) Commission. – The Mountain Resources Commission created by this
37 Chapter.
- 38 (2) Council. – The Mountain Area Resources Technical Advisory Council.
- 39 (3) Important mountain resources. – The natural and cultural resources of
40 the mountain region of Western North Carolina, including, but not
41 limited to, State and federal public lands, wildlife habitat, farms,
42 forestland and rural landscapes, mountain vistas, mountain streams and
43 rivers, mountain lakes, and historical and archeological resources.
- 44 (4) Mountain region of Western North Carolina. – The area encompassed
45 by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe,
46 Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood,

1 Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk,
2 Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin,
3 and Yancey in the State.

4 (5) Secretary. – The Secretary of ~~the Department of Environment and~~
5 ~~Natural Resources.~~"

6 **SECTION 9.** G.S. 153B-3(d) reads as rewritten:

7 "(d) Membership. – The Commission shall consist of 17 members as follows:

8 ...

9 (d1) Officers; Terms. – The members of the Commission shall elect a chair,
10 vice-chair, and any other officers they consider necessary and shall determine the length
11 of the term of office, not to exceed two years, of each officer. A majority of the
12 Commission shall constitute a quorum. Each member appointed to the Commission shall
13 be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by
14 the original appointing authority for the remainder of the unexpired term. Initial terms
15 commence September 1, 2009."

16 **SECTION 10.** G.S. 153B-4 reads as rewritten:

17 "**§ 153B-4. Mountain Area Resources Technical Advisory Council.**

18 ...

19 (d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources~~
20 ~~Technical Advisory Council~~ is hereby declared to be an office that may be held
21 concurrently with other elective or appointive offices (except the office of Commission
22 member) in addition to the maximum number of offices permitted to be held by one
23 person under G.S. 128-1.1.

24 (e) ~~Chairman~~ Chair and Vice ~~Chairman~~ Chair. – A ~~chairman~~ chair and vice
25 ~~chairman~~ chair shall be elected annually by the Council.

26 (f) Compensation. – The members of the ~~Advisory Council~~ who are not State
27 employees may receive per diem and necessary travel and subsistence expenses in
28 accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds
29 available to the Commission through the Mountain Area Resources Fund, but no
30 expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

31 **SECTION 11.** This act is effective when it becomes law.

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1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL
3 RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

7 SECTION 2. G.S. 130A-310.57 reads as rewritten:

8 "§ 130A-310.57. (Effective until December 31, 2017) Reports.

9 ~~The Department shall submit an annual report on the mercury switch removal~~
10 ~~program under this Part to the Environmental Review Commission Commission, and the~~
11 ~~Senate and House of Representatives Appropriations Subcommittees on Natural and~~
12 ~~Economic ResourcesResources, and the Fiscal Research Division of the General~~
13 ~~Assembly~~ on or before 1, October of each year. The report shall include, at a minimum,
14 all of the following:

- 15 (1) A detailed description of the mercury recovery performance ratio
16 achieved by the mercury switch removal program.
- 17 (1a) A detailed description of the mercury switch collection system
18 developed and implemented by vehicle manufacturers in accordance
19 with the NVMSRP.
- 20 (2) In the event that a mercury recovery performance ratio of at least 0.90
21 of the national mercury recovery performance ratio as reported by the
22 NVMSRP is not achieved, a description of additional or alternative
23 actions that may be implemented to improve the mercury switch
24 removal program.
- 25 (3) The number of mercury switches collected and a description of how
26 the mercury switches were managed.
- 27 (4) A statement that details the costs required to implement the mercury
28 switch removal program including a summary of receipts and
29 disbursements from the Mercury Switch Removal Account."

30 SECTION 3. G.S. 143-214.13 reads as rewritten:

31 "§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.

32 (a) The Department of Environment and Natural Resources shall report each year
33 by November 1 to the Environmental Review Commission and to the Joint Legislative
34 Commission on Governmental Operations regarding its progress in implementing the
35 Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration
36 Fund. The report shall document statewide wetlands losses and gains and compensatory
37 mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall
38 also provide an accounting of receipts and disbursements of the Ecosystem Restoration
39 Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a
40 per-acre basis between the State's Ecosystem Enhancement Program and private
41 mitigation banks. The Department shall also send a copy of its report to the Fiscal
42 Research Division of the General Assembly.

43 (b) The Department shall maintain an inventory of all property that is held,
44 managed, maintained, enhanced, restored, or used to create wetlands under the
45 Ecosystem Enhancement Program. The inventory shall also list all conservation

1 easements held by the Department. The inventory shall be included in the annual report
2 required under subsection (a) of this section."

3 **SECTION 4.** G.S. 143B-336.1 reads as rewritten:

4 **"§ 143B-336.1. Special Zoo Fund.**

5 A special continuing and nonreverting fund, to be called the Special Zoo Fund, is
6 created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end
7 of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund.
8 This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing
9 habitat clusters and visitor services facilities, construction of visitor services facilities and
10 support facilities such as greenhouses and temporary animal holding areas, for the
11 replacement of tram equipment as required to maintain adequate service to the public,
12 and for marketing the Zoological Park. The Special Zoo Fund may also be used to match
13 private funds that are raised for these purposes. Funds may be expended for these
14 purposes by the Department of Environment and Natural Resources on the advice of the
15 North Carolina Zoological Park Council and with the approval of the Office of State
16 Budget and Management. The Department of Environment and Natural Resources shall
17 provide ~~an annual~~ a report on or before October 1 of each year to the Office of State
18 Budget and ~~Management~~ Management, ~~and to the~~ Fiscal Research Division of the
19 ~~Legislative Services Office~~ General Assembly, and to the Joint Legislative Commission
20 on Governmental Operations on the use of fees collected pursuant to this section."

21 **SECTION 5.** G.S. 143B-344.21 reads as rewritten:

22 **"§ 143B-344.21. Reports to General Assembly.**

23 The Commission shall prepare and submit a report outlining the needs of the North
24 Carolina State Museum of Natural Sciences and recommendations for improvement of
25 the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose
26 hereinabove set forth to the 1995 General Assembly, and to each succeeding General
27 Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint
28 Legislative Commission on Governmental Operations ~~a report outlining the needs of the~~
29 ~~North Carolina State Museum of Natural Sciences and their recommendation for~~
30 ~~improvement of the effectiveness of the North Carolina State Museum of Natural~~
31 ~~Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

32 **SECTION 6.** This act is effective when it becomes law.

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (2) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (3) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (4) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (5) AMEND REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; AND (7) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.42(b) reads as rewritten:

"(b) The President Pro Tempore of the Senate shall designate one ~~Senator to serve as cochair~~ or more Senators and the Speaker of the House of Representatives shall designate one ~~Representative to serve as cochair~~ or more Representatives to serve as cochairs."

SECTION 2. G.S. 130A-310.4(b) reads as rewritten:

"(b) Before approving any remedial action plan, the Secretary shall make copies of the proposed plan available for inspection as follows:

- (1) A copy of the plan shall be provided to the local health director.
- (2) ~~A copy of the proposed plan shall be filed with the register of deeds in the county or counties in which the site is located.~~
- (3) A copy of the plan shall be provided to the each public library located in closest proximity to the site in the county or counties in which the site is located.
- (4) The Secretary may place copies of the plan in other locations so as to assure the availability thereof to the public.

In addition, copies of the plan shall be available for inspection and copying at cost by the public during regular business hours in the offices of the agency within the Department with responsibility for the administration of the remedial action program."

SECTION 3.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

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

1 (a) The Division of Water Quality of the Department shall develop a program to
2 train and certify individuals to determine the presence of surface waters that would
3 require the application of rules adopted by the Commission for the protection of riparian
4 buffers. The Division may train and certify employees of the Division as determined by
5 the Director of the Division of Water Quality; employees of units of local government to
6 whom responsibility for the implementation and enforcement of the riparian buffer
7 protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under
8 Chapter 89B of the General Statutes who are employees of the Division of Forest
9 Resources of the Department as determined by the Director of the Division of Forest
10 Resources. The Director of the Division of Water Quality may review the determinations
11 made by individuals who are certified pursuant to this section, may override a
12 determination made by an individual certified under this section, and, if the Director of
13 the Division of Water Quality determines that an individual is failing to make correct
14 determinations, revoke the certification of that individual.

15 (b) The Division of Water Quality shall develop standard forms for use in making
16 and reporting determinations. Each individual who is certified to make determinations
17 under this section shall prepare a written report of each determination and shall submit
18 the report to the agency that employs the individual. Each agency shall maintain reports
19 of determinations made by its employees, shall forward a copy of each report to the
20 Director of the Division of Water Quality, and shall maintain these reports and all other
21 records related to determinations so that they will be readily accessible to the public."

22 **SECTION 3.(b)** In implementing the Surface Water Identification Training
23 and Certification Program established by G.S. 143-214.25A, as enacted by Section 3(a)
24 of this act, the Division of Water Quality of the Department of Environment and Natural
25 Resources shall give priority to training and certifying the most highly qualified and
26 experienced personnel in each agency. The Division of Water Quality shall evaluate the
27 effectiveness of the Surface Water Identification Training and Certification Program and
28 shall submit an annual report of its findings and recommendations, if any, to the
29 Environmental Review Commission on or before October 1 of each year. The Division
30 of Water Quality shall submit the first report required by this section on or before
31 October 1, 2011.

32 **SECTION 3.(c)** This section shall not be construed to obligate the General
33 Assembly to appropriate any funds to implement the provisions of this act. Every agency
34 to which this section applies shall implement the provisions of this act with funds
35 otherwise appropriated or available to the agency.

36 **SECTION 4.** G.S. 143-215.112(d)(1a) reads as rewritten:

37 "(1a) Each governing body, or its authorized agent, shall have the power to
38 assess civil penalties under G.S. 143-215.114A. Any person assessed
39 shall be notified of the assessment by registered or certified mail, and
40 the notice shall specify the reasons for the assessment. If the person
41 assessed fails to pay the amount of the assessment to the governing
42 body or its authorized agent within 30 days after receipt of notice, or
43 such longer period not to exceed 180 days as the governing body or its
44 authorized agent may specify, the governing body may institute a civil
45 action in the superior court of the county in which the violation
46 occurred, to recover the amount of the assessment. If any action or

1 failure to act for which a penalty may be assessed under this section is
2 continuous, the governing body or its authorized agent may assess a
3 penalty not to exceed ~~ten thousand dollars (\$10,000) twenty-five~~
4 thousand dollars (\$25,000) per day for so long as the violation
5 continues. In determining the amount of the penalty, the governing
6 body or its authorized agent shall consider the degree and extent of
7 harm caused by the violation, the cost of rectifying the damage, and
8 the amount of money the violator saved by not having made the
9 necessary expenditures to comply with the appropriate pollution
10 control requirements."

11 **SECTION 5.** G.S. 143-215.1C(a) reads as rewritten:

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

22 **SECTION 6.** G.S. 143-355.6 reads as rewritten:

23 **"§ 143-355.6. Enforcement.**

24 (a) The Secretary may assess a civil penalty of not less than one hundred dollars
25 (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

- 26 (1) Fails to report water use or other information required under
27 G.S. 143-355(k).
- 28 (2) Fails to act in accordance with the terms, conditions, or requirements
29 of an order issued by the Secretary under G.S. 143-355.3.
- 30 (3) Violates any provision of this Article or any rule adopted by the
31 Commission, the Department, or the Secretary implementing this
32 Article.

33 (b) For each willful action or failure to act for which a penalty may be assessed
34 under this section, the Secretary may consider each day the action or inaction continues
35 after notice is given of the violation as a separate violation. A separate penalty may be
36 assessed for each separate violation.

37 (c) The Secretary may assess a civil penalty of not more than ten thousand dollars
38 (\$10,000) per month against a unit of local government that provides public water service
39 or a large community water system that fails to implement the water conservation
40 measures set out in the water shortage response plan approved by the Department under
41 G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of
42 G.S. 143-355.2, or the default measures required under rules adopted by the Commission
43 under S.L. 2002-167. ~~The Secretary may remit a civil penalty based on the factors set out~~
44 ~~in G.S. 143B-282.1(e)(1).~~

1 (c1) The amount of the civil penalty shall be based on the factors set out in
2 G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil
3 penalty assessments that are presented to the Commission for final agency decision.

4 (c2) Requests for remission of civil penalties shall be filed with the Secretary.
5 Remission requests shall not be considered unless made within 30 days of receipt of the
6 notice of assessment. Remission requests must be accompanied by a waiver of the right
7 to a contested case hearing pursuant to Chapter 150B of the General Statutes and a
8 stipulation of the facts on which the assessment was based. Consistent with the
9 limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the
10 Secretary and the violator. If the Secretary and the violator are unable to resolve the
11 request, the Secretary shall deliver remission requests and the Secretary's recommended
12 action to the Committee on Civil Penalty Remissions of the Commission appointed
13 pursuant to G.S. 143B-282.1(c).

14 (c3) If any civil penalty has not been paid within 30 days after the notice of
15 assessment has been served on the violator, the Secretary shall request the Attorney
16 General to institute a civil action in the superior court of any county in which the violator
17 resides or in which the violator's principal place of business is located to recover the
18 amount of the assessment, unless the violator contests the assessment as provided in
19 subsection (e) of this section, or requests remission of the assessment in whole or in part
20 as provided in subsection (c2) of this section. If any civil penalty has not been paid within
21 30 days after the final agency decision or court order has been served on the violator, the
22 Secretary shall request the Attorney General to institute a civil action in the superior court
23 of any county in which the violator resides or in which the violator's principal place of
24 business is located to recover the amount of the assessment.

25 (d) The violation of emergency water conservation rules adopted by the Secretary
26 pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

27 (e) The Secretary shall notify any person assessed a civil penalty of the
28 assessment and the specific reasons for the assessment by registered or certified mail or
29 by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed
30 within 30 days of receipt of the notice of assessment.

31 (f) The clear proceeds of civil penalties assessed pursuant to this section shall be
32 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

33 **SECTION 7.** Section 4 of S.L. 2005-190, as amended by Section 31 of S.L.
34 2006-259, reads as rewritten:

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

1 **SECTION 8.** Section 4 of this act becomes effective October 1, 2010, and
2 applies to a violation that occurs on or after that date. All other sections of this act are
3 effective when the act becomes law.

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