A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. BUSINESS REGULATION

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

SECTION 1.1. G.S. 143-143.10A reads as rewritten:

"§ 143-143.10A. Criminal history checks of applicants for licensure.
(a) Definitions. – The following definitions shall apply in this section:
(1) Applicant. – A person applying for initial licensure as a manufactured home manufacturer, dealer, salesperson, salesperson or set-up contractor.

(b) All applicants for initial licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board may provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

AMEND FOOD PUSHCART AND MOBILE FOOD UNIT REQUIREMENTS

SECTION 1.2. G.S. 130A-248(c1) reads as rewritten:
"(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A permitted restaurant or commissary shall serve as a base of operations for a pushcart. A pushcart or mobile food unit shall meet all of the sanitation requirements of a permitted commissary or shall have a permitted restaurant or commissary that serves as its base of operation. Pushcarts or mobile food units that are based from a permitted commissary or restaurant that is located on the premises of a facility which contains at least 3,000 permanent seats shall be allowed to prepare and serve food on the premises. Raw meat, poultry, and fish shall be prepared in a permitted commissary or restaurant in a pre-portioned or ready-to-cook form. Pushcarts or mobile food units that handle raw ingredients shall be equipped with a handwashing sink. All open food and utensils shall be provided with overhead protection or otherwise equipped with individual covers, such as domes, chafing lids, or cookers with hinged lids. Food equipment and supplies shall be located in enclosed areas and protected from environmental contamination when not in operation."

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

SECTION 1.3. G.S. 97-2(2) reads as rewritten:

"§ 97-2. Definitions.
When used in this Article, unless the context otherwise requires:

(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee’s legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of
North Carolina, while engaged in the discharge of the employee’s official
duty outside the jurisdictional or territorial limits of the municipality, county,
or the State of North Carolina and while acting pursuant to authorization or
instruction from any superior officer, shall have the same rights under this
Article as if such duty or activity were performed within the territorial
boundary limits of their employer.

Every executive officer elected or appointed and empowered in accordance with the charter and
bylaws of a corporation shall be considered an employee of such
corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any
other provision of this Article, be exempt from the coverage of the
corporation’s insurance contract by such corporation’s specifically excluding
such executive officer in such contract of insurance, and the exclusion to
remove such executive officer from the coverage shall continue for the
period such contract of insurance is in effect, and during such period such
executive officers thus exempted from the coverage of the insurance contract
shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive
official federal appointments as employees of the United States Department
of Agriculture and who are field faculty members with professional rank as
designated in the memorandum of understanding between the North
Carolina Agricultural Extension Service, North Carolina State University, A
& T State University, and the boards of county commissioners shall be
deemed to be employees of the State of North Carolina. All other county
agricultural extension service employees paid from State or county funds
shall be deemed to be employees of the county board of commissioners in
the county in which the employee is employed for purposes of workers’
compensation.

The term "employee" shall also include members of the Civil Air Patrol
currently certified pursuant to G.S. 143B-1031(a) when performing duties in
the course and scope of a State-approved mission pursuant to Subpart C of
Part 5 of Article 13 of Chapter 143B of the General Statutes.

"Employee" shall not include any person performing voluntary service as
a ski patrolman who receives no compensation for such services other than
meals or lodging or the use of ski tow or ski lift facilities or any combination
thereof.

"Employee" shall not include any person performing voluntary service
for a nonprofit corporation subject to Chapters 47A, 47C, 47F, 55A, or 59B
of the General Statutes, or any organization exempt from federal income tax
under section 501(c)(3) of the Internal Revenue Code, provided that the
person receives no remuneration for the voluntary service other than
reasonable reimbursement for expenses incurred in connection with the
voluntary service. A person performing such voluntary service is not an
"employee" even if the individual was elected or appointed and empowered
as an executive officer, director, or committee member under the charter,
articles, or bylaws of a nonprofit corporation subject to Chapters 47A, 47C,
47F, 55A, or 59B of the General Statutes, or any organization exempt from
federal tax under section 501(c)(3) of the Internal Revenue Code.

Any sole proprietor or partner of a business or any member of a limited
liability company may elect to be included as an employee under the
workers' compensation coverage of such business if he is actively engaged in
the operation of the business and if the insurer is notified of his election to
be so included. Any such sole proprietor or partner or member of a limited
liability company shall, upon such election, be entitled to employee benefits
and be subject to employee responsibilities prescribed in this Article.

"Employee" shall include an authorized pickup firefighter of
the North Carolina Forest Service of the Department of Agriculture and
Consumer Services when that individual is engaged in emergency fire
suppression activities for the North Carolina Forest Service. As used in this
section, "authorized pickup firefighter" means an individual who has
completed required fire suppression training as a wildland firefighter and
who is available as needed by the North Carolina Forest Service for
emergency fire suppression activities, including immediate dispatch to
wildfires and standby for initial attack on fires during periods of high fire
danger.

It shall be a rebuttable presumption that the term "employee" shall not
include any person performing services in the sale of newspapers or
magazines to ultimate consumers under an arrangement whereby the
newspapers or magazines are to be sold by that person at a fixed price and
the person's compensation is based on the retention of the excess of the fixed
price over the amount at which the newspapers or magazines are charged to
the person."

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

SECTION 1.4. Chapter 93B of the General Statutes is amended by adding a new
section to read:

"§ 93B-8.2. Prohibit licensees from serving as investigators.

No occupational licensing board shall contract with or employ a person licensed by the
board to serve as an investigator or inspector if the licensee is actively practicing in the
profession or occupation over which the board has jurisdiction. Nothing in this section shall
prevent a board from employing licensees who are not otherwise employed in the same
profession or occupation or for other purposes."
With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

SECTION 2.2.(b) This section is effective when it becomes law and applies to periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

SECTION 2.3. Pursuant to G.S. 120-70.101(3a), the Joint Legislative Administrative Procedure Oversight Committee (APO) shall review the recommendations contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled "Occupational Licensing Agencies Should Not Be Centralized, but Stronger Oversight is Needed" to determine the best way to accomplish the recommendations contained in the report and to improve oversight of occupational licensing boards. In conducting the review, APO shall consult with occupational licensing boards, licensees, associations representing licensees, the Department of Commerce, and other interested parties. The APO cochairs may establish subcommittees to assist with various parts of the review, including determining whether licensing authority should be continued for the 12 boards identified in the report. The APO shall propose legislation to the 2016 Session of the 2015 General Assembly.

COMMUNICATIONS TOWER LEASING

SECTION 2.4.(a) G.S. 160A-272 is amended by adding a new subsection to read: "(d) The council may approve a lease for the siting and operation communications towers, facilities, or equipment for a term up to 25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. This subsection shall apply to leases under G.S. 160A-272.1."

SECTION 2.4.(b) This section is effective when it becomes law and applies to leases entered into on or after that date.

GOVERNMENT-NONPROFIT CONTRACTING TASK FORCE

SECTION 2.5.(a) Findings. – The General Assembly finds the following:

(1) Private charitable nonprofits that provide public services to North Carolinians through State grants and contracts often experience problems with administration of these grants and contracts.

(2) These problems reduce the effectiveness and efficiency of the delivery of these essential services and unnecessarily increase costs to taxpayers.

(3) These problems often include delayed delivery and execution of contracts, late payments, overly burdensome and redundant application processes, overly burdensome and redundant financial and performance reporting requirements, midstream changes in the terms of contracts, and underpayment of actual, reasonable, documented indirect costs that are necessary to effectively and efficiently provide services.

(4) These problems create a sub-optimal use of taxpayer money by creating unnecessary costs and inefficiencies for State government’s delivery of services.
Joint government-nonprofit contracting task forces have led to solutions that have saved taxpayers money in other states, according to the "Partnering for Impact" report from the National Council of Nonprofits.

SECTION 2.5.(b) Task Force creation, membership. – To address the problems identified in subsection (a) of this section, there is created the North Carolina Government-Nonprofit Contracting Task Force (Task Force). The Task Force shall consist of 13 voting members appointed as follows:

1. Four members appointed by the Speaker of the House of Representatives, to include the following:
   a. One member of the House of Representatives.
   b. Two representatives of 501(c)(3) nonprofit service providers, to be selected from a list of four candidates recommended by the N.C. Center for Nonprofits.
   c. One member of the public with a financial background recommended by the N.C. Association of Certified Public Accountants.

2. Four members appointed by the President Pro Tempore of the Senate, to include the following:
   a. One member of the Senate.
   b. Two representatives of 501(c)(3) nonprofit service providers, to be selected from a list of four candidates recommended by the N.C. Center for Nonprofits.
   c. One member of the public with experience with government grants and contracts.

3. Five members appointed by the Governor, to include the following:
   a. One representative of the Office of State Budget and Management.
   b. One representative of the Department of Health and Human Services.
   c. The President of the N.C. Center for Nonprofits, or that person’s designee.
   d. One member of the public with a financial background recommended by the N.C. Association of Certified Public Accountants.
   e. One member of the public with experience with government grants and contracts.

The Task Force shall also include the following nonvoting, ex officio members:

1. The State Auditor, or that individual’s designee.
2. The Director of the Program Evaluation Division of the General Assembly, or that individual’s designee.
3. The Director of N.C. GEAR, or that individual’s designee.

SECTION 2.5.(c) Chair and staff. – The Task Force shall be cochaired by a nonprofit representative designated by the Speaker of the House of Representatives and a government representative designated by the President Pro Tempore of the Senate. The Office of State Budget and Management shall be designated as the lead support agency and provide administrative staffing for the Task Force. Other departments included on the Task Force shall provide additional administrative staffing in conjunction with the Office of State Budget and Management to support the work of the Task Force.

SECTION 2.5.(d) Duties. – The Task Force shall study the entire body of State law, regulations, policies, reporting, monitoring, compliance, auditing, certification, licensing, compliance with OMB Uniform Guidance, and work processes, including timeliness of contract delivery and execution and timeliness of payment, that guide departmental operations and contracts to eliminate obsolete, redundant, or unreasonable regulations, reporting, monitoring, compliance, auditing, licensing, and certification, and to streamline policies and
practices that impede the effective and efficient delivery of public services through State grants and contracts to private nonprofits.

The Task Force shall identify immediate, near-term, and long-term opportunities to improve State laws, regulations, and policies on the effective and timely provision of services by private nonprofits that partner with the State to provide public services through State grants or contracts. In conducting the study, the Task Force shall also consider the following:

1. The effect of current State laws, regulations, and policies on the effective and timely provision of services by private nonprofits that partner with the State to provide public services through State grants or contracts.
2. Any procedures that have been adopted in other states to facilitate a more timely, cost-effective, streamlined, and accountable process for the provision of services by private nonprofits that partner with the State to provide public services through State grants and contracts.
3. The feasibility of eliminating any redundant, unreasonable, or unnecessary laws, regulations, or policies that negatively affect the provision of services by private nonprofits that partner with the State to provide public services through State grants and contracts.
4. Any best practices for the funding of private nonprofit service providers that could improve the delivery of public services through private nonprofits.
5. The extent to which State agencies reimburse nonprofit grantees and contractors for their actual, reasonable, documented indirect costs, and the extent to which any underpayment for indirect costs reduces the efficiency or effectiveness of the delivery of public services.

SECTION 2.5. (e) Powers. – The Task Force may require each State agency that contracts with private nonprofits for the provision of public services to provide the necessary data for the Task Force to complete its charge, including the following:

1. The timeliness of delivery and execution of contracts.
2. The timeliness of payment for services that have been delivered.
3. The extent to which nonprofit contractors or grantees are reimbursed for their indirect costs.
4. A list of all nonprofit grantees and contractors, a complete list of all auditing or monitoring required of them, and any recommendations for removing unnecessary regulatory duplication.

SECTION 2.5. (f) Reports. – The Task Force shall submit a preliminary report to the Joint Legislative Commission on Governmental Operations by September 30, 2016. The preliminary report shall include recommendations for statutory, regulatory, budget, and policy changes that can be effectuated to increase the efficiency and effectiveness of the delivery of public services by nonprofits through State grants and contracts. No later than January 31, 2017, the Task Force shall submit a final report of its findings and recommendations to the Joint Legislative Commission on Governmental Operations.

SECTION 2.5. (g) This section becomes effective July 1, 2015.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

SECTION 2.6. G.S. 87-129 reads as rewritten:

"§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.

(a) The Notification Center shall establish an Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of the following members:

1. A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative recommended by the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;
(11) A surveyor licensed under Chapter 89C of the General Statutes;
(12) A representative from a rural water system;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company.

(a1) Each member of the Board shall be appointed for a term of four years. Members of the Board may serve no more than two consecutive terms. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(a2) No member of the Board may serve on a case where there would be a conflict of interest.

(a3) The Governor may remove any member at any time for cause.

(a4) Eight members of the Board shall constitute a quorum.

(a5) The Governor shall designate one member of the Board as chair.

(a6) The Board may adopt rules to implement this Article.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party

(b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars ($2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A party determined by the Board under subsection (b)(b1) of this section to have violated this Article may initiate appeal the Board's determination by initiating an arbitration proceeding before the Utilities Commission within 30 days of the Board's determination. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall
be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. Any party may

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial de novo de novo within 30 days of entry of the Utilities Commission’s order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection. The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. The penalties for a violation of this Article shall be as follows: In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.

(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.

(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education."

INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

SECTION 2.7.(a) G.S. 153A-352 reads as rewritten:

"§ 153A-352. Duties and responsibilities.
(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;
(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
(3) The maintenance of buildings in a safe, sanitary, and healthful condition;
(4) Other matters that may be specified by the board of commissioners.

(a1) These duties and responsibilities set forth in subsection (a) of this section include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or
structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a county shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

1. The submission is completed under valid seal of the licensed architect or licensed engineer.
2. Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.
3. That licensed architect or licensed engineer provides the county with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the county as required under subsection (c) of this section, the county, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted.

SECTION 2.7.(b) G.S. 153A-356 reads as rewritten:

"§ 153A-356. Failure to perform duties.
(a) If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.
(b) A member of the inspection department shall not be in violation of this section when the county, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 153A-352(c)."

SECTION 2.7.(c) G.S. 160A-412 reads as rewritten:

"§ 160A-412. Duties and responsibilities.
(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to
1. The construction of buildings and other structures;
2. The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
3. The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;
4. Other matters that may be specified by the city council.

(a1) These duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order
adequately to enforce those laws. The city council shall have the authority to enact reasonable
and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or
resolution or any other policy that requires regular, routine inspections of buildings or
structures constructed in compliance with the North Carolina Residential Code for One- and
Two-Family Dwellings in addition to the specific inspections required by the North Carolina
Building Code without first obtaining approval from the North Carolina Building Code
Council. The North Carolina Building Code Council shall review all applications for additional
inspections requested by a city and shall, in a reasonable manner, approve or disapprove the
additional inspections. This subsection does not limit the authority of the city to require
inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a city shall accept and approve a
design or other proposal for a component or element in the construction of buildings from a
licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or
licensed engineer.
(2) Field inspection of the installation or completion of construction is
performed by that licensed architect or licensed engineer.
(3) That licensed architect or licensed engineer provides the city with a signed
written document stating the component or element of the building so
inspected is in compliance with the North Carolina State Building Code or
the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the city as
required under subsection (c) of this section, the city, its inspection department, and the
inspectors shall be discharged and released from any duties and responsibilities imposed by this
Article with respect to the component or element in the construction of the building for which
the signed written document was submitted."

SECTION 2.7.(d) G.S. 160A-416 reads as rewritten:

"§ 160A-416. Failure to perform duties.
(a) If any member of an inspection department shall willfully fail to perform the duties
required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of
compliance without first making the inspections required by law, or willfully shall improperly
give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when
the city, its inspection department, or one of the inspectors accepted a signed written document
of compliance with the North Carolina State Building Code or the North Carolina Residential
Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in
accordance with G.S. 160A-412(c)."

CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION
OF BEDROOM

SECTION 2.8.(a) G.S. 153A-346 reads as rewritten:

"§ 153A-346. Conflict with other laws.
(a) When regulations made under authority of this Part require a greater width or size of
yards or courts, or require a lower height of a building or fewer number of stories, or require a
greater percentage of a lot to be left unoccupied, or impose other higher standards than are
required in any other statute or local ordinance or regulation, the regulations made under
authority of this Part govern. When the provisions of any other statute or local ordinance or
regulation require a greater width or size of yards or courts, or require a lower height of a
building or a fewer number of stories, or require a greater percentage of a lot to be left
unoccupied, or impose other higher standards than are required by regulations made under authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

(b) When adopting regulations under this Part, a county may not use a definition of dwelling unit, bedroom, or sleeping unit that exceeds any definition of the same in another statute or in a rule adopted by a State agency."

SECTION 2.8.(b) G.S. 160A-390 reads as rewritten:
"§ 160A-390. Conflict with other laws.
(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, regulations made under authority of this Part shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Part, a city may not use a definition of dwelling unit, bedroom, or sleeping unit that exceeds any definition of the same in another statute or in a rule adopted by a State agency."

SECTION 2.8.(c) This section is effective when it becomes law.

DEVELOPMENT AGREEMENTS
SECTION 2.9.(a) G.S. 153A-349.4 reads as rewritten:
"§ 153A-349.4. Developed property must contain certain number of acres; permissible durations of agreements.
(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application). Development agreements shall be of a reasonable term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years."

SECTION 2.9.(b) G.S. 160A-400.23 reads as rewritten:
"§ 160A-400.23. Developed property must contain certain number of acres; permissible durations of agreements.
(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application). Development agreements shall be of a reasonable term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of
property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.”

SECTION 2.9.(c) G.S. 153A-349.3 reads as rewritten:

“§ 153A-349.3. Local governments authorized to enter into development agreements; approval of governing body required.
(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.
(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government.”

SECTION 2.9.(d) G.S. 160A-400.22 reads as rewritten:

“§ 160A-400.22. Local governments authorized to enter into development agreements; approval of governing body required.
(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.
(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government.”

SECTION 2.9.(e) This section becomes effective October 1, 2015, and applies to development agreements entered into on or after that date.

PART III. ENVIRONMENTAL AND NATURAL RESOURCE REGULATION

AMEND ISOLATED WETLANDS LAW

SECTION 3.1.(a) For the purposes of implementing Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall apply only to a Basin Wetland or Bog and no other wetland types as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not apply to an isolated man-made ditch or pond constructed for stormwater management purposes, any other man-made isolated pond, or any other type of isolated wetland, and the Department of Environment and Natural Resources shall not regulate such water bodies under Section .1300.

SECTION 3.1.(b) The Environmental Management Commission may adopt rules to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code consistent with subsection (a) of this section.

SECTION 3.1.(c) Section 54 of S.L. 2014-120 reads as rewritten:

"SECTION 54.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 54(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of this act.

"SECTION 54.(b) Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:
The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95 for the entire project.

Mitigation requirements for impacts to isolated wetlands shall only apply to the amount of impact that exceeds the thresholds set out in subdivision (1) of this section. The mitigation ratio for impacts of greater than one acre exceeding the thresholds for the entire project under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located on the same parcel.

For purposes of Section 54(b) of this section, "isolated wetlands" means a Basin Wetland or Bog as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October, 2010, that are not jurisdictional wetlands under the federal Clean Water Act. An "isolated wetland" does not include an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.

Impacts to isolated wetlands shall not be combined with the project impacts to 404 jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met.

"SECTION 54.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"SECTION 54.(d) The Department of Environment and Natural Resources shall study (i) how the term "isolated wetland" has been previously defined in State law and whether the term should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be combined with the project impacts to jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

"SECTION 54.(e) This section is effective when it becomes law. Section 54(b) of this act expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."

AMEND STORMWATER MANAGEMENT LAW

SECTION 3.2.(a) Section 3 of S.L. 2013-82 reads as rewritten:

"SECTION 3. The Environmental Management Commission shall adopt rules implementing Section 2 of this act no later than July 1, 2016."

SECTION 3.2.(b) G.S. 143-214.7 reads as rewritten:

"§ 143-214.7. Stormwater runoff rules and programs.

..."
(1) "built-upon area" "Built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a swimming pool.

(2) Vegetative buffers adjacent to intermittent streams shall be measured from the center of the stream bed.

(3) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(4) Development may occur within a vegetative buffer if the stormwater runoff from the development is discharged outside of the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.

(5) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries.

(d) The Commission shall review each stormwater management program submitted by a State agency or unit of local government and shall notify the State agency or unit of local government that submitted the program that the program has been approved, approved with modifications, or disapproved. The Commission shall approve a program only if it finds that the standards of the program equal or exceed those of the model program adopted by the Commission pursuant to this section.

SECTION 3.2.(c) No later than January 1, 2016, a State agency or local government that implements a stormwater management program approved pursuant to subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a revised stormwater management program to the Environmental Management Commission. No later than July 1, 2016, the Environmental Management Commission shall review and act on each of the submitted stormwater management programs in accordance with subsection (d) of G.S. 143-214.7, as amended by this section.

SECTION 3.2.(d) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall review the current status of State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State. The Commission shall specifically examine whether State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State should be recodified or reorganized in order to clarify State law for the management of stormwater. The Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of the 2015 General Assembly.

RIPARIAN BUFFER REFORM

SECTION 3.3.(a) G.S. 143-214.23 reads as rewritten:

(a) Delegation Permitted. – The Commission may delegate responsibility for the implementation and enforcement of the State's riparian buffer protection requirements to units of local government that have the power to regulate land use. A delegation under this section shall not affect the jurisdiction of the Commission over State agencies and units of local government. Any unit of local government that has the power to regulate land use may request that responsibility for the implementation and enforcement of the State's riparian buffer protection requirements be delegated to the unit of local government. To this end, units of local government may adopt ordinances and regulations necessary to establish and enforce the State's riparian buffer protection requirements.

(a1) This section applies only to riparian buffers that are required pursuant to an applicable buffer rule as that term is defined in G.S. 143-214.18. This section does not apply to riparian buffers that are required by either of the following:

(1) An ordinance adopted by a unit of local government as part of a Commission-approved implementation of a Total Maximum Daily Load approved by the United States Environmental Protection Agency pursuant to 33 U.S.C. § 1313(d).

(2) A condition of a permit issued by the Commission.

(b) Procedures. – Within 90 days after the Commission receives a complete application requesting delegation of responsibility for the implementation and enforcement of the State's riparian buffer protection requirement, the Commission shall review the application and notify the unit of local government that submitted the application whether the application has been approved, approved with modifications, or disapproved. The Commission shall not approve a delegation unless the Commission finds that local implementation and enforcement of the State's riparian buffer protection requirements will equal implementation and enforcement by the State.

(b1) Exceeding Minimum State Requirements. – The Commission may approve a delegation application proposing a riparian buffer width that exceeds that required by the State for the type of surface body of water and the river basin or basins in which the unit of local government is located only in accordance with the procedures of this section:

(1) Units of local government may request exceedances in riparian buffer widths from the Commission when submitting an application under subsection (b) of this section. Exceedances in buffer width enforced by units of local government under an existing local ordinance may not be enforced after February 1, 2016, unless the unit of local government has either received approval for an exceedance under the procedures set forth in this subsection or has an application for an exceedance pending with the Commission. Under no circumstances shall any existing local ordinance be enforced after June 1, 2016, unless the Commission has approved the exceedance. For purposes of this subdivision, an "existing local ordinance" is a local ordinance approved prior to August 1, 2015, that includes an exceedance in riparian buffer width from that required by the State.

(2) The Commission may consider a request for an exceedance in riparian buffer width only if the request is accompanied by a scientific study prepared by or on behalf of the unit of local government that provides a justification for the exceedance based on the topography, soils, hydrology, and environmental impacts within the jurisdiction of the unit of local government. The Commission may also require that the study include any other information it finds necessary to evaluate the request for the exceedance.

(3) The Commission shall grant the request for an exceedance only if it finds that the need for the exceedance in riparian buffer width is established by the scientific evidence presented by the unit of local government requesting the
exceedance in order to meet the nutrient reduction goal set by the Commission for the basin subject to the riparian buffer rule.

(4) For purposes of this subsection, "existing local ordinance" shall include a zoning district, subdivision or development regulation; comprehensive plan; policy; resolution; or any other act carrying the effect of law.

(c) **Local Program Deficiencies.** – If the Commission determines that a unit of local government is failing to implement or enforce the State's riparian buffer protection requirements, the Commission shall notify the unit of local government in writing and shall specify the deficiencies in implementation and enforcement. If the local government has not corrected the deficiencies within 90 days after the unit of local government receives the notification, the Commission shall rescind delegation and shall implement and enforce the State's riparian buffer protection program. If the unit of local government indicates that it is willing and able to resume implementation and enforcement of the State's riparian buffer protection requirements, the unit of local government may reapply for delegation under this section.

(d) **Technical Assistance.** – The Department shall provide technical assistance to units of local government in the development, implementation, and enforcement of the State's riparian buffer protection requirements.

(e) **Training.** – The Department shall provide a stream identification training program to train individuals to determine the existence of surface water for purposes of rules adopted by the Commission for the protection and maintenance of riparian buffers. The Department may charge a fee to cover the full cost of the training program. No fee shall be charged to an employee of the State who attends the training program in connection with the employee's official duties.

(e1) **Restriction on Treatment of Buffer by State and Local Governments.** – Units of local government shall not treat the land within a riparian buffer as if the land is the property of the State or any of its subdivisions unless the land or an interest therein has been acquired by the State or its subdivisions by a conveyance or by eminent domain. **Land within a riparian buffer in which neither the State nor its subdivisions holds any property interest may be used to satisfy any other development-related regulatory requirements based on property size.**

(e2) **Recordation of Common Area Buffers.** – When riparian buffers are included within a lot, units of local governments shall require that the buffer area be denominated on the recorded plat. When riparian buffers are (i) placed outside of lots in portions of a subdivision that are designated as common areas or open space and (ii) neither the State nor its subdivisions holds any property interest in that riparian buffer area, the unit of local government shall attribute to each lot abutting the riparian buffer area a proportionate share based on the area of all lots abutting the riparian buffer area for purposes of development-related regulatory requirements based on property size.

(e3) **Limitation on Local Government Riparian Area Restrictions.** – Units of local government may impose restrictions upon the use of riparian areas as defined in 15A NCAC 02B .0202 only within river basins where riparian buffers are required by the State. Units of local government may impose restrictions upon riparian areas to satisfy State riparian buffer requirements by means of a zoning district, subdivision or development regulation; comprehensive plan; policy; resolution; or any other act carrying the effect of law. The width of the restricted area and the body of water to which the restrictions apply shall not deviate from State requirements unless the deviation has been approved under subsection (b1) of this section.

For purposes of this subsection, the terms "riparian areas" and "riparian buffer areas" shall have the same meaning, and shall include all landward setbacks from a surface water body with State-required riparian buffers.

(e4) **Exception.** – Neither the restrictions in subsection (e3) of this section nor the riparian buffer deviation approval procedures of subsection (b1) of this section shall apply to
any local ordinance initially adopted prior to July 22, 1997, and any subsequent modifications
that have the following characteristics:

(1) The ordinance includes findings that the setbacks from surface water bodies
are imposed for purposes that include the protection of aesthetics, fish and
wildlife habitat, and recreational use by maintaining water temperature,
healthy tree canopy and understory, and the protection of the natural
shoreline through minimization of erosion and potential chemical pollution
in addition to the protection of water quality and the prevention of excess
nutrient runoff.

(2) The ordinance includes provisions to permit under certain circumstances (i)
small or temporary structures within 50 feet of the water body and (ii) docks
and piers within and along the edge of the water body.

(e5) Definition. – For purposes of this section, "development-related regulatory
requirements based on property size" means requirements that forbid or require particular uses,
activities, or practices for some percentage of the area of a lot or for lots above or below a
particular size, including, but not limited to, perimeter buffers, maximum residential density,
tree conservation ordinances, minimum lot size requirements, or nonresidential floor area ratio
requirements.

(f) Rules. – The Commission may adopt rules to implement this section."

SECTION 3.3.(b) Part 1 of Article 21 of Chapter 143 of the General Statutes is
amended by adding two new sections to read:

"§ 143-214.18. Exemption to riparian buffer requirements for certain private properties.

(a) Definition. – For purposes of this Part, "applicable buffer rule" refers to any of the
following rules that are applicable to land within the watershed regulated by the rules:

(1) Neuse River Basin. – 15A NCAC 02B .0233, effective August 1, 2000.
(2) Tar-Pamlico River Basin. – 15A NCAC 02B .0259, effective August 1, 2000.
(3) Randleman Lake Water Supply Watershed. – 15A NCAC 02B .0250, effective June 1, 2010.
(6) Goose Creek Watershed of the Yadkin-Pee Dee River Basin. – 15A NCAC
02B .0605 and 02B .0607, effective February 1, 2009.

(b) Exemption. – Absent a requirement of federal law or an imminent threat to public
health or safety, an applicable buffer rule shall not apply to any tract of land that meets all of
the following criteria:

(1) With the exception set forth in subsection (c) of this section, the tract was
platted and recorded in the register of deeds in the county where the tract is
located prior to the effective date of the applicable buffer rule.
(2) Other than the applicable buffer rule, the use of the tract complies with either
of the following:

a. The rules and other laws regulating and applicable to that tract on the
effective date for the applicable buffer rule set out in subsection (a)
of this section.

b. The current rules, if the application of those rules to the tract was
initiated after the effective date for the applicable buffer rule by the
unit of local government with jurisdiction over the tract and not at the
request of the property owner.
(c) If a tract of land described in subsection (b) of this section is converted to a use that does not comply with subdivision (2) of subsection (b) of this section, then the applicable buffer rule shall apply.

(d) The tract of land shall retain an exemption under subsection (b) of this section if either of the following applies:

1. The tract has been replatted and rerecorded after the effective date for the applicable buffer rule as a result of an eminent domain action and the tract continues to comply with subdivision (2) of subsection (b) of this section.

2. The tract is a recombination exempt from the definition of subdivision under G.S. 160A-376 or G.S. 153A-33 and recorded after the effective date of the applicable buffer rule and the recombination consists of all, or portions of, parcels meeting the requirements for exemption from the applicable buffer rule set forth in subsection (b) of this section.

(e) For purposes of meeting the requirements of subdivision (2) of subsection (b) of this section, the following shall be interpreted to be "complying with the rules and other laws regulating and applicable to that property on the effective date for the applicable buffer rule":

1. The conversion of a tract of land that was undeveloped prior to the effective date of the applicable buffer rule to a use that was permitted under applicable local ordinances in effect prior to the effective date of the applicable buffer rule, even if the conversion is approved after the effective date of the applicable buffer rule.

2. The conversion of the tract of land to a use permitted under applicable local rules or ordinances that have been applied to the property since the effective date of the applicable buffer rule as a result of either (i) a change in regulations applied by the unit of local government with jurisdiction over the tract or (ii) a change in the unit of local government having jurisdiction over the tract which results in the application of regulations to the tract after the effective date of the applicable buffer rule.

(f) An exemption to an applicable buffer rule under this section runs with the land, if notice of the exemption is recorded with the register of deeds at or prior to the next conveyance of the tract or portion of the tract.


(a) The following definitions apply in this section:

1. Coastal wetlands. – Any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tidewaters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides.

2. Marshlands. – The term has the same meaning as G.S. 113-229(n).

(b) If State law requires a protective riparian buffer for coastal wetlands in either the Neuse River Basin or the Tar-Pamlico River Basin, the protective riparian buffer for any of the coastal wetlands or marshlands in the Neuse River Basin or the Tar-Pamlico River Basin shall be delineated from the normal high water level or the normal water level as appropriate."

SECTION 3.3.(c) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.27 Riparian buffer conditions in environmental permits.

(a) Except as set forth in subsection (b) of this section, the Department may not impose as a condition of any permit issued under this Article riparian buffer requirements that exceed established standards for the river basin within which the activity or facility receiving the permit is located. If no riparian buffer standards have been established for the river basin within
which the activity or facility receiving the permit is located, then the Department shall not impose a buffer standard as a condition for a permit that exceeds the standard for the Neuse River Basin set forth in 15A NCAC 02B .0233.

(b) The Commission may impose as a condition of any permit issued under this Article or an implementation measure for a Total Maximum Daily Load approved by the United States Environmental Protection Agency pursuant to 33 U.S.C. § 1313(d) a more restrictive riparian buffer requirement than that established by the applicable buffer rule or a riparian buffer requirement in a river basin where no riparian buffer standards have been established as set forth in this subsection. Prior to imposing the riparian buffer permit condition or implementation measure, the Commission shall make a finding that the condition or measure is necessary in order to meet the nutrient reduction goals or to alleviate the impairment for which the Total Maximum Daily Load has been approved for the river basin or segment within which the regulated activity or facility is located, based on basin-specific evidence compiled through a scientific study prepared by or on behalf of the Commission that provides a justification for the permit condition or implementation measure based on the topography, soils, or hydrology of the river basin or segment; the environmental impacts of the activity or facility; and any other information the Commission finds necessary to evaluate the need for the riparian buffer permit condition or implementation measure.

SECTION 3.3.(d) This section becomes effective August 1, 2015.

WILDLIFE SEARCH AND SEIZURE

SECTION 3.4.(a) G.S. 113-136(k) reads as rewritten:

"(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other law enforcement officer any item required to be carried by any law or rule as to which inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include boating safety or other equipment or any license, permit, tax receipt, certificate, or identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement officers to inspect weapons, equipment, fish, or wildlife that weapons or equipment if the officer reasonably believes them to be possessed incident to an activity regulated by any law or rule as to which inspectors and protectors have enforcement jurisdiction and the officer has a reasonable suspicion that a violation has been committed, except that an officer may inspect a shotgun to confirm whether it is plugged or unplugged without a reasonable suspicion that a violation has been committed. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement officers to inspect fish or wildlife for the purpose of ensuring compliance with bag limits and size limits. Except as authorized by G.S. 113-137, nothing in this section gives an inspector, protector, or other law enforcement officer the authority to inspect, in the absence of a person in apparent control of the item to be inspected, any of the following:

(1) Weapons.
(2) Equipment, except for equipment left unattended in the normal operation of the equipment, including, but not limited to, traps, trot lines, crab pots, and fox pens.
(3) Fish.
(4) Wildlife."

SECTION 3.4.(c) The Wildlife Resources Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2016, and annually thereafter, on the number of complaints received against Commission law enforcement officers, the subject matter of the complaints, and the geographic areas in which the complaints were filed.
SECTION 3.4.(d) Section 3.4(a) of this section becomes effective December 1, 2015, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.

REPEAL FOR-HIRE LICENSE LOGBOOK REQUIREMENT; REPEAL AUTHORITY OF THE DIVISION OF MARINE FISHERIES TO ENTER INTO A JOINT ENFORCEMENT AGREEMENT; DIRECT THE DIVISION OF MARINE FISHERIES TO STUDY THE LOGBOOK REQUIREMENT AND THE JOINT ENFORCEMENT AGREEMENT

SECTION 3.5.(a) G.S. 113-174.3(e) is repealed.

SECTION 3.5.(b) G.S. 113-224 reads as rewritten:

"§ 113-224. Cooperative agreements by Department.

(a) The except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

(b) The Fisheries Director or a designee of the Fisheries Director may not enter into an agreement with the National Marine Fisheries Service of the United States Department of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the National Marine Fisheries Service."

SECTION 3.5.(c) G.S. 128-1.1(c2) is repealed.

SECTION 3.5.(d) The Division of Marine Fisheries shall conduct a 12-month process to seek input from stakeholders on the following issues:

(1) The costs and benefits of a logbook requirement similar to that repealed by subsection (a) of this section and whether such a requirement should be reenacted.

(2) The impacts, costs, and benefits of a joint enforcement agreement similar to that prohibited by subsection (b) of this section and whether the authorization to enter into such an agreement should be reenacted.

The process shall also include the establishment of a stakeholder advisory group that includes persons who are for-hire license holders representing all major recreational fishing areas on the North Carolina coast, other recreational fishing interests, and relevant advocacy groups. The Division shall review and provide a written response to any issues raised by the advisory group and shall report to the Environmental Review Commission no later than October 15, 2016, its conclusions, including any recommendations for legislation.

AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM" AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS

SECTION 3.6. Section 21 of S.L. 2013-413 reads as rewritten:

"SECTION 21.(a) 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards). – Until the effective date of the revised permanent rules that the Environmental Management Commission is required to adopt pursuant to Section 21(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided in Section 21(b) of this act.
"SECTION 21.(b) Implementation. – Notwithstanding 15A NCAC 02T .1302 (Definitions), "new animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed previously, where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service, previously or where a permit for a system has been rescinded, and is then reissued when the permittee confines animals in excess of the thresholds established in G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards), the Swine Waste Management System Performance Standards shall:

1. Apply to any farm facility that receives a permit for its animal waste management system that allows a level of production at the farm, as measured by steady state live weight, greater than the largest production for which the farm has received a permit in the past, and so that they also apply to any other animal waste management system otherwise subject to regulation under G.S. 143-215.10I.

2. Not apply to any facility that meets all of the following conditions:
   a. Has had no animals on site for five continuous years or more.
   b. Notifies the Division of Water Resources in writing at least 60 days prior to bringing any animals back on to the site.
   c. The system depopulated after January 1, 2005, and the system ceased operation no longer than 10 years prior to the current date.
   d. At the time the system ceased operation, the system was in compliance with an individual permit or a general permit issued pursuant to G.S. 143-215.10C.
   e. The Division of Water Resources issues an individual permit or certificate of coverage under a general permit issued pursuant to G.S. 143-215.10G for operation of the system before any animals are brought on the facility.
   f. The permit for the animal waste management system does not allow production, measured by steady state live weight, to exceed the greatest steady state live weight previously permitted for the system under G.S. 143-215.10C.
   g. No component of the animal waste management system and swine farm, other than an existing swine house or land application site, shall be constructed on land that is located within the 100-year floodplain.
   h. The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost-share agreement, or grant condition.

"SECTION 21.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt rules as promptly as practicable to amend 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"SECTION 21.(d) Sunset. – Section 21(b) of this act expires on the date that rules adopted pursuant to Section 21(c) of this act become effective."
STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

SECTION 3.7. The Department of Insurance, the Building Code Council, and the Coastal Resources Commission shall jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Department, Council, and Commission shall specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. In conducting this study, the Department, Council, and Commission shall engage a broad group of stakeholders, including property owners, local governments, representatives of the surveying industry, and representatives of the development industry. No later than January 1, 2016, the Department, Council, and Commission shall jointly submit the results of their study, including any legislative recommendations, to the 2015 General Assembly.

PART III-B. UTILITY REGULATION

UPDATED REPS REQUIREMENTS

SECTION 3B.1. G.S. 62-133.8 reads as rewritten:


(a) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>REPS Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3% of 2011 North Carolina retail sales</td>
</tr>
<tr>
<td>2015 and thereafter</td>
<td>6% of 2014 North Carolina retail sales</td>
</tr>
<tr>
<td>2018</td>
<td>10% of 2017 North Carolina retail sales</td>
</tr>
<tr>
<td>2021 and thereafter</td>
<td>12.5% of 2020 North Carolina retail sales</td>
</tr>
</tbody>
</table>

(c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>REPS Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3% of 2011 North Carolina retail sales</td>
</tr>
<tr>
<td>2015 and thereafter</td>
<td>6% of 2014 North Carolina retail sales</td>
</tr>
<tr>
<td>2018 and thereafter</td>
<td>10% of 2017 North Carolina retail sales</td>
</tr>
</tbody>
</table>

..."

AMEND COST CAPS FOR REPS COMPLIANCE

SECTION 3B.2.(a) G.S. 62-133.8(h)(4) reads as rewritten:

"(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

2015 and thereafter..."
Customer Class | 2008-2011 | 2012-2014 and thereafter
--- | --- | ---
Residential per account | $10.00 | $12.00 | $34.00
Commercial per account | $50.00 | $150.00 | $150.00
Industrial per account | $500.00 | $1,000.00 | $1,000.00

SECTION 3B.2.(b) This section becomes effective July 1, 2015, and applies to cost recovery proceedings that occur on or after that date.

ENERGY EFFICIENCY FOR REPS COMPLIANCE

SECTION 3B.4.(a) G.S. 62-133.8(b)(2)c. reads as rewritten:
"c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures."

SECTION 3B.4.(b) This section becomes effective July 1, 2015.

COST RECOVERY HOLD HARMLESS

SECTION 3B.5. Incremental costs incurred by an electric power supplier prior to July 1, 2015, to comply with any requirement repealed or amended by this Part may be recovered as provided in G.S. 62-133.8(h), as amended by this Part. For the purposes of cost recovery under this act, costs incurred prior to July 1, 2015, include all of the following:

1. Costs under purchase contracts for renewable energy entered into prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this Part.
2. The costs of renewable energy facilities built by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this Part.
3. Other costs the Utilities Commission determines are reasonable and prudent costs incurred prior to July 1, 2015, to comply with the REPS requirements repealed or amended by this Part.

STANDARD CONTRACT FOR SMALL POWER PRODUCERS

SECTION 3B.5.1.(a) G.S. 62-3(27a) reads as rewritten:
"(27a) "Small power producer" means a person or corporation owning or operating an electrical power production facility with a power production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy. For the purposes of this section, renewable resources shall mean: hydroelectric power, solar electric, solar thermal, wind, geothermal, ocean current, wave energy resources, and biomass derived from agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, liquids, or gases not derived from fossil fuel, energy crops, or landfill methane. A small power producer shall not include persons primarily engaged in the generation or sale of electricity from other than small power production facilities."

SECTION 3B.5.1.(b) G.S. 62-156(b)(1) reads as rewritten:
"(1) Term of Contract. – Long-term contracts for the purchase of electricity by the utility from small power producers shall be encouraged in order to enhance the economic feasibility of small power production. The Commission shall require electric utilities to provide standard contracts to small power facilities that generate electricity from swine or poultry waste with a capacity of no greater than five megawatts. For small power producers that generate electricity from all other renewable energy resources, the Commission shall require electric public utilities to provide standard contracts for facilities with a capacity of no greater than 100 kilowatts of capacity."

SECTION 3B.5.1.(c) G.S. 62-156(b) is amended by adding a new subdivision to read:

"(4) Avoided Cost of Capacity. – The Commission approved standard contract shall not require payment for capacity during the years in which the electric utility lacks a capacity need, as demonstrated through the electric public utility's most recent integrated resource plan approved by the Commission under G.S. 62-110.1(c)."

SECTION 3B.5.1(d) This section is effective January 1, 2017, and applies to facilities for which a certificate of public convenience and necessity has been applied for on or after that date.

JOINT SELECT COMMITTEE ON THE LONG TERM ENERGY NEEDS OF THE STATE

SECTION 3B.6. There is created the Joint Select Committee on the Long-Term Energy Needs of the State. The Committee shall consist of 12 members; six members appointed by the Speaker of the House of Representatives and six members appointed by the President Pro Tempore of the Senate. Vacancies on the Committee shall be filled by the appointing authority. A quorum of the Committee shall be a majority of its members. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Committee. The Committee may meet at any time upon the joint call of the cochairs. The Committee shall study reforms to the REPS requirements under G.S. 62-133.8, and any other matter related to the long term energy needs of the State the Committee deems appropriate.

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

SECTION 3B.7.(a) G.S. 130A-334 reads as rewritten:

The following definitions shall apply throughout this Article:

(1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.

(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(1b) "Conventional wastewater system" has the same meaning as in G.S. 130A-343.

(1c) "Department" means the Department of Health and Human Services.

(1d) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.

(2) Repealed by Session Laws 1985, c. 462, s. 18.
"Industrial process wastewater" means any water-carried waste resulting from any process of industry, manufacture, trade, or business.

"Licensed soil scientist" has the same meaning as in G.S. 89F-3.

"Location" means the initial placement for occupancy of a residence, place of business or place of public assembly.

"Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.

(5) Repealed by Session Laws 1985, c. 462, s. 18.

"Place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

"Place of public assembly" means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

"Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. "Plat" also means, for subdivision lots approved by the local planning authority if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

"Pretreatment" means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.

"Private option permit" means approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

"Professional engineer" has the same meaning as in G.S. 89C-3.

"Public or community wastewater system" means a single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

"Relocation" means the displacement of a residence or place of business from one site to another.

"Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system.

"Residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.

"Secretary" means the Secretary of Environment and Natural Resources.

Repealed by Session Laws 1992, c. 944, s. 3.

"Septic tank system" means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.

"Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.
"Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters.

"Wastewater" means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.

"Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article.

SECTION 3B.7. (b) G.S. 130A-335 reads as rewritten:

"§ 130A-335. Wastewater collection, treatment and disposal; rules.

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed may be evaluated for soils conditions and site features by a licensed soil scientist. For purposes of this subsection, "site features" include: topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles.

(b) All wastewater systems shall either (i) be regulated by the Department under rules adopted by the Commission or (ii) be approved pursuant to the private option permit criteria provided in G.S. 130A-336.1 and under rules adopted by the Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the Environmental Management Commission:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.
(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.
(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.
(4) Gray water systems as defined in G.S. 143-350.

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and
(2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public health; and
The Department has found that the rules of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

(c1) The rules adopted by the Commission for wastewater systems approved under the private option permit criteria pursuant to G.S. 130A-336.1 shall be, at a minimum, as stringent as the rules for wastewater systems established by the Commission.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.

(d1) The Department may file a written complaint with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to this Article. The Department may file a written complaint with the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this Article.

SECTION 3B.7.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:


(a) Private Option Permit Authorized. – A professional engineer licensed pursuant to Chapter 89C of the General Statutes may, under the legal authority and on behalf of the owner of a proposed wastewater system who wishes to utilize the private option permit, prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system in accordance with this Article and rules adopted thereunder.

(b) Criteria for Private Option Permit. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with jurisdiction over the location of the proposed wastewater system a notice of intent to construct a wastewater system utilizing the private permit option. The Department shall develop a common form for use as the notice of intent to construct that includes all of the following:

(1) The owner's name, address, and telephone number.
(2) The professional engineer's name, address, and telephone number.
(3) Certified copy of the wastewater system owner's contract with the professional engineer.
(4) Proof of errors and omissions insurance coverage or other appropriate liability insurance that has policy limits of not less than one million dollars ($1,000,000) per claim and that shall remain in force as applicable:"
a. Two years following the date on which a professional engineer delivers an engineering package to the owner of the wastewater system; or
b. Two years following the date on which a licensed soil scientist deliver a soils report to the owner of the wastewater system.

(5) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.

(6) The proposed wastewater system and its location.

(7) The design wastewater flow and characteristics.

(8) Any proposed landscape, site, drainage, or soil modifications.

(9) A soils evaluation that is conducted and signed and sealed by a licensed soil scientist.

(c) Site Design, Construction, and Activities. –

(1) The professional engineer designing the proposed wastewater system shall use recognized principles and practices of engineering in the calculations and design of the wastewater system. The investigations and findings of the professional engineer shall include, at a minimum, the information required in G.S. 130A-335(e). The professional engineer may, at the engineer's discretion, employ wastewater system technologies not yet approved in this State.

(2) The professional engineer designing the proposed wastewater system shall be responsible and accountable for all aspects of the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(d) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed wastewater system shall assume all liability for the findings of the soil scientist's initial soils evaluation and final soils report. The professional engineer designing the proposed wastewater system shall assume all liability for the engineer's scope of work in the design, calculation, construction, and requirements for the development of the operation and management plan for the wastewater system. The owner of the wastewater system shall assume all liability for the proper operation and management of the wastewater system. The Department, the Department's authorized agents, or local health departments shall have no liability for wastewater systems approved under a private option permit. After the owner of the wastewater system has commenced operation of the system pursuant to subsection (i) of this section, neither the professional engineer nor the licensed soil scientist shall be held liable for any damages that result from any unapproved changes made to the wastewater system by the owner.

(e) Inspections. – The local health department may, at any time, conduct a site visit of the wastewater system location.

(f) Local Authority. – This section shall not relieve the owner or operator of a wastewater system from complying with any and all modifications or additions to rules adopted by the local health department to protect public health pursuant to G.S. 130A-335(c). The local health department shall notify the owner or operator of the wastewater system of any issues of compliance related to such modifications or additions.

(g) Operations and Management. – The professional engineer designing the wastewater system shall establish a written operations and management program based on the size and complexity of the wastewater system. The professional engineer designing the wastewater system shall provide the owner with the operations and management program and provide assistance to the owner in the owner's selection of a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes and who is selected from the list of certified operators maintained by the Division of Water Resources in...
the Department of Environment and Natural Resources. The professional engineer shall provide
a copy of the contract with the certified water pollution control system operator with the
complete professional engineer's report. Any person who owns or controls the property upon
which the wastewater system is located shall be responsible for the continued adherence to the
operations and management program established by the professional engineer.

(h) Postconstruction Conference. – The professional engineer designing the wastewater
system shall hold a postconstruction conference with the owner of the wastewater system; the
licensed soil scientist who performed the soils evaluation for the wastewater system; the
certified installer who installed the wastewater system; the certified operator of the wastewater
system, if any; and representatives from the local health department or the Department. The
postconstruction conference shall include start-up of the wastewater system and any required
verification of system design or system components.

(i) Documentation and Record Keeping. –
(1) At the completion of the postconstruction conference required pursuant to
subsection (h) of this section, the professional engineer who designed the
wastewater system shall deliver certified copies of the following to the
owner: (i) design and construction specifications; (ii) operator's management
program manual that includes a contract with the operator; and (iii) any
reports and findings related to the design and installation of the wastewater
system.
(2) Upon reviewing the authorized professional engineer's report, the owner of
the wastewater system shall sign and notarize the report as having been
received.
(3) The owner of the wastewater system shall deliver to the local health
department (i) a certified copy of the authorized professional engineer's
report, (ii) a copy of the operations and management program, (iii) the fee
required pursuant to subsection (j) of this section, and (iv) a notarized letter
that documents the owner's acceptance of the system from the professional
engineer.
(4) Upon receipt of the documents and fees required pursuant to subdivision (3)
of this subsection, the local health department shall issue the owner a letter
of confirmation that states the documents and information contained therein
have been received and that the wastewater system may operate.

(j) Fees. – The local health department may assess a fee of up to ten percent (10%) of
the fees established to obtain an improvement permit, an authorization to construct, or an
operations permit within the health department's on-site wastewater program. Fees shall be
used by the local health department to conduct site inspections, to support the department's staff
participation at postconstruction conference meetings, and to archive the private permit with
the county register of deeds or other recordation of the wastewater system as required.

(k) A wastewater system authorized pursuant to this section shall not be affected by
change in ownership of the site for the wastewater system, provided both the site for the
wastewater system and the facility the system serves are unchanged and remain under the
ownership or control of the person currently owning the wastewater system.

(l) Rule Making. – The Commission shall adopt rules to conform to the provisions of
this section.

(m) Reports. – The Department shall report to the Environmental Review Commission
and the Joint Legislative Oversight Committee on Health and Human Services on or before
January 1, 2017, and annually thereafter, on the implementation and effectiveness of this
section. For the report due on or before January 1, 2017, the Department shall specifically
evaluate whether (i) the program resulted in a reduction in the length of time improvement
permits or authorizations to construct are pending; (ii) the program resulted in increased system
failures or other adverse impacts; and (iii) the program resulted in new or increased
environmental impacts. The Department may include recommendations, including any
legislative proposals, in its reports to the Commission and Committee."

SECTION 3B.7.(d) G.S. 130A-338 reads as rewritten:
"§ 130A-338. Authorization for wastewater system construction required before other
permits to be issued.

Where construction, location or relocation is proposed to be done upon a residence, place of
business or place of public assembly, no permit required for electrical, plumbing, heating, air
conditioning or other construction, location or relocation activity under any provision of
general or special law shall be issued until an authorization for wastewater system construction
has been issued under G.S. 130A-336. G.S. 130A-336, or authorization has been obtained under
G.S. 130A-337(c). G.S. 130A-337(c), or the letter of confirmation is issued to an owner by the
local health department pursuant to G.S. 130A-336.1(i)(4)."

SECTION 3B.7.(e) G.S. 130A-339 reads as rewritten:
"§ 130A-339. Limitation on electrical service.

No person shall allow permanent electrical service to a residence, place of business or place
of public assembly upon construction, location or relocation until the official electrical
inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that
the required improvement permit authorization for wastewater system construction and an
operation permit or authorization under G.S. 130A-337(c) or the letter of confirmation issued to
an owner by the local health department pursuant to G.S. 130A-336.1(i)(4) has been obtained.
Temporary electrical service necessary for constructing a residence, place of business or place
of public assembly can be provided upon compliance with G.S. 130A-338."

SECTION 3B.7.(f) The Commission, in consultation with the Department of
Health and Human Services and local health departments, shall study the minimum on-site
wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A
.1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of
on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the
compliance history of wastewater systems, including whether operators’ reports and laboratory
reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules
adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of
remote Web-based monitoring for alarm and compliance notification; (iii) whether the required
verification visit conducted by local health departments shows a statistically significant
justification for duplicative costs to the owner of the wastewater system; (iv) methods for
notifications of changes to and expirations of operations contracts; and (v) methods for local
health departments to provide certified operator management for sites that are not under
contract with a water pollution control system operator certified pursuant to Part 1 of Article 3
of Chapter 90A of the General Statutes. The Commission shall report its findings and
recommendations, including any legislative proposals, to the Environmental Review
Commission and the Joint Legislative Oversight Committee on Health and Human Services on
or before January 1, 2016.

SECTION 3B.8. G.S. 130A-336 reads as rewritten:
"§ 130A-336. Improvement permit and authorization for wastewater system construction
required.

(a) Any proposed site for a residence, place of business, or place of public assembly in
an area not served by an approved wastewater system shall be evaluated by the local health
department in accordance with rules adopted pursuant to this Article. Article or by a registered
professional engineer acting under the conditions of the private option permit. An improvement
permit shall be issued in compliance with the rules adopted pursuant to this Article. An
improvement permit issued by a local health department shall include:"
(1) For permits that are valid without expiration, a plat or, for permits that are valid for five years, a site plan.

(2) A description of the facility the proposed site is to serve.

(3) The proposed wastewater system and its location.

(4) The design wastewater flow and characteristics.

(5) The conditions for any site modifications.

(6) Any other information required by the rules of the Commission.

Neither the improvement permit nor the authorization for wastewater system construction shall not be affected by change in ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. The improvement permit and the authorization for wastewater system construction shall remain valid once issued, without expiration, provided the design wastewater flow and characteristics and the description of the proposed facility the wastewater system will serve remains unchanged. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health department unless acting within the conditions of a private option permit. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional or accepted septic tank systems within 60 days, or within 90 days for provisional or innovative systems, after receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

SECTION 3B.9. G.S. 130A-342 reads as rewritten:

"§ 130A-342. Residential wastewater treatment systems.

(a) Individual residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.
(b) A permitted system with a design flow of less than 1,500 gallons per day shall be operated by a person who is a Grade I Operator as certified by the Water Pollution Control System Operators Certification Commission. The Commission may establish additional standards for wastewater systems with a design flow of 1,500 gallons or greater per day and maintained by a certified wastewater treatment facility operator.

(c) Each county, in which one or more residential wastewater treatment systems permitted pursuant to this section are in use, shall document the performance of each system and report the results to the Department annually."

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

SECTION 3B.10(a) G.S. 130A-343 reads as rewritten:

§ 130A-343. Approval of on-site subsurface wastewater systems.

(a) Definitions. – As used in this section:

1. "Accepted wastewater dispersal system" means any subsurface wastewater dispersal system, other than a conventional wastewater system, or any technology, device, or component of a wastewater system that: (i) has been previously approved as an innovative wastewater dispersal system by the Department; (ii) has been in general use in this State as an innovative wastewater dispersal system for more than five years; and (iii) has been approved by the Commission for general use or use in one or more specific applications. An accepted wastewater dispersal system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Commission may impose any design, operation, maintenance, monitoring, and management requirements on the use of an accepted wastewater system that it determines to be appropriate.

2. "Controlled demonstration Provisional wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that, on the basis of (i) research acceptable research, to is approved by the Department or (ii) approval of the wastewater system by a nationally recognized certification body approved by the Department for research, testing, or trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.

3. "Conventional wastewater system", "conventional sewage system", or "conventional septic tank system" means a subsurface wastewater system that consists of a traditional septic or settling tank and a gravity-fed subsurface disposal dispersal field that uses washed natural stone or gravel or crushed stone of approved size and grade and piping to distribute effluent to soil in one or more nitrification trenches and that does not include any other appurtenance.

4. "Experimental wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.

5. "Innovative wastewater system" means any wastewater system, other than a conventional wastewater system, or any technology, device, or component of a wastewater system that:

a. (i) has Has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; (ii) is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to
An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate. A wastewater system approved by a nationally recognized certification body and in compliance with the ongoing verification program of such body may submit a sampling protocol for innovative system approval that reduces the data sets required for such approval by fifty percent (50%). Such an application shall include all of the data associated with the nationally recognized certification body's verification of the system's performance.

"Nationally recognized certification body" means: the National Science Foundation; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.

(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules for the approval and permitting of experimental, controlled demonstration, innovative, conventional, provisional, and accepted wastewater systems. The rules shall address the criteria to be considered prior to issuing an approval or permit for a system, requirements for preliminary design plans and specifications that must be submitted, methodology to be used, standards for monitoring and evaluating the system, research evaluation of the system, the plan of work for monitoring system performance and maintenance, and any additional matters the Commission deems necessary for verification of the performance of a wastewater system or system component.

(c) Approved Systems. Procedure for Modifications or Revocations. – The Department may modify, suspend, or revoke the approval of a wastewater system if the Department determines that the approval is based on false, incomplete, or misleading information or if the Department finds that modification, suspension, or revocation is necessary to protect public health, safety, or welfare. The Department shall provide a listing of all approved experimental, controlled demonstration, innovative, provisional, and accepted wastewater systems to the local health departments annually, and notify the local health department within 30 days of any modification or revocation of an approval or permit, or any other action that affects the approval of a wastewater system or system component.

(d) Evaluation Protocols. – The Department shall approve one or more nationally recognized protocols for the evaluation of on-site subsurface wastewater systems. Any protocol approved by the Department shall specify a minimum number of sites that must be evaluated and the duration of the evaluation period. At the request of a manufacturer of a wastewater system, the Department may approve an alternative protocol for use in the evaluation of the performance of the manufacturer's wastewater system. A protocol for the evaluation of an on-site subsurface wastewater system approved by the Department pursuant to this section is a scientific standard within the meaning of G.S. 150B-2(8a)k.

(e) Experimental Systems. – A manufacturer of a wastewater system that is intended for on-site subsurface use may apply to the Department to have the system evaluated as an
experimental wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the experimental wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 50 experimental systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the experimental wastewater system fails to perform properly.

(f) Controlled Provisional Demonstration Systems. – A manufacturer of a wastewater system intended for on-site subsurface use may apply to the Department to have the system provisionally approved for use in this State. Any wastewater system approved based on its approval by a nationally recognized certification body must be designed and installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal shall contain procedures for obtaining specified information necessary to achieve innovative status upon completion of the provisional status. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. If the system was evaluated as an experimental system under subsection (e) of this section, the proposal shall include the results of the evaluation. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the controlled demonstration wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 200 controlled demonstration provisional wastewater systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the controlled demonstration provisional wastewater system fails to perform properly. If the controlled demonstration provisional wastewater system is intended for use on sites that are not suitable, or that are provisionally suitable, suitable for a conventional wastewater system, the Department may approve the installation of the controlled demonstration provisional wastewater system if the Department determines that the manufacturer can provide an acceptable alternative method for collection, treatment, and disposal of the wastewater. The Department shall approve applications for provisional systems based on approval by a nationally recognized certification body within 90 days of receipt of a complete application. A manufacturer that chooses to remove its product from the
nationally recognized standard during the provisional approval may continue its application in
this State pursuant to requirements and procedures established by the Department.

(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface
use that has been evaluated as an experimental wastewater system status by the Department in one of the following ways:

(1) If the wastewater system has been approved as a provisional wastewater system pursuant to subsection (f) of this section, the manufacturer may apply to have the system approved as an innovative wastewater system based on successful completion of the evaluation protocols established pursuant to subsection (d) of this section, a wastewater system as provided in subsection (e) of this section or that has been evaluated as a controlled demonstration wastewater system as provided in subsection (f) of this section may apply to the Department to have the system approved as an innovative wastewater system as provided in this subsection.

(2) If the wastewater system has not been evaluated or approved as an experimental, provisional wastewater system pursuant to subsection (f) of this section, or as a controlled demonstration wastewater system the manufacturer may also apply to the Department to have the system approved as an innovative wastewater system on the basis of comparable research and testing conducted in other states. The manufacturer shall provide the Department with the data and findings of all evaluations of the performance of the system that have been conducted in any state by or on behalf of the manufacturer. The manufacturer shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer.

(3) If the wastewater system has not been evaluated or approved as a provisional system pursuant to subsection (f) of this section, but has been evaluated under protocol established by a nationally recognized certification body for at least two consecutive years, has been found to perform acceptable based on the criteria of the protocol, and is designed and will be installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body, the manufacturer may apply to have the system approved as an innovative wastewater system.

Within 30 days of receipt of the initial application, the Department shall either (i) notify the manufacturer of any items necessary to complete the application and provide the manufacturer with the identified deficiencies or (ii) notify the manufacturer that its application is complete. The Department shall publish a notice that the manufacturer has submitted an application under this subsection in the North Carolina Register and may provide additional notice to the public via the Internet or by other means. The Department shall receive public comment on the application for at least 30 days after the date the notice is published in the North Carolina Register. In making a determination under this subsection, the Department shall consider the data, findings, and recommendations submitted by the manufacturer and all public comment. The Department may also consider any other information that the Department determines to be relevant. The Department shall determine: (i) whether the system performs in a manner equal or superior to a conventional wastewater system; system, in terms of structural, treatment, and hydraulic performance; (ii) whether the system is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any conditions and limitations related to the use of the system. The Department shall make the determinations...
required by this subsection and approve or deny the application within 180–90 days after the Department receives a complete application from a manufacturer. If the Department fails to act on the application within 180 days of the notice of receipt of the complete application, the manufacturer may treat the application as denied and challenge the denial by filing a contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the Department approves an innovative wastewater system, the Department shall notify the manufacturer of the approval and specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(g1) Approval of Functionally Equivalent Trench Systems as Innovative Systems. – A manufacturer of a wastewater trench system may petition the Commission to have the wastewater trench system approved as an innovative wastewater system as provided in this subsection.

(1) The Commission shall approve a wastewater trench system as an innovative wastewater system if it finds that there is clear, convincing, and cogent evidence that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system. A wastewater trench system shall be considered functionally equivalent to an accepted wastewater trench system if the performance characteristics of the wastewater trench system satisfy all of the following requirements:

a. The physical properties and chemical durability of the materials from which the wastewater trench system is constructed are equal to or superior to the physical properties and chemical durability of the materials from which the accepted wastewater trench system is constructed.

b. The permeable sidewall area and bottom infiltrative area of the wastewater trench system are equal to or greater than the permeable sidewall area and bottom infiltrative area of the accepted wastewater trench system at a field-installed size.

c. The wastewater trench system utilizes a similar method and manner of function for the conveyance and application of effluent as the accepted wastewater trench system.

d. The structural integrity of the wastewater trench system is equal to or superior to the structural integrity of the accepted wastewater trench system.

e. The wastewater trench system shall provide a field installed system storage volume equal to or greater than the field installed system storage volume of the accepted wastewater trench system.

(2) As part of its petition, the manufacturer shall provide to the Commission all of the following information:

a. Specifications of the wastewater trench system.

b. Data necessary to demonstrate that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system.

c. A certified statement from an independent, third-party professional engineer or testing laboratory that, based on verified documentation, the wastewater trench system is functionally equivalent to an accepted wastewater system.

(3) Approval of a wastewater trench system as an innovative wastewater system shall not be conditioned on the manufacturer of the wastewater trench system having operational systems installed in the State.
The Commission shall authorize the use of a wastewater trench system as an innovative wastewater system in the same applications as the accepted wastewater trench system.

The Commission shall not include conditions and limitations in the approval of a wastewater trench system as an innovative wastewater system that are not included in the approval of the accepted wastewater trench system.

(h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative wastewater dispersal system that has been in general use in this State for more than a minimum of five years may petition the Commission to have the system designated as an accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the system in this State and other states referenced in the petition, including disclosure of any conditions found to result in unacceptable structural, treatment, or hydraulic performance. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater system as an accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at the time the Department approved the system as an innovative wastewater system and (ii) that the system performs in a manner that is equal or superior to a conventional wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(i) Miscellaneous Provisions.—Nonproprietary Wastewater Systems. –

(1) In evaluating applications for approval under this section, the Department may consult with persons who have special training and experience related to on-site subsurface wastewater systems and may form a technical advisory committee for this purpose. However, the Department is responsible for making timely and appropriate determinations under this section.

(2) The Department may initiate a review of a nonproprietary wastewater system and approve the system for on-site subsurface use as an experimental wastewater system, as a provisional wastewater system, a controlled demonstration wastewater system, or an innovative wastewater system without having received an application from a manufacturer. The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.

(j) Warranty Required in Certain Circumstances. – The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system or accepted wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system unless the manufacturer of the innovative wastewater system or accepted wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the system for a warranty period of at least five years from the date on which the wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to provide a fully functional wastewater system. The Commission shall establish minimum terms and conditions for the warranty required by this subsection. This subsection shall not be construed to require that a manufacturer warrant a wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.
Clarification With Respect to Certain Dispersal Media. – In considering the application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under this section, neither the Commission nor the Department may condition, delay, or deny the approval based on the particle or bulk density of the expanded polystyrene material. With respect to approvals already issued by the Department or Commission that include conditions or requirements related to the particle or bulk density of expanded polystyrene material, the Commission or Department, as applicable, shall promptly reissue all such approvals with the conditions and requirements relating to the density of expanded polystyrene material permanently deleted while leaving all other terms and conditions of the approval intact.

Fees. – The Department shall collect the following fees under this section:

- Review of an alternative protocol under subsection (d) of this section: $1,000.00
- Review of an experimental system: $3,000.00
- Review of a controlled demonstration provisional system: $3,000.00
- Review of an innovative system: $3,000.00
- Review of an accepted system: $3,000.00
- Review of a residential wastewater treatment system pursuant to G.S. 130A-342: $1,500.00
- Review of a component or device required of a system: $100.00
- Modification to approved provisional or innovative system: $1,000.00

On-Site Wastewater System Account. – The On-Site Wastewater System Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be placed in the On-Site Wastewater System Account and shall be applied only to the costs of implementing this section."

SECTION 3B.10.(b) The Commission for Public Health shall review and amend its rules to conform to the provisions of this section.

SECTION 3B.10.(c) Section 3B.7 of this act is effective when it becomes law and the effective date of any rules amended pursuant to this section shall be no later than June 1, 2016.

SECTION 3B.11. The Commission for Public Health, in consultation with the Department of Health and Human Services and local health departments, shall study the costs and benefits of requiring treatment standards greater than those listed by nationally recognized standards, including the recorded advantage of such higher treatment standards for the protection of the public health and the environment. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 4.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 4.2. Except as otherwise provided, this act is effective when it becomes law.