

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 760
Committee Substitute Favorable 4/27/15
Third Edition Engrossed 5/6/15

Short Title: Regulatory Reform Act of 2015.

(Public)

Sponsors:

Referred to:

April 15, 2015

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THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.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:



1 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile
2 food units. ~~A permitted restaurant or commissary shall serve as a base of operations for a~~
3 ~~pushcart.~~ A pushcart or mobile food unit shall meet all of the sanitation requirements of a
4 permitted commissary or shall have a permitted restaurant or commissary that serves as its base
5 of operation. Pushcarts or mobile food units that are based from a permitted commissary or
6 restaurant that is located on the premises of a facility which contains at least 3,000 permanent
7 seats shall be allowed to prepare and serve food on the premises. Raw meat, poultry, and fish
8 shall be prepared in a permitted commissary or restaurant in a pre-portioned or ready-to-cook
9 form. Pushcarts or mobile food units that handle raw ingredients shall be equipped with a
10 handwashing sink. All open food and utensils shall be provided with overhead protection or
11 otherwise equipped with individual covers, such as domes, chafing lids, or cookers with hinged
12 lids. Food equipment and supplies shall be located in enclosed areas and protected from
13 environmental contamination when not in operation."
14

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

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

19 **"§ 97-2. Definitions.**

20 When used in this Article, unless the context otherwise requires:

21 ...

- 22 (2) Employee. – The term "employee" means every person engaged in an
23 employment under any appointment or contract of hire or apprenticeship,
24 express or implied, oral or written, including aliens, and also minors,
25 whether lawfully or unlawfully employed, but excluding persons whose
26 employment is both casual and not in the course of the trade, business,
27 profession, or occupation of his employer, and as relating to those so
28 employed by the State, the term "employee" shall include all officers and
29 employees of the State, including such as are elected by the people, or by the
30 General Assembly, or appointed by the Governor to serve on a per diem,
31 part-time or fee basis, either with or without the confirmation of the Senate;
32 as relating to municipal corporations and political subdivisions of the State,
33 the term "employee" shall include all officers and employees thereof,
34 including such as are elected by the people. The term "employee" shall
35 include members of the North Carolina National Guard while on State active
36 duty under orders of the Governor and members of the North Carolina State
37 Defense Militia while on State active duty under orders of the Governor. The
38 term "employee" shall include deputy sheriffs and all persons acting in the
39 capacity of deputy sheriffs, whether appointed by the sheriff or by the
40 governing body of the county and whether serving on a fee basis or on a
41 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
42 part-time basis, and including deputy sheriffs appointed to serve in an
43 emergency, but as to those so appointed, only during the continuation of the
44 emergency. The sheriff shall furnish to the board of county commissioners a
45 complete list of all deputy sheriffs named or appointed by him immediately
46 after their appointment and notify the board of commissioners of any
47 changes made therein promptly after such changes are made. Any reference
48 to an employee who has been injured shall, when the employee is dead,
49 include also the employee's legal representative, dependents, and other
50 persons to whom compensation may be payable: Provided, further, that any
51 employee, as herein defined, of a municipality, county, or of the State of

1 North Carolina, while engaged in the discharge of the employee's official
2 duty outside the jurisdictional or territorial limits of the municipality, county,
3 or the State of North Carolina and while acting pursuant to authorization or
4 instruction from any superior officer, shall have the same rights under this
5 Article as if such duty or activity were performed within the territorial
6 boundary limits of their employer.

7 ~~Every~~ Except as otherwise provided herein, every executive officer
8 elected or appointed and empowered in accordance with the charter and
9 bylaws of a corporation shall be considered as an employee of such
10 corporation under this Article.

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

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

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

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

38 "Employee" shall not include any person performing voluntary service
39 for a nonprofit corporation subject to Chapters 47A, 47C, 47F, 55A, or 59B
40 of the General Statutes, or any organization exempt from federal income tax
41 under section 501(c)(3) of the Internal Revenue Code, provided that the
42 person receives no remuneration for the voluntary service other than
43 reasonable reimbursement for expenses incurred in connection with the
44 voluntary service. A person performing such voluntary service is not an
45 "employee" even if the individual was elected or appointed and empowered
46 as an executive officer, director, or committee member under the charter,
47 articles, or bylaws of a nonprofit corporation subject to Chapters 47A, 47C,
48 47F, 55A, or 59B of the General Statutes, or any organization exempt from
49 federal tax under section 501(c)(3) of the Internal Revenue Code.

50 Any sole proprietor or partner of a business or any member of a limited
51 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~~—"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."

PART II. STATE AND LOCAL GOVERNMENT REGULATION

ZONING DENSITY CREDITS

SECTION 2.1. G.S. 160A-381(a) reads as rewritten:

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

SECTION 2.2.(a) G.S. 150B-21.3A(d) reads as rewritten:

"(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

...

- 1 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
2 of this section, once the final determination report becomes effective, the
3 Commission shall establish a date by which the agency must readopt the
4 rules. The Commission shall consult with the agency and shall consider the
5 agency's rule-making priorities in establishing the readoption date. The
6 agency may amend a rule as part of the readoption process. If a rule is
7 readopted without substantive ~~change, change~~ or if the rule is amended to
8 impose a less stringent burden on regulated persons, the agency is not
9 required to prepare a fiscal note as provided by G.S. 150B-21.4."

10 **SECTION 2.2.(b)** This section is effective when it becomes law and applies to
11 periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.
12

13 **APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD** 14 **CHANGES**

15 **SECTION 2.3.** Pursuant to G.S. 120-70.101(3a), the Joint Legislative
16 Administrative Procedure Oversight Committee (APO) shall review the recommendations
17 contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled
18 "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is
19 Needed" to determine the best way to accomplish the recommendations contained in the report
20 and to improve oversight of occupational licensing boards. In conducting the review, APO shall
21 consult with occupational licensing boards, licensees, associations representing licensees, the
22 Department of Commerce, and other interested parties. The APO cochairs may establish
23 subcommittees to assist with various parts of the review, including determining whether
24 licensing authority should be continued for the 12 boards identified in the report. The APO
25 shall propose legislation to the 2016 Session of the 2015 General Assembly.
26

27 **COMMUNICATIONS TOWER LEASING**

28 **SECTION 2.4.(a)** G.S. 160A-272 is amended by adding a new subsection to read:

29 "(d) The council may approve a lease for the siting and operation communications
30 towers, facilities, or equipment for a term up to 25 years without treating the lease as a sale of
31 property and without giving notice by publication of the intended lease. This subsection shall
32 apply to leases under G.S. 160A-272.1."

33 **SECTION 2.4.(b)** This section is effective when it becomes law and applies to
34 leases entered into on or after that date.
35

36 **GOVERNMENT-NONPROFIT CONTRACTING TASK FORCE**

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

- 38 (1) Private charitable nonprofits that provide public services to North
39 Carolinians through State grants and contracts often experience problems
40 with administration of these grants and contracts.
41 (2) These problems reduce the effectiveness and efficiency of the delivery of
42 these essential services and unnecessarily increase costs to taxpayers.
43 (3) These problems often include delayed delivery and execution of contracts,
44 late payments, overly burdensome and redundant application processes,
45 overly burdensome and redundant financial and performance reporting
46 requirements, midstream changes in the terms of contracts, and
47 underpayment of actual, reasonable, documented indirect costs that are
48 necessary to effectively and efficiently provide services.
49 (4) These problems create a sub-optimal use of taxpayer money by creating
50 unnecessary costs and inefficiencies for State government's delivery of
51 services.

- 1 (5) Joint government-nonprofit contracting task forces have led to solutions that
2 have saved taxpayers money in other states, according to the "Partnering for
3 Impact" report from the National Council of Nonprofits.

4 **SECTION 2.5.(b)** Task Force creation, membership. – To address the problems
5 identified in subsection (a) of this section, there is created the North Carolina
6 Government-Nonprofit Contracting Task Force (Task Force). The Task Force shall consist of
7 13 voting members appointed as follows:

- 8 (1) Four members appointed by the Speaker of the House of Representatives, to
9 include the following:
10 a. One member of the House of Representatives.
11 b. Two representatives of 501(c)(3) nonprofit service providers, to be
12 selected from a list of four candidates recommended by the N.C.
13 Center for Nonprofits.
14 c. One member of the public with a financial background recommended
15 by the N.C. Association of Certified Public Accountants.
16 (2) Four members appointed by the President Pro Tempore of the Senate, to
17 include the following:
18 a. One member of the Senate.
19 b. Two representatives of 501(c)(3) nonprofit service providers, to be
20 selected from a list of four candidates recommended by the N.C.
21 Center for Nonprofits.
22 c. One member of the public with experience with government grants
23 and contracts.
24 (3) Five members appointed by the Governor, to include the following:
25 a. One representative of the Office of State Budget and Management.
26 b. One representative of the Department of Health and Human Services.
27 c. The President of the N.C. Center for Nonprofits, or that person's
28 designee.
29 d. One member of the public with a financial background recommended
30 by the N.C. Association of Certified Public Accountants.
31 e. One member of the public with experience with government grants
32 and contracts.

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

- 34 (1) The State Auditor, or that individual's designee.
35 (2) The Director of the Program Evaluation Division of the General Assembly,
36 or that individual's designee.
37 (3) The Director of N.C. GEAR, or that individual's designee.

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

45 **SECTION 2.5.(d)** Duties. – The Task Force shall study the entire body of State
46 law, regulations, policies, reporting, monitoring, compliance, auditing, certification, licensing,
47 compliance with OMB Uniform Guidance, and work processes, including timeliness of
48 contract delivery and execution and timeliness of payment, that guide departmental operations
49 and contracts to eliminate obsolete, redundant, or unreasonable regulations, reporting,
50 monitoring, compliance, auditing, licensing, and certification, and to streamline policies and

1 practices that impede the effective and efficient delivery of public services through State grants
2 and contracts to private nonprofits.

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

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

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

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

34 **SECTION 2.5.(f) Reports.** – The Task Force shall submit a preliminary report to
35 the Joint Legislative Commission on Governmental Operations by September 30, 2016. The
36 preliminary report shall include recommendations for statutory, regulatory, budget, and policy
37 changes that can be effectuated to increase the efficiency and effectiveness of the delivery of
38 public services by nonprofits through State grants and contracts. No later than January 31,
39 2017, the Task Force shall submit a final report of its findings and recommendations to the
40 Joint Legislative Commission on Governmental Operations.

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

42 43 **AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, 44 ENFORCEMENT, AND CIVIL PENALTIES**

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

46 "**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

47 (a) ~~The Notification Center shall establish an~~ There is hereby established the
48 Underground Damage Prevention Review Board to review reports of alleged violations of this
49 Article. The members of the Board shall be appointed by the Governor. The Board shall consist
50 of the following members: 15 members as follows:

- 51 (1) A representative from the North Carolina Department of Transportation;

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

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

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

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

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

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

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

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

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

45 (c) ~~A party-person~~ determined by the Board under subsection ~~(b)-(b1)~~ of this section to
46 have violated this Article may ~~initiate~~ appeal the Board's determination by initiating an
47 arbitration proceeding before the Utilities Commission. Commission within 30 days of the
48 Board's determination. If the violating party elects to initiate an arbitration proceeding, the
49 violating party shall pay a filing fee of two hundred fifty dollars (\$250.00) to the Utilities
50 Commission, and the Utilities Commission shall open a docket regarding the report. The
51 Utilities Commission shall direct the parties enter into an arbitration process. The parties shall

1 be responsible for selecting and contracting with the arbitrator. Upon completion of the
2 arbitration process, the Utilities Commission shall issue an order encompassing the outcome of
3 the binding arbitration process, including a determination of fault, a penalty, and assessing the
4 costs of arbitration to the non-prevailing party. ~~Any party may~~

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

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

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

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

27 ~~(3) If the violation was the result of willful or wanton negligence or intentional~~
28 ~~conduct, the penalty shall be a civil penalty of two thousand five hundred~~
29 ~~dollars (\$2,500), a requirement of training, and a requirement of education."~~
30

31 **INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY** 32 **LICENSED ARCHITECTS OR LICENSED ENGINEERS**

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

34 **"§ 153A-352. Duties and responsibilities.**

35 (a) The duties and responsibilities of an inspection department and of the inspectors in
36 it are to enforce within the county's territorial jurisdiction State and local laws and local
37 ordinances and regulations relating to:

38 (1) The construction of buildings;

39 (2) The installation of such facilities as plumbing systems, electrical systems,
40 heating systems, refrigeration systems, and air-conditioning systems;

41 (3) The maintenance of buildings in a safe, sanitary, and healthful condition;

42 (4) Other matters that may be specified by the board of commissioners.

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

50 (b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or
51 resolution or any other policy that requires regular, routine inspections of buildings or

1 structures constructed in compliance with the North Carolina Residential Code for One- and
2 Two-Family Dwellings in addition to the specific inspections required by the North Carolina
3 Building Code without first obtaining approval from the North Carolina Building Code
4 Council. The North Carolina Building Code Council shall review all applications for additional
5 inspections requested by a county and shall, in a reasonable manner, approve or disapprove the
6 additional inspections. This subsection does not limit the authority of the county to require
7 inspections upon unforeseen or unique circumstances that require immediate action.

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

12 (1) The submission is completed under valid seal of the licensed architect or
13 licensed engineer.

14 (2) Field inspection of the installation or completion of construction is
15 performed by that licensed architect or licensed engineer.

16 (3) That licensed architect or licensed engineer provides the county with a
17 signed written document stating the component or element of the building so
18 inspected is in compliance with the North Carolina State Building Code or
19 the North Carolina Residential Code for One- and Two-Family Dwellings.

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

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

26 **"§ 153A-356. Failure to perform duties.**

27 (a) If a member of an inspection department willfully fails to perform the duties
28 required of him by law, or willfully improperly issues a permit, or gives a certificate of
29 compliance without first making the inspections required by law, or willfully improperly gives
30 a certificate of compliance, he is guilty of a Class 1 misdemeanor.

31 (b) A member of the inspection department shall not be in violation of this section when
32 the county, its inspection department, or one of the inspectors accepted a signed written
33 document of compliance with the North Carolina State Building Code or the North Carolina
34 Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed
35 engineer in accordance with G.S. 153A-352(c)."

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

37 **"§ 160A-412. Duties and responsibilities.**

38 (a) The duties and responsibilities of an inspection department and of the inspectors
39 therein shall be to enforce within their territorial jurisdiction State and local laws relating to

40 (1) The construction of buildings and other structures;

41 (2) The installation of such facilities as plumbing systems, electrical systems,
42 heating systems, refrigeration systems, and air-conditioning systems;

43 (3) The maintenance of buildings and other structures in a safe, sanitary, and
44 healthful condition;

45 (4) Other matters that may be specified by the city council.

46 (a1) ~~These~~The duties and responsibilities set forth in subsection (a) of this section shall
47 include the receipt of applications for permits and the issuance or denial of permits, the making
48 of any necessary inspections, the issuance or denial of certificates of compliance, the issuance
49 of orders to correct violations, the bringing of judicial actions against actual or threatened
50 violations, the keeping of adequate records, and any other actions that may be required in order

1 adequately to enforce those laws. The city council shall have the authority to enact reasonable
2 and appropriate provisions governing the enforcement of those laws.

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

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

15 (1) The submission is completed under valid seal of the licensed architect or
16 licensed engineer.

17 (2) Field inspection of the installation or completion of construction is
18 performed by that licensed architect or licensed engineer.

19 (3) That licensed architect or licensed engineer provides the city with a signed
20 written document stating the component or element of the building so
21 inspected is in compliance with the North Carolina State Building Code or
22 the North Carolina Residential Code for One- and Two-Family Dwellings.

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

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

29 **"§ 160A-416. Failure to perform duties.**

30 (a) If any member of an inspection department shall willfully fail to perform the duties
31 required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of
32 compliance without first making the inspections required by law, or willfully shall improperly
33 give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

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

40 CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION 41 OF BEDROOM

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

43 **"§ 153A-346. Conflict with other laws.**

44 (a) When regulations made under authority of this Part require a greater width or size of
45 yards or courts, or require a lower height of a building or fewer number of stories, or require a
46 greater percentage of a lot to be left unoccupied, or impose other higher standards than are
47 required in any other statute or local ordinance or regulation, the regulations made under
48 authority of this Part govern. When the provisions of any other statute or local ordinance or
49 regulation require a greater width or size of yards or courts, or require a lower height of a
50 building or a fewer number of stories, or require a greater percentage of a lot to be left

1 unoccupied, or impose other higher standards than are required by regulations made under
2 authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

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

6 **SECTION 2.8.(b)** G.S. 160A-390 reads as rewritten:

7 **"§ 160A-390. Conflict with other laws.**

8 (a) When regulations made under authority of this Part require a greater width or size of
9 yards or courts, or require a lower height of a building or fewer number of stories, or require a
10 greater percentage of a lot to be left unoccupied, or impose other higher standards than are
11 required in any other statute or local ordinance or regulation, regulations made under authority
12 of this Part shall govern. When the provisions of any other statute or local ordinance or
13 regulation require a greater width or size of yards or courts, or require a lower height of a
14 building or a fewer number of stories, or require a greater percentage of a lot to be left
15 unoccupied, or impose other higher standards than are required by the regulations made under
16 authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

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

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

21 DEVELOPMENT AGREEMENTS

22 **SECTION 2.9.(a)** G.S. 153A-349.4 reads as rewritten:

23 **"§ 153A-349.4. Developed property ~~must contain certain number of acres;~~ criteria;**
24 **permissible durations of agreements.**

25 (a) A local government may enter into a development agreement with a developer for
26 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~
27 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~
28 ~~and other portions of the property which may be precluded from development at the time of~~
29 ~~application). Part.~~ Development agreements shall be of a reasonable term specified in the
30 agreement, ~~provided they may not be for a term exceeding 20 years.~~ agreement.

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

40 **SECTION 2.9.(b)** G.S. 160A-400.23 reads as rewritten:

41 **"§ 160A-400.23. Developed property ~~must contain certain number of acres;~~ criteria;**
42 **permissible durations of agreements.**

43 (a) A local government may enter into a development agreement with a developer for
44 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~
45 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~
46 ~~and other portions of the property which may be precluded from development at the time of~~
47 ~~application). Part.~~ Development agreements shall be of a reasonable term specified in the
48 agreement, ~~provided they may not be for a term exceeding 20 years.~~ agreement.

49 (b) ~~Notwithstanding the acreage requirements of subsection (a) of this section, a local~~
50 ~~government may enter into a development agreement with a developer for the development of~~
51

1 ~~property as provided in this Part for developable property of any size (exclusive of wetlands,~~
2 ~~mandatory buffers, unbuildable slopes, and other portions of the property which may be~~
3 ~~precluded from development at the time of application), if the developable property that would~~
4 ~~be subject to the development agreement is subject to an executed brownfields agreement~~
5 ~~pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development~~
6 ~~agreements shall be of a term specified in the agreement, provided they may not be for a term~~
7 ~~exceeding 20 years."~~

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

9 **"§ 153A-349.3. Local governments authorized to enter into development agreements;**
10 **approval of governing body required.**

11 (a) A local government may establish procedures and requirements, as provided in this
12 Part, to consider and enter into development agreements with developers. A development
13 agreement must be approved by the governing body of a local government by ordinance.

14 (b) The development agreement may, by ordinance, be incorporated, in whole or in
15 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

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

17 **"§ 160A-400.22. Local governments authorized to enter into development agreements;**
18 **approval of governing body required.**

19 (a) A local government may establish procedures and requirements, as provided in this
20 Part, to consider and enter into development agreements with developers. A development
21 agreement must be approved by the governing body of a local government by ordinance.

22 (b) The development agreement may, by ordinance, be incorporated, in whole or in
23 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

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

27 **PART III. ENVIRONMENTAL AND NATURAL RESOURCE REGULATION**

29 **AMEND ISOLATED WETLANDS LAW**

30 **SECTION 3.1.(a)** For the purposes of implementing Section .1300 of Subchapter
31 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to
32 Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall
33 apply only to a Basin Wetland or Bog and no other wetland types as described in the North
34 Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland
35 Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands
36 under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not
37 apply to an isolated man-made ditch or pond constructed for stormwater management purposes,
38 any other man-made isolated pond, or any other type of isolated wetland, and the Department
39 of Environment and Natural Resources shall not regulate such water bodies under Section
40 .1300.

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

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

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

50 **"SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all
51 of the following shall apply to the implementation of 15A NCAC 02H .1305:

- 1 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
2 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east
3 of I-95 for the entire project and less than or equal to 1/3 acre of isolated
4 wetlands west of I-95 for the entire project.
- 5 (2) Mitigation requirements for impacts to isolated wetlands shall only apply to
6 the amount of impact that exceeds the thresholds set out in subdivision (1) of
7 this section. The mitigation ratio for impacts of ~~greater than one acre~~
8 ~~exceeding the thresholds~~ for the entire project under 15A NCAC 02H
9 .1305(g)(6) shall be 1:1 and may be located on the same parcel.
- 10 (3) ~~For purposes of Section 54(b) of this section, "isolated wetlands" means a~~
11 ~~Basin Wetland or Bog as described in the North Carolina Wetland~~
12 ~~Assessment User Manual prepared by the North Carolina Wetland~~
13 ~~Functional Assessment Team, version 4.1 October, 2010, that are not~~
14 ~~jurisdictional wetlands under the federal Clean Water Act. An "isolated~~
15 ~~wetland" does not include an isolated man made ditch or pond constructed~~
16 ~~for stormwater management purposes or any other man made isolated pond.~~
- 17 (4) Impacts to isolated wetlands shall not be combined with the project impacts
18 to 404 jurisdictional wetlands or streams for the purpose of determining
19 when impact thresholds that trigger a mitigation requirement are met.

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

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

38 "SECTION 54.(e) This section is effective when it becomes law. Section 54(b) of this act
39 expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."
40

41 AMEND STORMWATER MANAGEMENT LAW

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

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

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

46 "§ 143-214.7. Stormwater runoff rules and programs.

47 ...

48 (b2) For purposes of implementing stormwater programs, State stormwater programs and
49 local stormwater programs approved pursuant to subsection (d) of this section, all of the
50 following shall apply:

- (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:
"§ 143-214.23. Riparian Buffer Protection Program: Delegation of riparian buffer protection requirements to local governments.

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

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

13 (1) An ordinance adopted by a unit of local government as part of a
14 Commission-approved implementation of a Total Maximum Daily Load
15 approved by the United States Environmental Protection Agency pursuant to
16 33 U.S.C. § 1313(d).

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

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

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

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

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

49 (3) The Commission shall grant the request for an exceedance only if it finds
50 that the need for the exceedance in riparian buffer width is established by the
51 scientific evidence presented by the unit of local government requesting the

1 exceedance in order to meet the nutrient reduction goal set by the
2 Commission for the basin subject to the riparian buffer rule.

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

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

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

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

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

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

39 (e3) Limitation on Local Government Riparian Area Restrictions. – Units of local
40 government may impose restrictions upon the use of riparian areas as defined in 15A NCAC
41 02B .0202 only within river basins where riparian buffers are required by the State. Units of
42 local government may impose restrictions upon riparian areas to satisfy State riparian buffer
43 requirements by means of a zoning district, subdivision or development regulation;
44 comprehensive plan; policy; resolution; or any other act carrying the effect of law. The width of
45 the restricted area and the body of water to which the restrictions apply shall not deviate from
46 State requirements unless the deviation has been approved under subsection (b1) of this section.
47 For purposes of this subsection, the terms "riparian areas" and "riparian buffer areas" shall have
48 the same meaning, and shall include all landward setbacks from a surface water body with
49 State-required riparian buffers.

50 (e4) Exception. – Neither the restrictions in subsection (e3) of this section nor the
51 riparian buffer deviation approval procedures of subsection (b1) of this section shall apply to

1 any local ordinance initially adopted prior to July 22, 1997, and any subsequent modifications
2 that have the following characteristics:

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

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

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

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

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

22 **"§ 143-214.18. Exemption to riparian buffer requirements for certain private properties.**

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

25 (1) Neuse River Basin. – 15A NCAC 02B .0233, effective August 1, 2000.

26 (2) Tar-Pamlico River Basin. – 15A NCAC 02B .0259, effective August 1,
27 2000.

28 (3) Randleman Lake Water Supply Watershed. – 15A NCAC 02B .0250,
29 effective June 1, 2010.

30 (4) Catawba River Basin. – 15A NCAC 02B .0243, effective August 1, 2004.

31 (5) Jordan Water Supply Nutrient Strategy. – 15A NCAC 02B .0268, effective
32 September 1, 2011.

33 (6) Goose Creek Watershed of the Yadkin-Pee Dee River Basin. – 15A NCAC
34 02B .0605 and 02B .0607, effective February 1, 2009.

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

38 (1) With the exception set forth in subsection (c) of this section, the tract was
39 platted and recorded in the register of deeds in the county where the tract is
40 located prior to the effective date of the applicable buffer rule.

41 (2) Other than the applicable buffer rule, the use of the tract complies with either
42 of the following:

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

46 b. The current rules, if the application of those rules to the tract was
47 initiated after the effective date for the applicable buffer rule by the
48 unit of local government with jurisdiction over the tract and not at the
49 request of the property owner.

1 (c) If a tract of land described in subsection (b) of this section is converted to a use that
2 does not comply with subdivision (2) of subsection (b) of this section, then the applicable
3 buffer rule shall apply.

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

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

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

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

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

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

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

32 **"§ 143-214.19. Delineation of protective riparian buffers for coastal wetlands in the Neuse**
33 **River and Tar-Pamlico River Basins.**

34 (a) The following definitions apply in this section:

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

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

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

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

47 **"§ 143-214.27 Riparian buffer conditions in environmental permits.**

48 (a) Except as set forth in subsection (b) of this section, the Department may not impose
49 as a condition of any permit issued under this Article riparian buffer requirements that exceed
50 established standards for the river basin within which the activity or facility receiving the
51 permit is located. If no riparian buffer standards have been established for the river basin within

1 which the activity or facility receiving the permit is located, then the Department shall not
2 impose a buffer standard as a condition for a permit that exceeds the standard for the Neuse
3 River Basin set forth in 15A NCAC 02B .0233.

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

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

20 **WILDLIFE SEARCH AND SEIZURE**

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

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

38 (1) Weapons.

39 (2) Equipment, except for equipment left unattended in the normal operation of
40 the equipment, including, but not limited to, traps, trot lines, crab pots, and
41 fox pens.

42 (3) Fish.

43 (4) Wildlife."

44 **SECTION 3.4.(c)** The Wildlife Resources Commission shall report to the Joint
45 Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2016, and
46 annually thereafter, on the number of complaints received against Commission law
47 enforcement officers, the subject matter of the complaints, and the geographic areas in which
48 the complaints were filed.
49

1 **SECTION 3.4.(d)** Section 3.4(a) of this section becomes effective December 1,
2 2015, and applies to offenses committed on or after that date. The remainder of this section is
3 effective when it becomes law.
4

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

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

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

12 **"§ 113-224. Cooperative agreements by Department.**

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

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

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

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

- 27 (1) The costs and benefits of a logbook requirement similar to that repealed by
28 subsection (a) of this section and whether such a requirement should be
29 reenacted.
30 (2) The impacts, costs, and benefits of a joint enforcement agreement similar to
31 that prohibited by subsection (b) of this section and whether the
32 authorization to enter into such an agreement should be reenacted.

33 The process shall also include the establishment of a stakeholder advisory group that
34 includes persons who are for-hire license holders representing all major recreational fishing
35 areas on the North Carolina coast, other recreational fishing interests, and relevant advocacy
36 groups. The Division shall review and provide a written response to any issues raised by the
37 advisory group and shall report to the Environmental Review Commission no later than
38 October 15, 2016, its conclusions, including any recommendations for legislation.
39

40 **AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM"**
41 **AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM**
42 **PERFORMANCE STANDARDS**

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

44 **"SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions);(Definitions)~~ and 15A NCAC 02T
45 .1307 (Swine Waste Management System Performance Standards). – Until the effective date of
46 the revised permanent ~~rule-rules~~ that the Environmental Management Commission is required
47 to adopt pursuant to Section 21(c) of this act, the Commission and the Department of
48 Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and
49 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided
50 in Section 21(b) of this act.

1 "SECTION 21.(b) Implementation. – Notwithstanding 15A NCAC 02T .1302
2 (Definitions), "new animal waste management system" means animal waste management
3 systems which are constructed and operated at a site where no feedlot existed ~~previously, where~~
4 ~~a system serving a feedlot has been abandoned or unused for a period of four years or more and~~
5 ~~is then put back into service, previously~~ or where a permit for a system has been rescinded, and
6 is then reissued when the permittee confines animals in excess of the thresholds established in
7 G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste
8 Management System Performance Standards), the Swine Waste Management System
9 Performance Standards shall:

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

16 (2) Not apply to any facility that meets all of the following conditions:

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

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

50 "SECTION 21.(d) Sunset. – Section 21(b) of this act expires on the date that rules adopted
51 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:

"§ 62-133.8. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).

...

(b) 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:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015 <u>and thereafter</u>	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

...

(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:

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales
2015 <u>and thereafter</u>	6% of 2014 North Carolina retail sales
2018 <u>and thereafter</u>	10% of 2017 North Carolina retail sales

...."

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	<u>and thereafter</u>
1	Residential per account	\$10.00	\$12.00	\$34.00
2	Commercial per account	\$50.00	\$150.00	\$150.00
3	Industrial per account	\$500.00	\$1,000.00	\$1,000.00"

4
5 **SECTION 3B.2.(b)** This section becomes effective July 1, 2015, and applies to
6 cost recovery proceedings that occur on or after that date.
7

8 **ENERGY EFFICIENCY FOR REPS COMPLIANCE**

9 **SECTION 3B.4.(a)** G.S. 62-133.8(b)(2)c. reads as rewritten:

10 "c. Reduce energy consumption through the implementation of an
11 energy efficiency measure; provided, however, an electric public
12 utility subject to the provisions of this subsection may meet up to
13 ~~twenty five percent (25%)~~ fifty percent (50%) of the requirements of
14 this section through savings due to implementation of energy
15 efficiency measures. ~~Beginning in calendar year 2021 and each year~~
16 ~~thereafter, an electric public utility may meet up to forty percent~~
17 ~~(40%) of the requirements of this section through savings due to~~
18 ~~implementation of energy efficiency measures."~~

19 **SECTION 3B.4.(b)** This section becomes effective July 1, 2015.
20

21 **COST RECOVERY HOLD HARMLESS**

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

- 26 (1) Costs under purchase contracts for renewable energy entered into prior to
27 July 1, 2015, for the purpose of complying with REPS requirements repealed
28 or amended by this Part.
- 29 (2) The costs of renewable energy facilities built by a public utility for which a
30 certificate of public convenience and necessity has been issued by the
31 Commission prior to July 1, 2015, for the purpose of complying with REPS
32 requirements repealed or amended by this Part.
- 33 (3) Other costs the Utilities Commission determines are reasonable and prudent
34 costs incurred prior to July 1, 2015, to comply with the REPS requirements
35 repealed or amended by this Part.
36

37 **STANDARD CONTRACT FOR SMALL POWER PRODUCERS**

38 **SECTION 3B.5.1.(a)** G.S. 62-3(27a) reads as rewritten:

39 "(27a) "Small power producer" means a person or corporation owning or operating
40 an electrical power production facility with a power production capacity
41 which, together with any other facilities located at the same site, does not
42 exceed 80 megawatts of electricity and which depends upon renewable
43 resources for its primary source of energy. For the purposes of this section,
44 renewable resources shall mean: hydroelectric power, solar electric,
45 solar thermal, wind, geothermal, ocean current, wave energy resources, and
46 biomass derived from agricultural waste, animal waste, wood waste, spent
47 pulping liquors, combustible residues, liquids, or gases not derived from
48 fossil fuel, energy crops, or landfill methane. A small power producer shall
49 not include persons primarily engaged in the generation or sale of electricity
50 from other than small power production facilities."
51

SECTION 3B.5.1.(b) G.S. 62-156(b)(1) reads as rewritten:

1 "(1) Term of Contract. – Long-term contracts for the purchase of electricity by
2 the utility from small power producers shall be encouraged in order to
3 enhance the economic feasibility of small power production. The
4 Commission shall require electric utilities to provide standard contracts to
5 small power facilities that generate electricity from swine or poultry waste
6 with a capacity of no greater than five megawatts. For small power
7 producers that generate electricity from all other renewable energy
8 resources, the Commission shall require electric public utilities to provide
9 standard contracts for facilities with a capacity of no greater than 100
10 kilowatts of capacity."

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

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

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

21 22 **JOINT SELECT COMMITTEE ON THE LONG TERM ENERGY NEEDS OF THE** 23 **STATE**

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

34 35 **ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS**

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

37 **"§ 130A-334. Definitions.**

38 The following definitions shall apply throughout this Article:

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

40 ~~(1a)~~(1a) "Construction" means any work at the site of placement done for the purpose
41 of preparing a residence, place of business or place of public assembly for
42 initial occupancy, or subsequent additions or modifications which increase
43 sewage flow.

44 (1b) "Conventional wastewater system" has the same meaning as in
45 G.S. 130A-343.

46 ~~(1a)~~(1c) "Department" means the Department of Health and Human Services.

47 ~~(1b)~~(1d) "Ground absorption system" means a system of tanks, treatment units,
48 nitrification fields, and appurtenances for wastewater collection, treatment,
49 and subsurface disposal.

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

- 1 (2a) "Industrial process wastewater" means any water-carried waste resulting
2 from any process of industry, manufacture, trade, or business.
- 3 (2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.
- 4 (3) "Location" means the initial placement for occupancy of a residence, place
5 of business or place of public assembly.
- 6 (3a) "Maintenance" means normal or routine maintenance including replacement
7 of broken pipes, cleaning, or adjustment to an existing wastewater system.
- 8 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.
- 9 (6) "Place of business" means a store, warehouse, manufacturing establishment,
10 place of amusement or recreation, service station, office building or any
11 other place where people work.
- 12 (7) "Place of public assembly" means a fairground, auditorium, stadium, church,
13 campground, theater or any other place where people assemble.
- 14 (7a) "Plat" means a property survey prepared by a registered land surveyor,
15 drawn to a scale of one inch equals no more than 60 feet, that includes: the
16 specific location of the proposed facility and appurtenances, the site for the
17 proposed wastewater system, and the location of water supplies and surface
18 waters. "Plat" also means, for subdivision lots approved by the local
19 planning authority if a local planning authority exists at the time of
20 application for a permit under this Article, a copy of the subdivision plat that
21 has been recorded with the county register of deeds and is accompanied by a
22 site plan that is drawn to scale.
- 23 (7b) "Pretreatment" means any biological, chemical, or physical process or
24 system for improving wastewater quality and reducing wastewater
25 constituents prior to final treatment and disposal in a subsurface wastewater
26 system and includes, but is not limited to aeration, clarification, digestion,
27 disinfection, filtration, separation, and settling.
- 28 (7c) "Private option permit" means approval of an on-site wastewater system by a
29 professional engineer who has both expertise and education in civil or
30 environmental engineering and who has designed the wastewater system
31 acting under the authority of the owner thereof.
- 32 (7d) "Professional engineer" has the same meaning as in G.S. 89C-3.
- 33 (8) "Public or community wastewater system" means a single system of
34 wastewater collection, treatment and disposal owned and operated by a
35 sanitary district, a metropolitan sewage district, a water and sewer authority,
36 a county or municipality or a public utility.
- 37 (9) "Relocation" means the displacement of a residence or place of business
38 from one site to another.
- 39 (9a) "Repair" means the extension, alteration, replacement, or relocation of
40 existing components of a wastewater system.
- 41 (10) "Residence" means a private home, dwelling unit in a multiple family
42 structure, hotel, motel, summer camp, labor work camp, manufactured
43 home, institution or any other place where people reside.
- 44 (10a) "Secretary" means the Secretary of Environment and Natural Resources.
- 45 (11) Repealed by Session Laws 1992, c. 944, s. 3.
- 46 (12) "Septic tank system" means a subsurface wastewater system consisting of a
47 settling tank and a subsurface disposal field.
- 48 (13) "Sewage" means the liquid and solid human body waste and liquid waste
49 generated by water-using fixtures and appliances, including those associated
50 with foodhandling. The term does not include industrial process wastewater
51 or sewage that is combined with industrial process wastewater.

1 (13a) "Site plan" means a drawing not necessarily drawn to scale that shows the
2 existing and proposed property lines with dimensions, the location of the
3 facility and appurtenances, the site for the proposed wastewater system, and
4 the location of water supplies and surface waters.

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

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

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

18 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

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

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

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

36 (1) Wastewater collection, treatment, and disposal systems designed to
37 discharge effluent to the land surface or surface waters.

38 (2) Wastewater systems designed for groundwater remediation, groundwater
39 injection, or landfill leachate collection and disposal.

40 (3) Wastewater systems designed for the complete recycle or reuse of industrial
41 process wastewater.

42 (4) Gray water systems as defined in G.S. 143-350.

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

45 (1) The local board of health, on its own motion, has requested the Department
46 to review its proposed rules concerning wastewater systems; and

47 (2) The local board of health has adopted by reference the wastewater system
48 rules adopted by the Commission, with any more stringent modifications or
49 additions deemed necessary by the local board of health to protect the public
50 health; and

1 (3) The Department has found that the rules of the local board of health
2 concerning wastewater collection, treatment and disposal systems are at least
3 as stringent as rules adopted by the Commission and are sufficient and
4 necessary to safeguard the public health.

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

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

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

18 (d1) The Department may file a written complaint with the North Carolina Board of
19 Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by
20 the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional
21 engineer to adhere to the rules adopted by the Commission pursuant to this Article. The
22 Department may file a written complaint with the North Carolina Board of Licensed Soil
23 Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter
24 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules
25 adopted by the Commission pursuant to this Article.

26"

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

29 **"§ 130A-336.1. Alternative process for wastewater system approvals.**

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

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

43 (1) The owner's name, address, and telephone number.

44 (2) The professional engineer's name, address, and telephone number.

45 (3) Certified copy of the wastewater system owner's contract with the
46 professional engineer.

47 (4) Proof of errors and omissions insurance coverage or other appropriate
48 liability insurance that has policy limits of not less than one million dollars
49 (\$1,000,000) per claim and that shall remain in force as applicable:

- 1 a. Two years following the date on which a professional engineer
2 delivers an engineering package to the owner of the wastewater
3 system; or
4 b. Two years following the date on which a licensed soil scientist
5 deliver a soils report to the owner of the wastewater system.
6 (5) A description of the facility the proposed site is to serve and any factors that
7 would affect the wastewater load.
8 (6) The proposed wastewater system and its location.
9 (7) The design wastewater flow and characteristics.
10 (8) Any proposed landscape, site, drainage, or soil modifications.
11 (9) A soils evaluation that is conducted and signed and sealed by a licensed soil
12 scientist.
13 (c) Site Design, Construction, and Activities. –
14 (1) The professional engineer designing the proposed wastewater system shall
15 use recognized principles and practices of engineering in the calculations
16 and design of the wastewater system. The investigations and findings of the
17 professional engineer shall include, at a minimum, the information required
18 in G.S. 130A-335(e). The professional engineer may, at the engineer's
19 discretion, employ wastewater system technologies not yet approved in this
20 State.
21 (2) The professional engineer designing the proposed wastewater system shall
22 be responsible and accountable for all aspects of the construction and
23 installation of the wastewater system, including the selection and oversight
24 of an on-site wastewater system contractor certified pursuant to Article 5 of
25 Chapter 90A of the General Statutes.
26 (d) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed
27 wastewater system shall assume all liability for the findings of the soil scientist's initial soils
28 evaluation and final soils report. The professional engineer designing the proposed wastewater
29 system shall assume all liability for the engineer's scope of work in the design, calculation,
30 construction, and requirements for the development of the operation and management plan for
31 the wastewater system. The owner of the wastewater system shall assume all liability for the
32 proper operation and management of the wastewater system. The Department, the Department's
33 authorized agents, or local health departments shall have no liability for wastewater systems
34 approved under a private option permit. After the owner of the wastewater system has
35 commenced operation of the system pursuant to subsection (i) of this section, neither the
36 professional engineer nor the licensed soil scientist shall be held liable for any damages that
37 result from any unapproved changes made to the wastewater system by the owner.
38 (e) Inspections. – The local health department may, at any time, conduct a site visit of
39 the wastewater system location.
40 (f) Local Authority. – This section shall not relieve the owner or operator of a
41 wastewater system from complying with any and all modifications or additions to rules adopted
42 by the local health department to protect public health pursuant to G.S. 130A-335(c). The local
43 health department shall notify the owner or operator of the wastewater system of any issues of
44 compliance related to such modifications or additions.
45 (g) Operations and Management. – The professional engineer designing the wastewater
46 system shall establish a written operations and management program based on the size and
47 complexity of the wastewater system. The professional engineer designing the wastewater
48 system shall provide the owner with the operations and management program and provide
49 assistance to the owner in the owner's selection of a water pollution control system operator
50 certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes and who is
51 selected from the list of certified operators maintained by the Division of Water Resources in

1 the Department of Environment and Natural Resources. The professional engineer shall provide
2 a copy of the contract with the certified water pollution control system operator with the
3 complete professional engineer's report. Any person who owns or controls the property upon
4 which the wastewater system is located shall be responsible for the continued adherence to the
5 operations and management program established by the professional engineer.

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

13 (i) Documentation and Record Keeping. –

14 (1) At the completion of the postconstruction conference required pursuant to
15 subsection (h) of this section, the professional engineer who designed the
16 wastewater system shall deliver certified copies of the following to the
17 owner: (i) design and construction specifications; (ii) operator's management
18 program manual that includes a contract with the operator; and (iii) any
19 reports and findings related to the design and installation of the wastewater
20 system.

21 (2) Upon reviewing the authorized professional engineer's report, the owner of
22 the wastewater system shall sign and notarize the report as having been
23 received.

24 (3) The owner of the wastewater system shall deliver to the local health
25 department (i) a certified copy of the authorized professional engineer's
26 report, (ii) a copy of the operations and management program, (iii) the fee
27 required pursuant to subsection (j) of this section, and (iv) a notarized letter
28 that documents the owner's acceptance of the system from the professional
29 engineer.

30 (4) Upon receipt of the documents and fees required pursuant to subdivision (3)
31 of this subsection, the local health department shall issue the owner a letter
32 of confirmation that states the documents and information contained therein
33 have been received and that the wastewater system may operate.

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

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

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

46 (m) Reports. – The Department shall report to the Environmental Review Commission
47 and the Joint Legislative Oversight Committee on Health and Human Services on or before
48 January 1, 2017, and annually thereafter, on the implementation and effectiveness of this
49 section. For the report due on or before January 1, 2017, the Department shall specifically
50 evaluate whether (i) the program resulted in a reduction in the length of time improvement
51 permits or authorizations to construct are pending; (ii) the program resulted in increased system

1 failures or other adverse impacts; and (iii) the program resulted in new or increased
2 environmental impacts. The Department may include recommendations, including any
3 legislative proposals, in its reports to the Commission and Committee."

4 **SECTION 3B.7.(d)** G.S. 130A-338 reads as rewritten:

5 **"§ 130A-338. Authorization for wastewater system construction required before other**
6 **permits to be issued.**

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

14 **SECTION 3B.7.(e)** G.S. 130A-339 reads as rewritten:

15 **"§ 130A-339. Limitation on electrical service.**

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

24 **SECTION 3B.7.(f)** The Commission, in consultation with the Department of
25 Health and Human Services and local health departments, shall study the minimum on-site
26 wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A
27 .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of
28 on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the
29 compliance history of wastewater systems, including whether operators' reports and laboratory
30 reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules
31 adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of
32 remote Web-based monitoring for alarm and compliance notification; (iii) whether the required
33 verification visit conducted by local health departments shows a statistically significant
34 justification for duplicative costs to the owner of the wastewater system; (iv) methods for
35 notifications of changes to and expirations of operations contracts; and (v) methods for local
36 health departments to provide certified operator management for sites that are not under
37 contract with a water pollution control system operator certified pursuant to Part 1 of Article 3
38 of Chapter 90A of the General Statutes. The Commission shall report its findings and
39 recommendations, including any legislative proposals, to the Environmental Review
40 Commission and the Joint Legislative Oversight Committee on Health and Human Services on
41 or before January 1, 2016.

42 **SECTION 3B.8.** G.S. 130A-336 reads as rewritten:

43 **"§ 130A-336. Improvement permit and authorization for wastewater system construction**
44 **required.**

45 (a) Any proposed site for a residence, place of business, or place of public assembly in
46 an area not served by an approved wastewater system shall be evaluated by the local health
47 department in accordance with rules adopted pursuant to this ~~Article.~~Article or by a registered
48 professional engineer acting under the conditions of the private option permit. An improvement
49 ~~permit shall be issued in compliance with the rules adopted pursuant to this Article. An~~
50 ~~improvement permit~~issued by a local health department shall include:

- 1 (1) ~~For permits that are valid without expiration, a plat or, for permits that are~~
2 ~~valid for five years, a site plan.~~
3 (2) A description of the facility the proposed site is to serve.
4 (3) The proposed wastewater system and its location.
5 (4) The design wastewater flow and characteristics.
6 (5) The conditions for any site modifications.
7 (6) Any other information required by the rules of the Commission.

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

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

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

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

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

44 "**§ 130A-342. Residential wastewater treatment systems.**

45 (a) Individual residential wastewater treatment systems that are approved and listed in
46 accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I
47 residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation
48 Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules
49 adopted by the Commission. The Commission may establish standards in addition to those set
50 by the National Sanitation Foundation, Inc.

1 (b) A permitted system with a design flow of less than 1,500 gallons per day shall be
2 operated by a person who is a Grade I Operator as certified by the Water Pollution Control
3 System Operators Certification Commission. The Commission may establish additional
4 standards for wastewater systems with a design flow of 1,500 gallons or greater per day, and
5 ~~maintained by a certified wastewater treatment facility operator.~~

6 (c) Each county, in which one or more residential wastewater treatment systems
7 permitted pursuant to this section are in use, shall document the performance of each system
8 and report the results to the Department annually."
9

10 AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

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

12 "§ 130A-343. Approval of on-site subsurface wastewater systems.

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

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

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

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

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

45 (5) "Innovative wastewater system" means any wastewater system, other than a
46 conventional wastewater system, or any technology, device, or component of
47 a wastewater system that:

48 a. (i) ~~has~~Has been demonstrated to perform in a manner equal or
49 superior to a conventional wastewater system; (ii) ~~is~~ constructed of
50 materials whose physical and chemical properties provide the
51 strength, durability, and chemical resistance to allow the system to

1 withstand loads and conditions as required by rules adopted by the
2 Commission; and ~~(iii)~~ has been approved by the Department for
3 general use or for one or more specific ~~applications~~ applications; or

4 b. Remains on the roll of the applicable nationally recognized standard
5 for a period that exceeds one year and satisfies the treatment limits
6 adopted by the Department.

7 An innovative wastewater system may be approved for use in applications
8 for which a conventional wastewater system is unsuitable. The Department
9 may impose any design, operation, maintenance, monitoring, and
10 management requirements on the use of an innovative wastewater system
11 that it determines to be appropriate. A wastewater system approved by a
12 nationally recognized certification body and in compliance with the ongoing
13 verification program of such body may submit a sampling protocol for
14 innovative system approval that reduces the data sets required for such
15 approval by fifty percent (50%). Such an application shall include all of the
16 data associated with the nationally recognized certification body's
17 verification of the system's performance.

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

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

32 (c) ~~Approved Systems.~~ Procedure for Modifications or Revocations. – The Department
33 may modify, suspend, or revoke the approval of a wastewater system if the Department
34 determines that the approval is based on false, incomplete, or misleading information or if the
35 Department finds that modification, suspension, or revocation is necessary to protect public
36 health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental,~~
37 ~~controlled demonstration,~~ innovative, provisional, and accepted wastewater systems to the local
38 health departments annually, and notify the local health department within 30 days of any
39 modification or revocation of an more frequently, when the Department makes a final agency
40 decision related to the approval of a wastewater system or the Commission adopts rules related
41 to the approval of a wastewater system. ~~system or system component.~~

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

50 (e) ~~Experimental Systems.~~ A manufacturer of a wastewater system that is intended for
51 on-site subsurface use may apply to the Department to have the system evaluated as an

1 experimental wastewater system as provided in this subsection. The manufacturer shall submit
2 a proposal for evaluation of the system to the Department. The proposal for evaluation shall
3 include the design of the system, a description of any laboratory or field research or testing that
4 will be used to evaluate the system, a description of the research or testing protocol, and the
5 credentials of the independent laboratory, consultant, or other entity that will be conducting the
6 research or testing on the system. The proposal may include an evaluation of research and
7 testing conducted in other states to the extent that the research and testing involves soil types,
8 climate, hydrology, and other relevant conditions that are comparable to conditions in this State
9 and if the research or testing was conducted pursuant to a protocol acceptable to the
10 Department. The manufacturer shall enter into a contract for an evaluation of the performance
11 of the experimental wastewater system with an independent laboratory, consultant, or other
12 entity that has expertise in the evaluation of wastewater systems and that is approved by the
13 Department. The manufacturer may install up to 50 experimental systems pursuant to a
14 protocol approved by the Department on sites that are suitable for a conventional wastewater
15 system and that have a repair area of sufficient size to allow installation of a conventional
16 wastewater system, an approved innovative wastewater system, or an accepted wastewater
17 system if the experimental wastewater system fails to perform properly.

18 (f) Controlled Provisional Demonstration Systems. – A manufacturer of a wastewater
19 system intended for on-site subsurface use may apply to the Department to have the system
20 evaluated as a controlled demonstration wastewater system as provided in this subsection.
21 provisionally approved for use in this State. Any wastewater system approved based on its
22 approval by a national recognized certification body must be designed and installed in a manner
23 consistent with the system evaluated and approved by the nationally recognized certification
24 body. The manufacturer shall submit a proposal for evaluation of the system to the Department.
25 The proposal shall contain procedures for obtaining specified information necessary to achieve
26 innovative status upon completion of the provisional status. The proposal for evaluation shall
27 include the design of the system, a description of any laboratory or field research or testing that
28 will be used to evaluate the system, a description of the research or testing protocol, and the
29 credentials of the independent laboratory, consultant, or other entity that will be conducting the
30 research or testing on the system. ~~If the system was evaluated as an experimental system under~~
31 ~~subsection (e) of this section, the proposal shall include the results of the evaluation.~~ The
32 proposal may include an evaluation of research and testing conducted in other states to the
33 extent that the research and testing involves soil types, climate, hydrology, and other relevant
34 conditions that are comparable to conditions in this State and if the research or testing was
35 conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter
36 into a contract for an evaluation of the performance of the controlled demonstration wastewater
37 system with an independent laboratory, consultant, or other entity that has expertise in the
38 evaluation of wastewater systems and that is approved by the Department. The manufacturer
39 may install up to 200 ~~controlled demonstration~~provisional wastewater systems pursuant to a
40 ~~protocol approved by the Department~~ on sites that are suitable for a conventional wastewater
41 system and that have a repair area of sufficient size to allow installation of a conventional
42 wastewater system, an approved innovative wastewater system, or an accepted wastewater
43 system if the ~~controlled demonstration~~provisional wastewater system fails to perform properly.
44 If the ~~controlled demonstration~~provisional wastewater system is intended for use on sites that
45 are not ~~suitable, or that are provisionally suitable,~~suitable for a conventional wastewater
46 system, the Department may approve the installation of the ~~controlled~~
47 ~~demonstration~~provisional wastewater system if the Department determines that the
48 manufacturer can provide an acceptable alternative method for collection, treatment, and
49 ~~disposal-dispersal~~ of the wastewater. The Department shall approve applications for provisional
50 systems based on approval by a nationally recognized certification body within 90 days of
51 receipt of a complete application. A manufacturer that chooses to remove its product from the

1 nationally recognized standard during the provisional approval may continue its application in
2 this State pursuant to requirements and procedures established by the Department.

3 (g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface
4 use that has been evaluated as an experimental may apply for and be considered for innovative
5 system status by the Department in one of the following ways:

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

15 (2) If A manufacturer of a the wastewater system for on site subsurface use that
16 has not been evaluated or approved as an experimental a provisional
17 wastewater system pursuant to subsection (f) of this section, or as a
18 controlled demonstration wastewater system the manufacturer may also
19 apply to the Department to have the system approved as an innovative
20 wastewater system on the basis of comparable research and testing
21 conducted in other states. The manufacturer shall provide the Department
22 with the data and findings of all evaluations of the performance of the
23 system that have been conducted in any state by or on behalf of the
24 manufacturer. The manufacturer shall also provide the Department with a
25 summary of the data and findings of all other evaluations of the performance
26 of the system that are known to the manufacturer.

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

35 Within 30 days of receipt of the initial application, the Department shall either (i) notify the
36 manufacturer of any items necessary to complete the application and provide the manufacturer
37 with the identified deficiencies or (ii) notify the manufacturer that its application is complete.

38 The Department shall publish a notice that the manufacturer has submitted an application under
39 this subsection in the North Carolina Register and may provide additional notice to the public
40 via the Internet or by other means. The Department shall receive public comment on the
41 application for at least 30 days after the date the notice is published in the North Carolina
42 Register. In making a determination under this subsection, the Department shall consider the
43 data, findings, and recommendations submitted by the manufacturer and all public comment.
44 The Department may also consider any other information that the Department determines to be
45 relevant. The Department shall determine: (i) whether the system performs in a manner equal
46 or superior to a conventional wastewater system; system, in terms of structural, treatment, and
47 hydraulic performance; (ii) whether the system is constructed of materials whose physical and
48 chemical properties provide the strength, durability, and chemical resistance to allow the
49 system to withstand loads and conditions as required by rules adopted by the Commission; (iii)
50 the circumstances in which use of the system is appropriate; and (iv) any conditions and
51 limitations related to the use of the system. The Department shall make the determinations

1 required by this subsection and approve or deny the application within ~~180~~90 days after the
2 Department receives a complete application from a manufacturer. If the Department fails to act
3 on the application within ~~180 days~~, 90 days of the notice of receipt of the complete application,
4 the manufacturer may treat the application as denied and challenge the denial by filing a
5 contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the
6 Department approves an innovative wastewater system, the Department shall notify the
7 manufacturer of the approval and specify the circumstances in which use of the system is
8 appropriate and any conditions and limitations related to the use of the system.

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

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

- 21 a. The physical properties and chemical durability of the materials from
22 which the wastewater trench system is constructed are equal to or
23 superior to the physical properties and chemical durability of the
24 materials from which the accepted wastewater trench system is
25 constructed.
- 26 b. The permeable sidewall area and bottom infiltrative area of the
27 wastewater trench system are equal to or greater than the permeable
28 sidewall area and bottom infiltrative area of the accepted wastewater
29 trench system at a field-installed size.
- 30 c. The wastewater trench system utilizes a similar method and manner
31 of function for the conveyance and application of effluent as the
32 accepted wastewater trench system.
- 33 d. The structural integrity of the wastewater trench system is equal to or
34 superior to the structural integrity of the accepted wastewater trench
35 system.
- 36 e. The wastewater trench system shall provide a field installed system
37 storage volume equal to or greater than the field installed system
38 storage volume of the accepted wastewater trench system.

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

- 41 a. Specifications of the wastewater trench system.
- 42 b. Data necessary to demonstrate that the wastewater trench system is
43 functionally equivalent to a wastewater trench system that is
44 approved as an accepted wastewater system.
- 45 c. A certified statement from an independent, third-party professional
46 engineer or testing laboratory that, based on verified documentation,
47 the wastewater trench system is functionally equivalent to an
48 accepted wastewater system.

49 (3) Approval of a wastewater trench system as an innovative wastewater system
50 shall not be conditioned on the manufacturer of the wastewater trench
51 system having operational systems installed in the State.

1 (4) The Commission shall authorize the use of a wastewater trench system as an
2 innovative wastewater system in the same applications as the accepted
3 wastewater trench system.

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

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

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

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

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

38 (j) Warranty Required in Certain Circumstances.—The Department shall not approve a
39 ~~reduction of the total nitrification trench length for an innovative wastewater system or~~
40 ~~accepted wastewater system handling untreated septic tank effluent of more than twenty five~~
41 ~~percent (25%) as compared to the total nitrification trench length required for a 36 inch wide~~
42 ~~conventional wastewater system unless the manufacturer of the innovative wastewater system~~
43 ~~or accepted wastewater system provides a performance warranty for the nitrification trench~~
44 ~~system to each owner or purchaser of the system for a warranty period of at least five years~~
45 ~~from the date on which the wastewater system is placed in operation. The warranty shall~~
46 ~~provide that the manufacturer shall provide all material and labor that may be necessary to~~
47 ~~provide a fully functional wastewater system. The Commission shall establish minimum terms~~
48 ~~and conditions for the warranty required by this subsection. This subsection shall not be~~
49 ~~construed to require that a manufacturer warrant a wastewater system that is not properly sized~~
50 ~~to meet the design load required for a particular use, that is improperly installed, or that is~~
51 ~~improperly operated and maintained.~~

(j1) 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.

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

(1)	Review of an alternative protocol under subsection (d) of this section	\$1,000.00
(2)	Review of an experimental system	\$3,000.00
(3)	Review of a controlled demonstration <u>provisional</u> system	\$3,000.00
(4)	Review of an innovative system	\$3,000.00
(5)	Review of an accepted system	\$3,000.00
(6)	Review of a residential wastewater treatment system pursuant to G.S. 130A-342	\$1,500.00
(7)	Review of a component <u>or device required</u> of a system	\$ 100.00
(8)	Modification to approved <u>provisional or innovative</u> system	\$1,000.00

(l) 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.