Related Provisions to the
The Oil and Gas Conservation Act
as amended by S.L. 2011-276 (HB 242), S.L. 2012-143 (SB 820),
S.L. 2012-187 (SB 810) and S.L. 2012-201 (HB 953)

Statutory Changes

Mining and Energy Commission

Part 6 of Article 7 of Chapter 143B of the General Statutes is repealed.

(2012-143, s. 1(a).)

Part 6A. North Carolina Mining and Energy Commission

§ 143B-293.1. North Carolina Mining and Energy Commission – creation; powers and duties.

(a) There is hereby created the North Carolina Mining and Energy Commission of the Department of Environment and Natural Resources with the power and duty to adopt rules necessary to administer the Oil and Gas Conservation Act pursuant to G.S. 113-391 and for the development of the oil, gas, and mining resources of the State. The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environment and Natural Resources.
(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) require the operation of wells with efficient gas-oil ratios and to fix such ratios; (iii) limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; and (iv) require integration of interests as provided in G.S. 113-393.
(c) The Commission shall submit quarterly written reports as to its operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

(2012-143, s. 1(b).)

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

(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:

(1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.
(2) The State Geologist, or the State Geologist's designee, ex officio.
(3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.

(4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.
(5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is an elected official of a municipal government located in the Triassic Basin of North Carolina.
(6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.
(7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.
(8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.
(9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a county board of commissioners of a county located in the Triassic Basin of North Carolina.
(10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.
(11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.
(12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.
(13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.
(14) One appointed by the Governor who is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.
(15) One appointed by the Governor who is a member of the Commission for Public Health and knowledgeable in the principles of waste management.

(b) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to no more than two consecutive three-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. The terms of members appointed under subdivisions (4), (6), (9), and (12) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (7), (10), (13), and (14) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (5), (8), (11), and (15) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three.

(c) Vacancies; Removal from Office. –
(1) Any appointment by the Governor to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.
(2) Members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. In accordance with Section 10 of Article VI of the North Carolina Constitution, a member may continue to serve until a successor is duly appointed.

(d) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.
(e) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.
(f) Staff. – All staff support required by the Commission shall be supplied by the Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey.
(g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be established under G.S. 143B-293.6, the chair may establish other committees from members of the Commission to address specific issues as appropriate. No member of a committee may hear or vote on any matter in which the member has an economic interest. A majority of a committee shall constitute a quorum for the transaction of business. At a minimum, the chair shall establish a Committee on Mining, which shall consist of members appointed under subdivisions (1), (4), (6), (8), (10), (14), and (15) of subsection (a) of this section. The Committee on Mining shall have exclusive responsibility and authority over matters pertaining to mining and implementation of the Mining Act of 1971, including all of the following powers and duties.

(1) To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.
(2) To adopt rules necessary to administer the Mining Act of 1971 pursuant to G.S. 74-63.
(3) To adopt rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983 pursuant to G.S. 74-86.
(4) To adopt rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(2012-143, s. 1(b); 2012-187, s. 1.1.)

§ 143B-293.4. North Carolina Mining and Energy Commission – officers.

The Mining and Energy Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve one-year terms beginning August 1 and ending July 31 of the following year. The chair and vice-chair may serve any number of terms, but not more than two terms consecutively.

(2012-143, s. 1(b).)

§ 143B-293.5. North Carolina Mining and Energy Commission – meetings.

The North Carolina Mining and Energy Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least nine members.

(2012-143, s. 1(b).)

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

(a) With respect to those matters within its jurisdiction, the Mining and Energy Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes.
(b) The chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any

matter in which the member has an economic interest. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary or the Secretary's designee and all of the following factors:

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

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

(2012-143, s. 1(b).)

<u>Environmental Management Commission</u>

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

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

(2) The Environmental Management Commission shall adopt rules:

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

l. For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

(1973, c. 1262, s. 19; 1975, c. 512; 1977, c. 771, s. 4; 1983, c. 222, s. 3; 1985, c. 551, s. 1; 1989, c. 652, s. 2; c. 727, s. 218(128); 1989 (Reg. Sess., 1990), c. 1036, s. 1; 1991 (Reg. Sess., 1992), c. 990, s. 1; 1993, c. 348, s. 3; 1996, 2nd Ex. Sess., c. 18, s. 27.4(b); 1997-392, s. 2(a), (b); 1997-400, s. 3.2; 1997-443, s. 11A.119(a); 1997-458, ss. 8.4, 8.5; 1997-496, s. 16; 1998-212, s. 14.9H(f); 1999-328, s. 4.13; 2001-424, s. 19.13(a); 2002-165, s. 1.9; 2007-397, s. 2(c); 2012-143, s. 2(h).)

Water and Air Resources Act

§ 143-214.2. Prohibited discharges.

(a) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste to the waters of the State is prohibited.
(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit (i) the operation of closed-loop groundwater remediation systems in accordance with G.S. 143-215.1A or (ii) injection of hydraulic fracturing fluid for the exploration or development of natural gas resources.
(c) Unless permitted by a rule of the Commission, the discharge of wastes, including thermal discharges, to the open waters of the Atlantic Ocean over which the State has jurisdiction are prohibited.

(1973, c. 698, s. 2; c. 1262, s. 23; 1987, c. 827, ss. 154, 157; 1991 (Reg. Sess., 1992), c. 786, s. 2; 2012-143, s. 3(b)

Commission for Public Health

§ 130A-29 Commission for Public Health – Creation, power and duties.

(c) The Commission shall adopt rules:
  (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
  (2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o).
  (3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522.
  (4) Establishing requirements for the sanitation of local confinement facilities as provided in Part 2 of Article 10 of Chapter 153A of the General Statutes.
  (5) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1075, s. 1.
  (5a) Establishing eligibility standards for participation in Department reimbursement programs.
  (6) Requiring proper treatment and disposal of sewage and other waste from chemical and portable toilets.
  (7) Establishing statewide health outcome objectives and delivery standards.
  (8) Establishing permit requirements for the sanitation of premises, utensils, equipment, and procedures to be used by a person engaged in tattooing, as provided in Part 11 of Article 8 of this Chapter.
  (9) Implementing immunization requirements for adult care homes as provided in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113.

(10) Pertaining to the biological agents registry in accordance with G.S. 130A-479.
(11) For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

(1973, c. 476, s. 123; 1975, c. 19, s. 57; c. 694, s. 6; 1979, c. 41, s. 1; 1981, c. 614, s. 9; 1983, c. 891, s. 15; 1983 (Reg. Sess., 1984), c. 1022, s. 5; 1989, c. 727, ss. 175, 176; 1989 (Reg. Sess., 1990), c. 1004, s. 50; c. 1075, s. 1; 1991, c. 548, s. 2; 1993, c. 321, s. 274; 1993 (Reg. Sess., 1994), c. 670, s. 3; 2000-112, s. 6; 2001-469, s. 2; 2002-179, s. 2(b); 2007-182, s. 2; 2012-143, s. 2(i).)

Property Transfers and Required Disclosures

§ 47E-4. Required disclosures.

(a) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser a residential property disclosure statement. The disclosure statement shall:
  (1) Disclose those items which are required to be disclosed relative to the characteristics and condition of the property and of which the owner has actual knowledge; or
  (2) State that the owner makes no representations as to the characteristics and condition of the real property or any improvements to the real property except as otherwise provided in the real estate contract.

(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:
  (1) The water supply and sanitary sewage disposal system;
  (2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural components;
  (3) The plumbing, electrical, heating, cooling, and other mechanical systems;
  (4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired;
  (5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real property; and
  (6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

  The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition.

(b1) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser an owners' association and mandatory covenants disclosure statement.
  (1) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this subsection. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling. The standard disclosure statement shall require disclosure of whether or not the property to be conveyed is subject to regulation by one or more owners' association(s) and

governing documents which impose various mandatory covenants, conditions, and restrictions upon the property, including, but not limited to, obligations to pay regular assessments or dues and special assessments. The statement required by this subsection shall include information on all of the following:

a. The name, address, telephone number, or e-mail address for the president or manager of the association to which the lot is subject.

b. The amount of any regular assessments or dues to which the lot is subject.

c. Whether there are any services that are paid for by regular assessments or dues to which the lot is subject.

d. Whether, as of the date the disclosure is signed, there are any assessments, dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, payable to an association to which the lot is subject.

e. Whether, as of the date the disclosure is signed, there are any unsatisfied judgments against or pending lawsuits involving the lot, the planned community or the association to which the lot is subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the lot to be sold.

f. Any fees charged by an association or management company to which the lot is subject in connection with the conveyance or transfer of the lot to a new owner.

(2) The owners' association and mandatory covenants disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics, or conditions or the owner is making no representations as to any characteristic or condition contained in the statement.

(b2) With regard to transfers described in G.S. 47E-1, the owner of the real property shall include in any real estate contract, an oil and gas rights mandatory disclosure as provided in this subsection.

(1) Transfers of residential property set forth in G.S. 47E-2 are excluded from this requirement, except that the exemptions provided under subdivisions (9) and (11) of G.S. 47E-2 specifically are not excluded from this requirement.

(2) The disclosure shall be conspicuous, shall be in boldface type, and shall be as follows:

OIL AND GAS RIGHTS DISCLOSURE

Oil and gas rights can be severed from the title to real property by conveyance (deed) of the oil and gas rights from the owner or by reservation of the oil and gas rights by the owner. If oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of oil and gas rights, Seller makes the following disclosures:

		Yes	No	No Representation
_____ Buyer Initials	1. Oil and gas rights were severed from the property by a previous owner.	___	___	__
		Yes	No	
_____ Buyer Initials	2. Seller has severed the oil and gas rights from the property.	___	__	
_____ Buyer Initials	3. Seller intends to sever the oil and gas rights from the property prior to transfer of title to Buyer.	___	__	

(1995, c. 476, s. 1; 1997-472, s. 1; 2011-362, s. 3(b); 2012-143, s. 5.)

Energy Oversight Commission

Article 33.
Joint Legislative Commission on Energy Policy.

§ 120-285. Creation and membership of Joint Legislative Commission on Energy Policy.

(a) The Joint Legislative Commission on Energy Policy is established.
(b) The Commission shall consist of 10 members as follows:
    (1) Five members of the Senate appointed by the President Pro Tempore of the Senate, at least one of whom is a member of the minority party.
    (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives, at least one of whom is a member of the minority party.
(c) Terms on the Commission are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Commission. A member continues to serve until the member's successor is appointed.

(2012-143, s. 6(a).)

§ 120-286. Purpose and powers and duties of Commission.

(a) The Joint Legislative Commission on Energy Policy shall exercise legislative oversight over energy policy in the State. In the exercise of this oversight, the Commission may do any of the following:
    (1) Monitor and evaluate the programs, policies, and actions of the Mining and Energy Commission established pursuant to G.S. 143B-293.1, the Energy Policy Council established pursuant to G.S. 113B-2, the Energy Division in the Department of Commerce, the Utilities Commission and Public Staff established pursuant to Chapter 62 of the General Statutes, and of any other board, commission, department, or agency of the State or local government with jurisdiction over energy policy in the State.
    (2) Review and evaluate existing and proposed State statutes and rules affecting energy policy and determine whether any modification of these statutes or rules is in the public interest.
    (3) Monitor changes in federal law and court decisions affecting energy policy.
    (4) Monitor and evaluate energy-related industries in the State and study measures to promote these industries.
    (5) Study any other matters related to energy policy that the Commission considers necessary to fulfill its mandate.
(b) The Commission may make reports and recommendations, including proposed legislation, to the General Assembly from time to time as to any matter relating to its oversight and the powers and duties set out in this section.

(2012-143, s. 6(a).)

§ 120-287. Organization of Commission.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Commission on Energy Policy. The Commission may meet at any time upon the call of either cochair, whether or not the General Assembly is in session.

(b) A quorum of the Commission is six members.
(c) While in the discharge of its official duties, the Commission has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02.
(d) From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the Joint Legislative Commission on Energy Policy. Members of the Commission receive subsistence and travel expenses as provided in G.S. 120-3.1. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Commission. The expenses for clerical employees shall be borne by the Commission.

(2012-143, s. 6(a).)

Session Law provisions not involving statutory changes

Senate Bill 820 (S.L. 2012-143), as amended by House Bill 953 (S.L. 2012-201)

SECTION 1.(c) Pursuant to G.S. 150B-21.7, rules adopted by the North Carolina Mining Commission shall remain in effect until amended or repealed by the North Carolina Mining and Energy Commission established pursuant to subsection (b) of this section.

SECTION 1.(d) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the reconstitution of the North Carolina Mining Commission as the North Carolina Mining and Energy Commission as provided in subsection (b) of this section. The Codifier of Rules shall make the conforming rule changes necessary to reflect the reconstitution of the North Carolina Mining Commission to the North Carolina Mining and Energy Commission as provided in subsection (b) of this section.

SECTION 1.(e) The Division of Land Resources of the Department of Environment and Natural Resources is hereby renamed the Division of Energy, Mineral, and Land Resources.

SECTION 1.(f) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the renaming of the Division of Land Resources as the Division of Energy, Mineral, and Land Resources as provided in subsection (e) of this section. The Codifier of Rules shall make the conforming rule changes necessary to reflect the renaming of the Division of Land Resources as the Division of Energy, Mineral, and Land Resources as provided in subsection (e) of this section.

SECTION 1.(g) In order to maintain continuity and experience of membership, the Governor and the General Assembly should consider the members of the North Carolina Mining Commission, repealed pursuant to subsection (a) of this section, when appointing the members of the North Carolina Mining and Energy Commission, created by G.S. 143B-293.1, as enacted by subsection (b) of this section.

SECTION 1.(h) The North Carolina Mining and Energy Commission shall submit the first report due under G.S. 143B-293.1(c), as enacted by subsection (b) of this section, on or before January 1, 2013.

SECTION 2.(j) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the Department of Transportation, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall identify appropriate levels of funding and potential sources for that funding, including permit fees, bonds, taxes, and impact fees, necessary to (i)

support local governments impacted by the industry and associated activities; (ii) address expected infrastructure impacts, including, but not limited to, repair of roads damaged by truck traffic and heavy equipment; (iii) cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party; and (iv) any other issues that may need to be addressed in the Commission's determination. Any recommendation concerning local impact fees shall be formulated to require that all such fees be used exclusively to address infrastructure impacts from the drilling operation for which a fee is imposed. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before October 1, 2013.

[2012-201, s. 12.(a)].

SECTION 2.(k) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall examine the issue of local government regulation of oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose. The Commission shall formulate recommendations that maintain a uniform system for the management of such activities, which allow for reasonable local regulations, including required setbacks, infrastructure placement, and light and noise restrictions, that do not prohibit or have the effect of prohibiting oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, or otherwise conflict with State law. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before October 1, 2013.

[2012-201, s. 12.(b)].

SECTION 2.(l) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources and the Consumer Protection Division of the North Carolina Department of Justice, shall study the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter. The Department shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before October 1, 2013.

[2012-201, s. 12.(c)].

SECTION 2.(m) All rules required to be adopted by the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health pursuant to this act shall be adopted no later than October 1, 2014. In order to provide for the orderly, efficient, and effective development and adoption of rules and to prevent the adoption of duplicative, inconsistent, or inadequate rules by these Commissions, the Department of Environment and Natural Resources shall coordinate the adoption of the rules. The Commissions and the Department shall develop the rules in an open and collaborative process that includes (i) input from scientific and technical advisory groups; (ii) consultation with the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Division of Energy of the Department of Commerce, the Department of Transportation, the Division of Emergency Management of the Department of Public Safety, the Consumer Protection Division of the Department of Justice, the Department of Labor, the Department of Health and Human Services, the State Review of Oil and Natural Gas Environmental Regulations (STRONGER), the American Petroleum Institute (API), and the Rural Advancement Foundation (RAFI-USA); and (iii) broad public participation. During the development of the

rules, the Commissions and the Department shall identify changes required to all existing rules and statutes necessary for the implementation of this act, including repeal or modification of rules and statutes. Until such time as all of the rules are adopted pursuant to this act, the Department shall submit quarterly reports to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on its progress in developing and adopting the rules. The quarterly reports shall include recommendations on changes required to existing rules and statutes and any other findings or recommendations necessary for the implementation of this act. The first report required by this subsection is due January 1, 2013.

SECTION 2.(n) Notwithstanding G.S. 143B-293.5, as enacted by Section 1(b) of this act, the North Carolina Mining and Energy Commission shall meet at least twice quarterly until December 31, 2015, in order to develop a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

SECTION 3.(d) The issuance of permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State pursuant to G.S. 113-395, as amended by subsection (c) of this section, or any other provision of law shall be prohibited in order to allow the Mining and Energy Commission sufficient time for development of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose, and for adoption of appropriate environmental standards applicable to these activities. No agency of the State, including the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission on Public Health, or the Mining and Energy Commission, shall issue a permit for oil or gas exploration or development activities using horizontal drilling and hydraulic fracturing treatments until the General Assembly takes legislative action to allow the issuance of such permits.

SECTION 6.(b) Notwithstanding G.S. 120-285(c), as enacted by Section 6(a) of this act, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint members to the Joint Legislative Commission on Energy Policy to terms that begin prior to the convening of the 2013 General Assembly. The terms of members appointed pursuant to this section shall end upon the convening of the 2013 General Assembly. Members appointed pursuant to this section who are otherwise qualified to serve on the Commission may be reappointed to the Commission upon the convening of the 2013 General Assembly.

SECTION 7. Sections 4(a) through 4(f), 4(h), and 4(i) of this act [SB 0820] are effective when this act becomes law [July 2, 2012] and apply to wells drilled and leases or contracts entered into on or after that date. Sections 1(a) through 1(h), Sections 2(a) through 2(n), Sections 3(a) through 3(d), and Sections 6(a) and 6(b) of this act become effective on August 1, 2012. Section 4(g) and Section 5 become effective October 1, 2012, and Section 5 applies to real estate transfers or dispositions occurring on or after that date. All other sections of this act are effective when this act becomes law [July 2, 2012].

House Bill 950 (SL 2012-142)

SECTION 12.1. Should Senate Bill 820 of the 2012 Regular Session of the General Assembly become law and require the Department of Environment and Natural Resources to provide staff to the Mining and Energy Commission, then the Department may fund staff positions using savings from reclassifying and consolidating salaries, benefits, and associated operating costs from vacant positions and shall fill these reclassified and consolidated positions in a timely manner in order to provide support for the Mining and Energy Commission.