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THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.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

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statues are repealed:

(1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.
(2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.2.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

(a) Except as otherwise provided by law or by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.
(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing by a preponderance of the evidence that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.
(c) The burden of showing by a preponderance of the evidence that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."
SECTION 1.2.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.

SECTION 1.2.(c) This section is effective when this act becomes law and applies to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.3.(a) G.S. 120-121 is amended by adding two new subsections to read:

"(e) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation in consultation with or upon the recommendation of a third party:

(1) The recommendation or consultation is discretionary and is not binding upon the legislator.

(2) The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(3) Failure by the third party to submit the recommendation or consultation to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity.

(f) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation from nominees provided by a third party:

(1) The third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(2) Failure by the third party to submit the nomination to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(b) Article 16 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-124. Appointments made by legislators.

(a) In any case where a legislator is called upon by law to appoint a member to a board or commission upon the recommendation of or in consultation with a third party, the recommendation or consultation is discretionary and is not binding upon the legislator. The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(b) In any case where a legislator is called upon by law to appoint a member to a board or commission from nominees provided by a third party, the third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy. This subsection does not apply to nominations made under G.S. 120-99(a) or G.S. 120-100(b).

(c) Failure to submit the recommendation, consultation, or nomination within the time periods required under this section shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(c) This section is effective when this act becomes law and applies to recommendations, consultations, and nominations made on or after that date.
ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN
CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE
REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE
STATE

SECTION 1.4.(a) G.S. 6-19.1 reads as rewritten:

"§ 6-19.1. Attorney's fees to parties appealing or defending against agency decision in
certain actions involving the State.

(a) Prevailing Party Is Not the State. – In any civil action, other than an adjudication for
the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board,
brought by the State or brought by a party who is contesting State action pursuant to
G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the
State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's
fees, including attorney's fees applicable to the administrative review portion of the case, in
contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the
appropriate agency of the State if:

(1) The court finds that the agency acted without substantial justification in
pressing its claim against the party; and

(2) The court finds that there are no special circumstances that would make the
award of attorney's fees unjust. The party shall petition for the attorney's fees
within 30 days following final disposition of the case. The petition shall be
supported by an affidavit setting forth the basis for the request.

Nothing in this section subsection shall be deemed to authorize the assessment of attorney's
fees for the administrative review portion of the case in contested cases arising under Article 9
of Chapter 131E of the General Statutes.

Nothing in this section grants permission to bring an action against an agency otherwise
immune from suit or gives a right to bring an action to a party who otherwise lacks standing to
bring the action.

Any attorney's fees assessed against an agency of the State under this section subsection
shall be charged against the operating expenses of the agency and shall not be reimbursed from
any other source.

(b) Expired.

(c) Prevailing Party Is the State. – In any civil action or other proceeding, the court
must allow the State to recover reasonable attorneys' fees and costs if the State is the prevailing
party and the claim or issue involves one or both of the following:

(1) Contesting the State's ability to construct improvements to real property
based on environmental impact.

(2) Contesting the State's issuance of a permit authorizing activity on real
property based on environmental impact.

Reasonable attorneys' fees include attorneys' fees applicable to any administrative portion
of the case. The attorneys' fees must be taxed as court costs against any law firm seeking relief
against the State. Contracts between the law firm and named parties in the action to reimburse
the law firm for attorneys' fees are valid and enforceable. Law firms may avoid liability under
this subsection if the named parties post a bond for the payment of attorneys' fees and costs in
an amount determined by the presiding judge. Upon motion of either party, the presiding judge
may adjust the amount of the required bond at reasonable times.

(d) Petition and Award. – The prevailing party must petition for the attorneys' fees
within 30 days following final disposition of the case. The petition must be supported by an
affidavit setting forth the basis for the request. When the presiding judge determines that an
award of attorneys' fees is to be made under this section, the judge must issue a written order
including the factual basis and amount of attorneys' fees to be awarded.
(e) No Grant of Jurisdiction. – Nothing in this section grants permission to bring an action against the State when otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

(f) Definitions. – The following definitions apply in this section:

(1) Law firm. – Any entity or individual providing legal services in the action against the State.

(2) State. – The State and its agencies as defined in G.S. 150B-2(1a).

SECTION 1.4.(b) This section becomes effective September 1, 2015, and applies to all actions or other proceedings filed on and after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

SECTION 1.5. 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."

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

SECTION 1.6.(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:

…

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

SECTION 1.6.(b) This section is effective when this act becomes law and applies to periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

SECTION 1.7. Pursuant to G.S. 120-70.101(3a), the Joint Legislative Administrative Procedure Oversight Committee (APO) shall review the recommendations contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine the best way to accomplish the recommendations contained in the report and to improve oversight of occupational licensing boards. In conducting the review, APO shall consult with occupational licensing boards, licensees, associations representing licensees, the Department of Commerce, and other interested parties. The APO cochairs may establish subcommittees to assist with various parts of the review, including determining whether licensing authority should be continued for the 12 boards identified in the report. The APO shall propose legislation to the 2016 Regular Session of the 2015 General Assembly.
TECHNICAL CORRECTION

SECTION 1.8. G.S. 20-116 reads as rewritten:


... (g) ... A truck, trailer, or other vehicle:

a. Licensed vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with sand, or sand;
b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;

shall not be driven or moved on any highway unless:
a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;
b. The load is securely covered by tarpaulin or some other suitable covering; or
c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

..."

PART II. BUSINESS REGULATION

EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED PROPERTY

SECTION 2.1. G.S. 93A-2(c)(1) reads as rewritten:

"(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

a. The officers and employees whose income is reported on IRS Form W-2 of an exempt corporation, the corporation;
b. The general partners and employees whose income is reported on IRS Form W-2 of an exempt partnership, the partnership;
c. The managers, member-managers, and employees whose income is reported on IRS Form W-2 of an exempt limited liability company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder, the company;
d. The natural person owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation, neither having more than two legal owners, at least one of whom is a natural person."
e. The officers, managers, member-managers, and employees whose income is reported on IRS Form W-2 of a closely held business entity when acting as an agent for an exempt business entity, if the closely held business entity is owned by a natural person either (i) owning fifty percent (50%) or more ownership interest in the closely held business entity and the exempt business entity or (ii) owning fifty percent (50%) or more of a closely held business entity that owns a fifty percent (50%) or more ownership interest in the exempt business entity. The closely held business entity acting as an agent under this sub-subdivision must file an annual written notice with the Secretary of State, including its legal name and physical address. The exemption authorized by this sub-subdivision is only effective if, immediately following the completion of the transaction for which the exemption is claimed, the closely held business entity has a net worth that equals or exceeds the value of the transaction.

When a person conducts a real estate transaction pursuant to an exemption under this subdivision, the person shall disclose, in writing, to all parties to the transaction (i) that the person is not licensed as a real estate broker or salesperson under Article 1 of this Chapter, (ii) the specific exemption under this subdivision that applies, (iii) the legal name and physical address of the owner of the subject property and of the closely held business entity acting under sub-subdivision e. of this subdivision, if applicable. This disclosure may be included on the face of a lease or contract executed in compliance with an exemption under this subdivision."

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

SECTION 2.2. 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, 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 DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

SECTION 2.3. G.S. 97-2(2) reads as rewritten:

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

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

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

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.
All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

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

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

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.
Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

Employee. "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.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 3.1. Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

"SECTION 6A.14.(a) Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State
employees and contractors are complying with agency policies and State requirements for their use.

Beginning October 1, 2011, each agency shall report quarterly to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

1. Any changes to agency policies on the use of mobile devices.
2. The number and types of new devices issued since the last report.
3. The total number of mobile devices issued by the agency.
4. The total cost of mobile devices issued by the agency.
5. The number of each type of mobile device issued, with the total cost for each type.

GOOD SAMARITAN EXPANSION

SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

"§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person."

SECTION 3.3.(b) This section becomes effective September 1, 2015, and applies to offenses committed on or after that date.

SECTION 3.4.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 43F.

"Immunity for Damage to Vehicle."
§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft necessary for assistance.

Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical care, other health care, or other assistance.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

This section shall not apply to any acts of gross negligence, wanton conduct, or intentional wrongdoing.

SECTION 3.4.(b) This section becomes effective September 1, 2015, and applies to causes of action arising on or after that date.

DIRECT DMV TO ISSUE SUITABLY REDUCED SIZE REGISTRATION PLATES FOR MOTORCYCLES AND PROPERTY HAULING TRAILERS ATTACHED TO MOTORCYCLES.

SECTION 3.5.(a) G.S. 20-63(d) reads as rewritten:

"(d) Registration plates issued for a motor vehicle other than a motorcycle, trailer, or semitrailer shall be attached thereto, one in the front and the other in the rear: Provided, that when only one registration plate is issued for a motor vehicle other than a truck-tractor, said registration plate shall be attached to the rear of the motor vehicle. The registration plate issued for a truck-tractor shall be attached to the front thereof. Provided further, that when only one registration plate is issued for a motor vehicle and this motor vehicle is transporting a substance that may adhere to the plate so as to cover or discolor the plate or if the motor vehicle has a mechanical loading device that may damage the plate, the registration plate may be attached to the front of the motor vehicle.

Any motor vehicle of the age of 35 years or more from the date of manufacture may bear the license plates of the year of manufacture instead of the current registration plates, if the current registration plates are maintained within the vehicle and produced upon the request of any person.

The Division shall provide registered owners of motorcycles and property hauling motorcycle trailers attached to the rear of motorcycles with suitably reduced size registration plates, approximately four by seven inches in size, that are issued on a multiyear basis in accordance with G.S. 20-88(c), or on an annual basis as otherwise provided in this Chapter."

SECTION 3.5.(b) This section becomes effective October 1, 2015.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

SECTION 3.7. G.S. 122C-81 reads as rewritten:

"§ 122C-81. National accreditation benchmarks.

(a) As used in this section, the term:
(1) "National accreditation" applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.

(2) "Provider" applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

(b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation. In accordance with rules of the Commission, the Secretary may exempt a provider that is accredited under this section and in good standing with the national accrediting agency from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency.

…

(e) The Commission may adopt rules establishing a procedure by which a provider that is accredited under this section and in good standing with the national accrediting agency may be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Any provider shall continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency. Rules adopted under this subsection may not waive any requirements that may be imposed under federal law."

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

SEC. 3.8. G.S. 130A-248(c) reads as rewritten:

"(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection (g) of this section."

OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

SEC. 3.9.(a) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-129.10. Public entities shall consider all acceptable piping materials in water, wastewater, or stormwater projects.

(a) Consideration of All Acceptable Piping Materials Required. – A public entity shall consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage project unless sound engineering practices, as determined by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes, suggest that one type of acceptable piping material is more suitable for a particular project.

(b) Definitions. – The following definitions apply in this section:
Acceptable piping material. – Piping material that meets or exceeds the standards issued by the American Society for Testing and Materials, the American Water Works Association, or the American Association of State Highway & Transportation Officials.

Public entity. – A county, city, sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes, authority created under Article 1 of Chapter 162A of the General Statutes, metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, or any other political subdivision of the State.”

SECTION 3.9.(b) This section becomes effective October 1, 2015, and applies to projects initiated on or after that date.

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

SECTION 3.10.(a) G.S. 146-33 reads as rewritten:

§ 146-33. State agencies to locate and mark boundaries of lands.

(a) Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the Division of Adult Correction of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the Division of Adult Correction of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties.

(b) If a State agency contracts with a person who is not employed by the State to mark or keep marked the boundaries of lands allocated to that agency, or under that agency’s control, that State agency shall use only a licensed professional engineer or surveyor.

SECTION 3.10.(b) This section becomes effective October 1, 2015, and applies to surveys or markings conducted on or after that date.

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

SECTION 3.12. G.S. 87-129 reads as rewritten:

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

(a) The Notification Center shall establish an Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of the following members: 15 members as follows:

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

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

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

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

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

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

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

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

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

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

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial de novo within 30 days of entry of the Utilities Commission's order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.
Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection. The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. The penalties for a violation of this Article shall be as follows: In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

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

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

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

CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

SECTION 3.13.(a) G.S. 20-171.15 reads as rewritten:

§ 20-171.15. Age restrictions.

(a) It is unlawful for any parent or legal guardian of a person less than eight six years of age to knowingly permit that person to operate an all-terrain vehicle.

(b) It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater.

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity greater than 90 cubic centimeter displacement in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.

(d) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while operating the all-terrain vehicle.

(e) Subsections (b) and Subsection (c) of this section do not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005.

SECTION 3.13.(b) G.S. 20-171.17 reads as rewritten:

§ 20-171.17. Prohibited acts by sellers.

No person shall knowingly sell or offer to sell an all-terrain vehicle:

(1) For use by a person under the age of eight six years.

(2) With an engine capacity of 70 cubic centimeter displacement or greater for use by a person less than 12 years of age in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard for use by a person less than 16 years of age.
GENERAL ASSEMBLY OF NORTH CAROLINA  
Session 2015  

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 4.1.(a) Chapter 8 of the General Statutes is amended by adding a new Part to read:

"Part 7D. Environmental Audit Privilege and Limited Immunity.

§ 8-58.50. Purpose.

(a) In order to encourage owners and operators of facilities and persons conducting activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or conducting activities regulated under other environmental laws, to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutes, an environmental audit privilege is recognized to protect the confidentiality of communications relating to voluntary internal environmental audits.

(b) Notwithstanding any other provisions of law, nothing in this Part shall be construed to protect owners and operators of facilities and regulated persons from a criminal investigation or prosecution carried out by any appropriate governmental entity.

(c) Notwithstanding any other provision of law, any privilege granted by this Part shall apply only to those communications, oral or written, pertaining to and made in connection with the environmental audit and shall not apply to the facts relating to the violation itself.


The following definitions apply in this Part:

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

(2) "Enforcement agencies" means the Department, any other agency of the State, and units of local government responsible for enforcement of environmental laws.

(3) "Environmental audit" means a voluntary, internal evaluation or review of one or more facilities or an activity at one or more facilities regulated under federal, State, regional, or local environmental law, or of compliance programs, or management systems related to the facility or activity if designed to identify and prevent noncompliance and to improve compliance with these laws. For the purposes of this Part, an environmental audit does not include an environmental site assessment of a facility conducted solely in anticipation of the purchase, sale, or transfer of the business or facility. An environmental audit may be conducted by the owner or operator, the parent corporation of the owner or operator or by their officers or employees, or by independent contractors. An environmental audit must be a discrete activity with a specified beginning date and scheduled ending date reflecting the auditor's bona fide intended completion schedule.

(4) "Environmental audit report" means a document marked or identified as such with a completion date existing either individually or as a compilation prepared in connection with an environmental audit. An environmental audit report may include field notes and records of observations, findings, opinions, suggestions, recommendations, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may include all of the following components:
a. An audit report prepared by an auditor, which may include the scope
and date of the audit and the information gained in the audit, together
with exhibits and appendices and may include conclusions,
recommendations, exhibits, and appendices.

b. Memoranda and documents analyzing any portion of the audit report
or issues relating to the implementation of an audit report.

c. An implementation plan that addresses correcting past
noncompliance, improving current compliance, or preventing future
noncompliance.

(5) "Environmental laws" means all provisions of federal, State, and local laws,
rules, and ordinances pertaining to environmental matters.

§ 8-58.52. Applicability.

(a) This Part applies to activities regulated under environmental laws, including all of
the following provisions of the General Statutes, and rules adopted thereunder:

(1) Article 7 of Chapter 74.
(2) Chapter 104E.
(3) Article 25 of Chapter 113.
(4) Articles 1, 4, and 7 of Chapter 113A.
(5) Article 9 of Chapter 130A, except as provided in subsection (b) of this
section.
(6) Articles 21, 21A, and 21B of Chapter 143.
(7) Part 1 of Article 7 of Chapter 143B.

(b) This Part shall not apply to activities regulated under the Coal Ash Management Act
of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules
promulgated pursuant to that Part.

§ 8-58.53. Environmental audit report; privilege.

(a) An environmental audit report or any part of an environmental audit report is
privileged and, therefore, immune from discovery and is not admissible as evidence in civil or
administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided,
however, all of the following documents are exempt from the privilege established by this Part:

(1) Information obtained by observation of an enforcement agency.
(2) Information obtained from a source independent of the environmental audit.
(3) Documents, communication, data, reports, or other information required to
be collected, maintained, otherwise made available, or reported to an
enforcement agency or any other entity by environmental laws, permits,
orders, consent agreements, or as otherwise provided by law.
(4) Documents prepared either prior to the beginning of the environmental audit
or subsequent to the completion date of the audit report and, in all cases, any
documents prepared independent of the audit or audit report.
(5) Documents prepared as a result of multiple or continuous self-auditing
conducted in an effort to intentionally avoid liability for violations.
(6) Information that is knowingly misrepresented or misstated or that is
knowingly deleted or withheld from an environmental audit report, whether
or not included in a subsequent environmental audit report.
(7) Information in instances where the material shows evidence of
noncompliance with environmental laws, permits, orders, consent
agreements, and the owner or operator failed to either promptly take
corrective action or eliminate any violation of law identified during the
environmental audit within a reasonable period of time.

(b) If an environmental audit report or any part of an environmental audit report is
subject to the privilege provided for in subsection (a) of this section, no person who conducted
or participated in the audit or who significantly reviewed the audit report may be compelled to
testify regarding the audit report or a privileged part of the audit report except as provided for
in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

(c) Nothing in this Part shall be construed to restrict a party in a proceeding before the
Industrial Commission from obtaining or discovering any evidence necessary or appropriate for
the proof of any issue pending in an action before the Commission, regardless of whether
evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to
prevent the admissibility of evidence that is otherwise relevant and admissible in a proceeding
before the Industrial Commission, regardless of whether the evidence is privileged pursuant to
this Part. Provided, however, the Commission, upon motion made by a party to the proceeding,
may issue appropriate protective orders preventing disclosure of information outside of the
Commission's proceeding.

(d) Nothing in this Part shall be construed to circumvent the employee protection
provisions provided by federal or State law.

(e) The privilege created by this Part does not apply to criminal investigations or
proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the
privilege created by this Part shall continue to apply and is not waived in civil and
administrative proceedings and is not discoverable or admissible in civil or administrative
proceedings even if disclosed during a criminal proceeding.

§ 8-58.54. Waiver of privilege.

(a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is
expressly waived in writing by the owner or operator of a facility at which an environmental
audit was conducted and who prepared or caused to be prepared the audit report as a result of
the audit.

(b) The audit report and information generated by the audit may be disclosed without
waiving the privilege established under G.S. 8-58.53 to all of the following persons:

(1) A person employed by the owner or operator or the parent corporation of the
audited facility.

(2) A legal representative of the owner or operator or parent corporation.

(3) An independent contractor retained by the owner or operator or parent
corporation to conduct an audit on or to address an issue or issues raised by
the audit.

(c) Disclosure of an audit report or information generated by the audit under all of the
following circumstances shall not constitute a waiver of the privilege established under
G.S. 8-58.53:

(1) Disclosure made under the terms of a confidentiality agreement between the
owner or operator of the facility audited and a potential purchaser of the
business or facility audited.

(2) Disclosure made under the terms of a confidentiality agreement between
governmental officials and the owner or operator of the facility audited.

(3) Disclosure made under the terms of a confidentiality agreement between a
customer, lending institution, or insurance company with an existing or
proposed relationship with the facility.

"§ 8-58.55. Notification of audit.

In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
facility conducting the environmental audit shall, upon inspection of the facility by an
enforcement agency, or no later than 10 working days after completion of an agency's
inspection, notify the enforcement agency of the existence of any audit relevant to the subject
of the agency's inspection, as well as the beginning date and completion date of that audit. Any
environmental audit report shall include a signed certification from the owner or operator of the
facility that documents the date the audit began and the completion date of the audit.
"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.
In a civil or administrative proceeding, an enforcement agency may seek by motion a declaratory ruling on the issue of whether an environmental audit report is privileged. The court shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set forth in this section apply. In a civil proceeding, the court, after an in camera review, shall revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of the environmental audit report was sought after the effective date of this Part and either of the following apply:

(1) The privilege is asserted for purposes of deception or evasion.
(2) The material shows evidence of significant noncompliance with applicable environmental laws; the owner or operator of the facility has not promptly initiated and pursued with diligence appropriate action to achieve compliance with these environmental laws or has not made reasonable efforts to complete any necessary permit application; and, as a result, the owner or operator of the facility did not or will not achieve compliance with applicable environmental laws or did not or will not complete the necessary permit application within a reasonable period of time.

"§ 8-58.57. Privilege in criminal proceedings.
The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

"§ 8-58.58. Burden of proof.
A party asserting the privilege established under G.S. 8-58.53 has the burden of proving that (i) the materials claimed as privileged constitute an environmental audit report as defined by this Part and (ii) compliance has been achieved or will be achieved within a reasonable period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the condition for disclosure set forth in that section.

"§ 8-58.59. Stipulations; declaratory rulings.
The parties to a proceeding may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an enforcement agency may seek a declaratory ruling from a court on the issue of whether the materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be revoked pursuant to G.S. 8-58.56.

"§ 8-58.60. Construction of Part.
Nothing in this Part limits, waives, or abrogates any of the following:

(1) The scope or nature of any statutory or common law privilege, including the work-product privilege or the attorney-client privilege.
(2) Any existing ability or authority under State law to challenge privilege.
(3) An enforcement agency's ability to obtain or use documents or information that the agency otherwise has the authority to obtain under State law adopted pursuant to federally delegated programs.

"§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative penalties and fines.
(a) An owner or operator of a facility is immune from imposition of civil and administrative penalties and fines for a violation of environmental laws voluntarily disclosed subject to the requirements and criteria set forth in this section. Provided, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time. If compliance is not certified by the enforcement agency, the enforcement agency shall retain discretion to assess penalties and fines for the violation.

(b) If a person or entity makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit, that person has the burden of
proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection (c) of this section and (ii) that the person is therefore entitled to immunity from any administrative or civil penalties associated with the issues disclosed. Nothing in this section may be construed to provide immunity from criminal penalties.

For purposes of this section, disclosure is voluntary if all of the following criteria are met:

1. The disclosure is made within 14 days following a reasonable investigation of the violation's discovery through the environmental audit.
2. The disclosure is made to an enforcement agency having regulatory authority over the violation disclosed.
3. The person or entity making the disclosure initiates an action to resolve the violation identified in the disclosure in a diligent manner.
4. The person or entity making the disclosure cooperates with the applicable enforcement agency in connection with investigation of the issues identified in the disclosure.
5. The person or entity making the disclosure diligently pursues compliance and promptly corrects the noncompliance within a reasonable period of time.

A disclosure is not voluntary for purposes of this section if any of the following factors apply:

1. Specific permit conditions require monitoring or sampling records and reports or assessment plans and management plans to be maintained or submitted to the enforcement agency pursuant to an established schedule.
2. Environmental laws or specific permit conditions require notification of releases to the environment.
3. The violation was committed intentionally, willfully, or through criminal negligence by the person or entity making the disclosure.
4. The violation was not corrected in a diligent manner.
5. The violation posed or poses a significant threat to public health, safety, and welfare; the environment; and natural resources.
6. The violation occurred within one year of a similar prior violation at the same facility, and immunity from civil and administrative penalties was granted by the applicable enforcement agency for the prior violation.
7. The violation has resulted in a substantial economic benefit to the owner or operator of the facility.
8. The violation is a violation of the specific terms of a judicial or administrative order.

If a person meets the burden of proving that the disclosure is voluntary, the burden shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the factors set forth in this section. The person claiming immunity from civil or administrative penalties or fines under this section retains the ultimate burden of proving the violations were voluntarily disclosed.

A voluntary disclosure made pursuant to this section is subject to disclosure pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the General Statutes.

§ 8-58.62. Additional limitations on exercise of privilege or immunity.

An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit shall only be entitled to exercise of the privilege or immunity established by this Part once in a two-year period, not more than twice in a five-year period, and not more than three times in a 10-year period.

§ 8-58.63. Preemption of local laws.
No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part."

SECTION 4.1.(b) No later than 30 days after this bill becomes law, the Department of Environment and Natural Resources shall submit Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, to the United States Environmental Protection Agency and shall request the Agency's approval to implement the Part in concert with the State's legal authority to continue administering delegated, approved, or authorized federal environmental programs within the State.

SECTION 4.1.(c) No later than September 1, 2015, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (b) of this section and shall report monthly thereafter until approval to implement Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, is received from the United States Environmental Protection Agency.

SECTION 4.1.(d) This section becomes effective upon the date approval to implement Part 7D of Chapter 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this section, is received from the United States Environmental Protection Agency.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.2.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.2.(b) G.S. 130A-309.09A(d)(8) is repealed.

SECTION 4.2.(c) G.S. 130A-309.10 reads as rewritten.

"§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited.

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

(1) Repealed by Session Laws 1991, c. 375, s. 1.
(2) Used oil.
(3) Yard trash, except in landfills approved for the disposal of yard trash under rules adopted by the Commission. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.
(4) White goods.
(5) Antifreeze (ethylene glycol).
(6) Aluminum cans.
(7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition on disposal of whole scrap tires in landfills applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.
(8) Lead-acid batteries, as provided in G.S. 130A-309.70.
(9) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.
(10) Motor vehicle oil filters.
(11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The prohibition on disposal of recyclable rigid plastic containers in landfills does
not apply to rigid plastic containers that are intended for use in the sale or distribution of motor oil or pesticides.

(12) Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris.

(13) Oyster shells.

(14) Discarded computer equipment, as defined in G.S. 130A-309.131. For purposes of this section, "computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a keyboard, display unit, and mouse or other pointing device.

d. Is designed for a single user.

(15) Discarded televisions, as defined in G.S. 130A-309.131. For purposes of this section, "television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal display (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.

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

(1) Antifreeze (ethylene glycol) used solely in motor vehicles.

(2) Aluminum cans.

(3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

(4) White goods.

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

(6) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.

(7) Discarded computer equipment, as defined in G.S. 130A-309.131.

(8) Discarded televisions, as defined in G.S. 130A-309.131.

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 4.3.(a) G.S. 143-215.107 reads as rewritten:


(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

…"
(10) To—Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted by the United States Environmental Protection Agency after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 4.3.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

SECTION 4.4.(a) 15A NCAC 02D .0524(c) (New Source Performance Standards).—Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.4(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c) (New Source Performance Standards) as provided in Section 4.4(b) of this act.

SECTION 4.4.(b) Implementation.—Notwithstanding 15A NCAC 02D .0524(c) (New Source Performance Standards), the Commission shall not adopt a new source performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts new source performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(c) Additional Rule-Making Authority.—The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source Performance Standards) consistent with Section 4.4(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.4(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(d) Sunset.—Section 4.4(b) of this act expires on the date that the rule adopted pursuant to Section 4.4(c) of this act becomes effective.
SECTION 4.5.(a) 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.5(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 4.5(b) of this act.

SECTION 4.5.(b) Implementation. – Notwithstanding 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology), the Commission shall not adopt maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) consistent with Section 4.5(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.5(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(d) Sunset. – Section 4.5(b) of this act expires on the date that the rule adopted pursuant to Section 4.5(c) of this act becomes effective.

SECTION 4.6.(a) 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.6(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) as provided in Section 4.6(b) of this act.

SECTION 4.6.(b) Implementation. – 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) consistent with Section 4.6(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.6(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(d) Sunset. – Section 4.6(b) of this act expires on the date that the rule adopted pursuant to Section 4.6(c) of this act becomes effective.
SECTION 4.6A. Effective January 1, 2016, the Environmental Management Commission shall not enforce any federal standard that was adopted by reference pursuant to 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such standards are readopted by the Commission as provided in Sections 4.4, 4.5, and 4.6 of this act.

AMEND RISK-BASED REMEDIATION PROVISIONS

SECTION 4.7. Part 8 of Article 9 of Chapter 130A of the General Statutes reads as rewritten:

"Part 8. Risk-Based Environmental Remediation of Industrial Sites.
§ 130A-310.65. Definitions.

As used in this Part:

(1) "Background standard" means the naturally occurring concentration of a substance in the absence of the release of a contaminant.

(2) Repealed by Session Laws 2014-122, s. 11(i), effective September 20, 2014.

(3) "Contaminant" means any substance regulated under any program listed in G.S. 130A-310.67(a).

(3a) "Contaminated off-site property" means property under separate ownership from the contaminated site that is contaminated as a result of a release or migration of contaminants at the contaminated site.

(4) "Contaminated industrial site" or "site" means any real property that meets all of the following criteria:

a. The property is contaminated and may be subject to remediation under any of the programs or requirements set out in G.S. 130A-310.67(a).

b. The property is or has been used primarily for manufacturing or other industrial activities for the production of a commercial product. This includes a property used primarily for the generation of electricity.

c. No contaminant associated with activities at the property is located off of the property at the time the remedial action plan is submitted.

d. No contaminant associated with activities at the property will migrate to any adjacent properties above unrestricted use standards for the contaminant.

(5) "Contamination" means a contaminant released into an environmental medium that has resulted in or has the potential to result in an increase in the concentration of the contaminant in the environmental medium in excess of unrestricted use standards.

(6) "Fund" means the Inactive Hazardous Sites Cleanup Risk-Based Remediation Fund established pursuant to G.S. 130A-310.11-G.S. 130A-310.76.

(7) "Institutional controls" means nonengineered measures used to prevent unsafe exposure to contamination, such as land-use restrictions.

(8) "Registered environmental consultant" means an environmental consulting or engineering firm approved to implement and oversee voluntary remedial actions pursuant to Part 3 of Article 9 of Chapter 130A of the General Statutes and rules adopted to implement the Part.

(9) "Remedial action plan" means a plan for eliminating or reducing contamination or exposure to contamination.

(10) "Remediation" means all actions that are necessary or appropriate to clean up, mitigate, correct, abate, minimize, eliminate, control, or prevent the spreading, migration, leaking, leaching, volatilization, spilling, transport, or
further release of a contaminant into the environment in order to protect public health, safety, or welfare or the environment.

(11) "Systemic toxicant" means any substance that may enter the body and have a harmful effect other than causing cancer.

(12) "Unrestricted use standards" means contaminant concentrations for each environmental medium that are acceptable for all uses; that are protective of public health, safety, and welfare and the environment; and that comply with generally applicable standards, guidance, or methods established by statute or adopted, published, or implemented by the Commission or the Department.

§ 130A-310.66. Purpose.

It is the purpose of this Part to authorize the Department to approve the remediation of contaminated industrial sites based on site-specific remediation standards in circumstances where site-specific remediation standards are adequate to protect public health, safety, and welfare and the environment and are consistent with protection of current and anticipated future use of groundwater and surface water affected or potentially affected by the contamination.

§ 130A-310.67. Applicability.

(a) This Part applies to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Inactive Hazardous Sites Response Act of 1987 under Part 3 of Article 9 of Chapter 130A of the General Statutes, including voluntary actions under G.S. 130A-310.9 of that act, and rules promulgated pursuant to those statutes.


(3) The solid waste management program administered pursuant to Article 9 of Chapter 130A of the General Statutes.


(5) The groundwater protection corrective action requirements adopted by the Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and 2 of Article 21A of Chapter 143 of the General Statutes, except with respect to those sites identified in subdivision (1a) of subsection (b) of this section.

(b) This Part shall not apply to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Leaking Petroleum Underground Storage Tank Cleanup program under Part 2A of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that statute.

(2) The Dry-Cleaning Solvent Cleanup program under Part 6 of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that statute.

(3) The pre-1983 landfill assessment and remediation program established under G.S. 130A-310.6(c) through (g).
The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules promulgated pursuant to that Part.

e This Part shall apply only to sites where a discharge, spill, or release of contamination has been reported to the Department prior to March 1, 2011.

§ 130A-310.71. Review and approval of proposed remedial action plans.

(a) The Department shall review and approve a proposed remedial action plan consistent with the remediation standards set out in G.S. 130A-310.68 and the procedures set out in this section. In its review of a proposed remedial action plan, the Department shall do all of the following:

1. Determine whether site-specific remediation standards are appropriate for a particular contaminated site. In making this determination, the Department shall consider proximity of the contamination to water supply wells or other receptors; current and probable future reliance on the groundwater as a water supply; current and anticipated future land use; environmental impacts; and the feasibility of remediation to unrestricted use standards.

2. Determine whether the party conducting the remediation has adequately demonstrated through modeling or other scientific means acceptable to the Department that no contamination will migrate to adjacent-off-site property at levels above unrestricted use standards, except as may remain pursuant to a cleanup conducted pursuant to G.S. 130A-310.73A(a)(2).

3. Determine whether the proposed remedial action plan meets the requirements of G.S. 130A-310.69.

4. Determine whether the proposed remedial action plan meets the requirements of any other applicable remediation program except those pertaining to remediation standards.

5. Establish the acceptable level or range of levels of risk to public health, safety, and welfare and to the environment.

6. Establish, for each contaminant, the maximum allowable quantity, concentration, range, or other measures of contamination that will remain at the contaminated site at the conclusion of the contaminant-reduction phase of the remediation.

7. Consider the technical performance, effectiveness, and reliability of the proposed remedial action plan in attaining and maintaining compliance with applicable remediation standards.

8. Consider the ability of the person who proposes to remediate the site to implement the proposed remedial action plan within a reasonable time and without jeopardizing public health, safety, or welfare or the environment.

9. Determine whether the proposed remedial action plan adequately provides for the imposition and maintenance of engineering and institutional controls and for sampling, monitoring, and reporting requirements necessary to protect public health, safety, and welfare and the environment. In making this determination, the Department may consider, in lieu of land-use restrictions authorized under G.S. 130A-310.69, reliance on other State or local land-use controls. Any land-use controls implemented shall adequately protect public health, safety, and welfare and the environment and provide adequate notice to current and future property owners of any residual contamination and the land-use controls in place.

10. Approve the circumstances under which no further remediation is required.

(b) The person who proposes a remedial action plan has the burden of demonstrating with reasonable assurance that contamination from the site will not migrate to adjacent-off-site
property above unrestricted use levels, except as may remain pursuant to a cleanup conducted pursuant to G.S. 130A-310.73A(a)(2), and that the remedial action plan is protective of public health, safety, and welfare and the environment by virtue of its compliance with this Part. The demonstration shall (i) take into account actions proposed in the remedial action plan that will prevent contamination from migrating off the site; and (ii) use scientifically valid site-specific data.

(c) The Department may require a person who proposes a remedial action plan to supply any additional information necessary for the Department to approve or disapprove the plan.

(d) In making a determination on a proposed remedial action plan, the Department shall consider the information provided by the person who proposes the remedial action plan as well as information provided by local governments and adjoining landowners pursuant to G.S. 130A-310.70. The Department shall disapprove a proposed remedial action plan unless the Department finds that the plan is protective of public health, safety, and welfare and the environment and complies with the requirements of this Part. If the Department disapproves a proposed remedial action plan, the person who submitted the plan may seek review as provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or disapprove a proposed remedial action plan within 120 days after a complete plan has been submitted, the person who submitted the plan may treat the plan as having been disapproved at the end of that time period.

(e) If, pursuant to subdivision (9) of subsection (a) of this section, reliance on other State or local land-use controls is approved by the Department in lieu of land-use restrictions, a "Notice of Residual Contamination" shall be prepared and filed in the chain of title of each contaminated site or contaminated off-site property where any contamination has or will in the future exceed unrestricted use standards. The Notice shall identify the type of contamination on the site or property and the land-use controls that address the contamination and may be filed by the person who proposes to remediate the site. Provided, however, the Department may only approve imposition of land-use controls on contaminated off-site property with the written consent of the owner of the property in conformance with G.S. 130A-310.73A(a)(2).

§ 130A-310.73. Attainment of the remediation standards.

(a) Compliance with the approved remediation standards is attained for a site or portion of a site when a remedial action plan approved by the Department has been implemented and applicable soil, groundwater, surface water, and air emission standards have been attained. The remediation standards may be attained through a combination of remediation activities that can include treatment, removal, engineering, or institutional controls, except that the person conducting the remediation may not demonstrate attainment of an unrestricted use standard or a background standard through the use of institutional controls alone that result in an incompatible use of the property relative to surrounding land uses. When the remedial action plan has been fully implemented, the person conducting the remediation shall submit a final report to the Department, with notice to all local governments with taxing and land-use jurisdiction over the site, that demonstrates that the remedial action plan has been fully implemented, that any land-use restrictions have been certified on an annual basis, and that the remediation standards have been attained. The final report shall be accompanied by a request that the Department issue a determination that no further remediation beyond that specified in the approved remedial action plan is required.

(b) The person conducting the remediation has the burden of demonstrating that the remedial action plan has been fully implemented and that the remediation standards have been attained in compliance with the requirements of this Part. The Department may require a person who implements the remedial action plan to supply any additional information necessary for the Department to determine whether the remediation standards have been attained.
(c) The Department shall review the final report, and, upon determining that the person conducting the remediation has completed remediation to the approved remediation standard and met all the requirements of the approved remedial action plan, the Department shall issue a determination that no further remediation beyond that specified in the approved remedial action plan is required at the site. Once the Department has issued a no further action determination, the Department may require additional remedial action by the responsible party only upon finding any of the following:

1. Monitoring, testing, or analysis of the site subsequent to the issuance of the no further action determination indicates that the remediation standards and objectives were not achieved or are not being maintained.
2. One or more of the conditions, restrictions, or limitations imposed on the site as part of the remediation have been violated.
3. Site monitoring or operation and maintenance activities that are required as part of the remedial action plan or no further action determination for the site are not adequately funded or are not adequately implemented.
4. A contaminant or hazardous substance release is discovered at the site that was not the subject of the remedial investigation report or the remedial action plan.
5. A material change in the facts known to the Department at the time the written no further action determination was issued, or new facts, cause the Department to find that further assessment or remediation is necessary to prevent a significant risk to human health and safety or to the environment.
6. The no further action determination was based on fraud, misrepresentation, or intentional nondisclosure of information by the person conducting the remediation or that person’s agents, contractors, or affiliates.
7. Installation or use of wells would induce the flow of contaminated groundwater off the contaminated site, as defined in the remedial action plan.

(d) The Department shall issue a final decision on a request for a determination that remediation has been completed to approved standards and that no further remediation beyond that specified in the approved remedial action plan is required within 180 days after receipt of a complete final report. Failure of the Department to issue a final decision on a no further remediation determination within 180 days after receipt of a complete final report and request for a determination of no further remediation may be treated as a denial of the request for a no further remediation determination. The responsible person may seek review of a denial of a request for a release from further remediation as provided in Article 3 of Chapter 150B of the General Statutes.

§ 130A-310.73A. Remediation of sites with off-site migration of contaminants.
(a) Contaminated sites at which contamination has migrated to off-site properties may be remediated pursuant to this Part if either of the following occur:

1. The person who proposes to conduct the remediation pursuant to this Part remediates the contaminated off-site property to unrestricted use standards.
2. The person who proposes to conduct the remediation pursuant to this Part (i) provides the owner of the contaminated off-site property with a copy of this Part and the publication produced by the Department pursuant to subsection (b) of this section and (ii) obtains written consent from the owner of the contaminated off-site property for the person to remediate the contaminated off-site property using site-specific remediation standards pursuant to this Part. Provided that the site-specific remediation standards shall not allow concentrations of contaminants on the off-site property to increase above the levels present on the date the written consent is obtained. Written consent
... from the owner of the off-site property shall be on a form prescribed by the Department and include an affirmation that the owner has received and read the publication and authorizes the person to remediate the owner’s property using site-specific remediation standards pursuant to this Part.

(b) In order to inform owners of contaminated off-site property of the issues and liabilities associated with the contamination on their property, the Department, in consultation with the Consumer Protection Division of the North Carolina Department of Justice and the North Carolina Real Estate Commission, shall develop and make available a publication entitled "Contaminated Property: Issues and Liabilities" to provide information on the nature of risk-based remediation and how it differs from remediation to unrestricted use standards, potential health impacts that may arise from residual contamination, as well as identification of liabilities that arise from contaminated property and associated issues, including potential impacts to real estate transactions and real estate financing. The Department shall update the publication as necessary.

(c) If, after issuance of a no further action determination, the Department determines that additional remedial action is required for a contaminated off-site property pursuant to G.S. 130A-310.73(c), the responsible party shall be liable for the additional remediation deemed necessary.

(d) Nothing in this section shall be construed to preclude or impair any person from obtaining any and all other remedies allowed by law.

SECTION 4.8. (a) No later than January 1, 2016, the Department of Environment and Natural Resources shall do all of the following:

(1) Develop internal processes to govern remediation of contaminated industrial sites conducted under this Part that are consistent across all programs or requirements identified in subsection (a) of G.S. 130A-310.67.

(2) Develop a coordinated program and processes for remediation of contaminated industrial sites conducted under this Part that are subject to more than one program or requirement identified in subsection (a) of G.S. 130A-310.67.

(3) Develop reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee voluntary remedial actions pursuant to this Part.

SECTION 4.8. (b) No later than April 1, 2016, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (a) of this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO CONFORM CLASSES OF PERSONS ELIGIBLE TO PARTICIPATE TO THOSE AUTHORIZED UNDER FEDERAL LAW

SECTION 4.9. (a) G.S. 130A-310.31(b)(10) reads as rewritten:

"§ 130A-310.31. Definitions.

(a) Unless a different meaning is required by the context or unless a different meaning is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310 apply throughout this Part.

(b) Unless a different meaning is required by the context:

... (10) "Prospective developer" means any person with a bona fide, demonstrable desire to either buy or sell a brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause
or contribute to the contamination at the brownfields property includes "bona
fide prospective purchasers," "contiguous property owners," and "innocent
landowners," as those terms are defined under the Small Business Liability
2356), 42 U.S.C. § 9601."

SECTION 4.9.(b) This section becomes effective July 1, 2015, and applies to
Notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

SECTION 4.10.(a) G.S. 105-102.6 is repealed.
SECTION 4.10.(b) G.S. 130A-309.17(d) and (i) are repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 4.11. G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. Authority and duties of the Department; State agencies and State
institutions of higher learning.

(a) The Department of Environment and Natural Resources through the State Energy
Office shall develop a comprehensive program to manage energy, water, and other utility use
for State agencies and State institutions of higher learning and shall update this program
annually. Each State agency and State institution of higher learning shall develop and
implement a management plan that is consistent with the State's comprehensive program under
this subsection to manage energy, water, and other utility use, and that addresses any findings
or recommendations resulting from the energy audit required by subsection (b1) of this section.
The energy consumption per gross square foot for all State buildings in total shall be reduced
by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
learning shall update its management plan biennially and include strategies for supporting the
energy consumption reduction requirements under this subsection. Each community college
shall submit to the State Energy Office a biennial written report of utility consumption and
costs. Management plans submitted biennially by State institutions of higher learning shall
include all of the following:

(1) Estimates of all costs associated with implementing energy conservation
measures, including pre-installation and post-installation costs.
(2) The cost of analyzing the projected energy savings.
(3) Design costs, engineering costs, pre-installation costs, post-installation costs,
debt service, and any costs for converting to an alternative energy source.
(4) An analysis that identifies projected annual energy savings and estimated
payback periods.

(a1) State agencies and State institutions of higher learning shall carry out the
construction and renovation of facilities in such a manner as to further the policy set forth under
this section and to ensure the use of life-cycle cost analyses and practices to conserve energy,
water, and other utilities.

(b) The Department of Administration shall develop and implement policies,
procedures, and standards to ensure that State purchasing practices improve efficiency
regarding energy, water, and other utility use and take the cost of the product over the
economic life of the product into consideration. The Department of Administration shall adopt
and implement Building Energy Design Guidelines. These guidelines shall include energy-use
goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on
building systems and technologies. The Department of Administration shall modify the design
criteria for construction and renovation of facilities of State buildings and State institutions of
higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to 
G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and 
Assessment Program, shall identify and recommend energy conservation maintenance and 
operating procedures that are designed to reduce energy consumption within the facility of a 
State agency or a State institution of higher learning and that require no significant expenditure 
of funds. Every State agency or State institution of higher learning shall implement these 
recommendations. Where energy management equipment is proposed for any facility of a State 
agency or of a State institution of higher learning, the maximum interchangeability and 
compatibility of equipment components shall be required. As part of the Facilities Condition 
and Assessment Program under this section, the Department of Administration, in consultation 
with the State Energy Office, shall develop an energy audit and a procedure for conducting 
energy audits. Every five years the Department shall conduct an energy audit for each State 
agency or State institution of higher learning, and the energy audits conducted shall serve as a 
preliminary energy survey. The State Energy Office shall be responsible for system-level 
detailed surveys.

(b2) The Department of Administration shall submit a report of the energy audit required 
by subsection (b1) of this section to the affected State agency or State institution of higher 
learning and to the State Energy Office. The State Energy Office shall review each audit and, in 
consultation with the affected State agency or State institution of higher learning, incorporate 
the audit findings and recommendations into the management plan required by subsection (a) 
of this section.

... 

(j) The State Energy Office shall submit a report by December 1 of every 
odd-numbered year to the Joint Legislative Energy Policy Commission describing the 
comprehensive program to manage energy, water, and other utility use for State agencies and 
State institutions of higher learning required by subsection (a) of this section. The report shall 
also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of 
higher learning are managing energy, water, and other utility use and 
achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State 
institutions of higher learning to achieve greater efficiency gains, including 
any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning 
management plans required by subsection (a) of this section and the energy 
audits required by subsection (b1) of this section.

(4) A list of the State agencies and State institutions of higher learning that did 
and did not submit management plans required by subsection (a) of this 
section and a list of the State agencies and State institutions of higher 
learning that received an energy audit section.

(5) Any recommendations on how management plans can be better managed 
and implemented."

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES 
REPORTING REQUIREMENTS

SECTION 4.12.(a) G.S. 113-175.6 is repealed.

SECTION 4.12.(b) G.S. 113-182.1(e) reads as rewritten:


..."
(e) The Secretary of Environment and Natural Resources shall monitor progress in the
development and adoption of Fishery Management Plans in relation to the Schedule for
development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.”

SECTION 4.12.(c) G.S. 143B-279.15 is repealed.
SECTION 4.12.(d) G.S. 143B-289.44(d) is repealed.
SECTION 4.12.(e) G.S. 159I-29 is repealed.
SECTION 4.12.(f) Section 2.3 of S.L. 2007-485 is repealed.

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

SECTION 4.14.(a) G.S. 130A-334 reads as rewritten:

The following definitions shall apply throughout this Article:
(1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.
(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.
(1b) "Conventional wastewater system" has the same meaning as in G.S. 130A-343.
(1c) "Department" means the Department of Health and Human Services.
(1d) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.
(2) Repealed by Session Laws 1985, c. 462, s. 18.
(2a) "Industrial process wastewater" means any water-carried waste resulting from any process of industry, manufacture, trade, or business.
(2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.
(3) "Location" means the initial placement for occupancy of a residence, place of business or place of public assembly.
(3a) "Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.
(4) Repealed by Session Laws 1985, c. 462, s. 18.
(5) Repealed by Session Laws 1985, c. 462, s. 18.
(6) "Place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.
(7) "Place of public assembly" means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.
(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface
waters. "Plat" also means, for subdivision lots approved by the local planning authority if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

(7b) "Pretreatment" means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.

(7c) "Private option permit" means approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

(7d) "Professional engineer" has the same meaning as in G.S. 89C-3.

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

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

(9a) "Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system.

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

(10a) "Secretary" means the Secretary of Environment and Natural Resources.

(11) Repealed by Session Laws 1992, c. 944, s. 3.

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

(13) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

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

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

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

SECTION 4.14.(b) G.S. 130A-335 reads as rewritten:
§ 130A-335. Wastewater collection, treatment and disposal; rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.
(d1) The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to this Article. The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this Article.

SECTION 4.14.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:


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

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

1. The owner's name, address, e-mail address, and telephone number.
2. The professional engineer's name, address, e-mail address, and telephone number.
3. Certified copy of the wastewater system owner's contract with the professional engineer.
4. For both the professional engineer and the licensed soil scientist, proof of errors and omissions insurance coverage or other appropriate liability insurance that has policy limits of not less than one million dollars ($1,000,000) per claim and that shall remain in force as applicable:
   a. Two years following the date on which a professional engineer delivers an engineering report pursuant to subdivision (k)(1) of this section to the owner of the wastewater system; or
   b. Two years following the date on which a licensed soil scientist delivers a soils report to the owner of the wastewater system.
5. A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.
6. The type of proposed wastewater system and its location.
7. The design wastewater flow and characteristics.
8. Any proposed landscape, site, drainage, or soil modifications.
9. A soil evaluation that is conducted and signed and sealed by a licensed soil scientist.
10. A plat, as defined in G.S. 130A-334(7a).
(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether a notice of intent to construct, as required pursuant to subsection (b) of this section, is complete within 14 days after the local health department
receives the notice of intent to construct. A determination of completeness means that the
notice of intent to construct includes all of the required components. If the local health
department determines that the notice of intent to construct is not complete, the department
shall notify the owner or the professional engineer of the components needed to complete the
notice. The owner or professional engineer may submit additional information to the
department to cure the deficiencies in the notice. The local health department shall make a final
determination as to whether the notice of intent to construct is complete within 10 days after the
department receives the additional information from the owner or professional engineer. If the
department fails to act within any time period set out in this subsection, the owner or
professional engineer may treat the failure to act as a denial of the completeness of the notice of
intent and may challenge the denial as provided in Chapter 150B of the General Statutes.

(d) Submission of Notice of Intent to Construct to Department for Certain Systems. –
Prior to commencing in the construction, siting, or relocation of a wastewater system designed
for the collection, treatment, and disposal of industrial process wastewater or (ii) to treat
greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes to
utilize the private option permit, or a professional engineer authorized as the legal
representative of the owner, shall provide to the Department a duplicate copy of the notice of
intent to construct submitted to the local health department required pursuant to subsection (b)
of this section.

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

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

(2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater
system shall employ a licensed soil scientist to evaluate soil conditions and
site features.

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

(4) Where the professional engineer's designs, plans, and specifications call for
the installation of a conventional wastewater system, such designs, plans,
and specifications shall allow for the installation of an accepted system in
lieu of a conventional system in accordance with the accepted system
approval.

(5) In addition to the requirements of this section, the owner and professional
engineer designing the proposed wastewater system shall comply with all
other applicable federal, State, and local laws, regulations, rules, and
ordinances.

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

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

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

(i) Operations and Management. –

(1) The professional engineer designing the wastewater system shall establish a
written operations and management program based on the size and
complexity of the wastewater system and shall provide the owner with the
operations and management program.

(2) The professional engineer shall assist the owner in the owner's selection of a
water pollution control system operator. The owner shall enter into a
contract with a water pollution control system operator certified pursuant to
Part I of Article 3 of Chapter 90A of the General Statutes and who is
selected from the list of certified operators maintained by the Division of
Water Resources in the Department of Environment and Natural Resources
for operation and maintenance of the system in accordance with rules
adopted by the Commission.

(3) Any person who owns or controls the property upon which the wastewater
system is located shall be responsible for the continued adherence to the
operations and management program established by the professional
engineer developed pursuant to subdivision (1) of this subsection.

(j) Postconstruction Conference. – The professional engineer designing the wastewater
system shall hold a postconstruction conference with the owner of the wastewater system; the
licensed soil scientist who performed the soils evaluation for the wastewater system; the
contractor, certified pursuant to Article 5 of Chapter 90A of the General Statutes, who installed
the wastewater system; the certified operator of the wastewater system, if any; and
representatives from the local health department and, as applicable, the Department. The
postconstruction conference shall include start-up of the wastewater system and any required
verification of system design or system components.

(k) Required Documentation. –

(1) At the completion of the postconstruction conference conducted pursuant to
subsection (j) of this section, the professional engineer who designed the
wastewater system shall deliver to the owner signed, sealed, and dated
certified copies of the engineer's report, which, for purposes of this section,
shall include (i) the evaluation of soil conditions and site features as
prepared by the licensed soil scientist; (ii) design and construction
specifications; (iii) operator's management program manual that includes a
copy of the contract entered into with the certified water pollution control
system operator required pursuant to subsection (i) of this section; and (iv)
any reports and findings related to the design and installation of the
wastewater system.
(2) Upon reviewing the authorized professional engineer's report, the owner of the wastewater system shall sign and notarize the report as having been received.

(1) Reporting Requirements. –

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

(2) The owner of any wastewater system subject to subsection (d) of this section shall deliver to the Department certified copies of the engineer's report, as described in subdivision (1) of this subsection.

(m) Authorization to Operate. – Upon receipt of the documents and fees required pursuant to subdivision (1) of subsection (l) of this section, the local health department shall issue the owner a letter of confirmation that states the documents and information contained therein have been received and that the wastewater system may operate in accordance with rules adopted by the Commission.

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

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

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

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

SECTION 4.14.(d) G.S. 130A-338 reads as rewritten:

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

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued under G.S. 130A-336, or authorization has been obtained under G.S. 130A-337(e), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to G.S. 130A-336.1(c)."
SECTION 4.14.(e) G.S. 130A-339 reads as rewritten:

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

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit authorization for wastewater system construction and an operation permit or authorization under G.S. 130A-337(c) or the decision on the completeness of the notice of intent to construct made by the local health department pursuant to G.S. 130A-336.1(b1) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338."

SECTION 4.14.(f) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the minimum on-site wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the compliance history of wastewater systems, including whether operators' reports and laboratory reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of remote Web-based monitoring for alarm and compliance notification; (iii) whether the required verification visit conducted by local health departments shows a statistically significant justification for duplicative costs to the owner of the wastewater system; (iv) methods for notifications of changes to and expirations of operations contracts; and (v) methods for local health departments to provide certified operator management for sites that are not under contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

SECTION 4.14.(g) G.S. 130A-336 reads as rewritten:

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

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this Article or (ii) by a professional engineer or licensed soil scientist acting within the engineer's or soil scientist's scope of work, as applicable, and pursuant to the conditions of the private option permit in G.S. 130A-336.1. An improvement permit shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit issued by a local health department shall include:

(1) For permits that are valid without expiration, a plat or, for permits that are valid for five years, a plat or a site plan.

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

(3) The proposed wastewater system and its location.

(4) The design wastewater flow and characteristics.

(5) The conditions for any site modifications.

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

Neither the improvement permit nor the authorization for wastewater system construction shall not be affected by change in of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and
remain under the ownership or control of the person owning the facility. The improvement permit and the authorization for wastewater system construction shall remain valid once issued, without expiration, provided that the design wastewater flow and characteristics and the description of the proposed facility or wastewater system will serve remain unchanged. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(b1) The local health department shall maintain a database of proposed wastewater systems for which both the improvement permit and construction authorization have been obtained but no commencement of activity related to the construction or installation of the wastewater system was undertaken during the five years immediately following the approval of the improvement permit and construction authorization. For those wastewater systems identified in accordance with this subsection, the local health department shall notify the applicant of alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

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

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

SECTION 4.14(h) G.S. 130A-342 reads as rewritten:

"§ 130A-342. Residential wastewater treatment systems.
(a) Individual residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.
(b) A permitted system with a design flow of less than 1,500 gallons per day shall be operated and maintained by a certified wastewater treatment facility operator by a person who is a Subsurface Water Pollution Control System Operator as certified by the Water Pollution Control System Operators Certification Commission and authorized by the manufacturer of the individual residential wastewater treatment system. The Commission may establish additional standards for wastewater systems with a design flow of 1,500 gallons or greater per day.

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

SECTION 4.14.(i) This section is effective when this act becomes law, and the Commission for Public Health shall adopt or amend rules pursuant to Sections 4.14(a) through 4.14(e) of this act no later than June 1, 2016. No person shall utilize the private permit option authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act, however, until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of this act become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

SECTION 4.15.(a) G.S. 130A-343 reads as rewritten:

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

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

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

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

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

(4) "Experimental wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department."
"Innovative wastewater system" means any wastewater system, other than a conventional wastewater system or a provisional wastewater system, or any technology, device, or component of a wastewater system that: (i) has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; (ii) is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; and (iii) has been approved by the Department for general use or for one or more specific applications. An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate. A wastewater system approved by a nationally recognized certification body and in compliance with the ongoing verification program of such body may submit a sampling protocol for innovative system approval that reduces the data sets required for such approval by fifty percent (50%). Such an application shall include all of the data associated with the nationally recognized certification body's verification of the system's performance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Specifications of the wastewater trench system.

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

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

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

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

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

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

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

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

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

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

(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 provisional 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 or device required of a system $100.00
(8) Modification to approved accepted, provisional, or innovative 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 4.15.(b) The Commission for Public Health shall review and amend its rules to implement Section 4.15(a) of this act.

SECTION 4.15.(c) Beginning October 1, 2015, and every quarter thereafter until all rules required pursuant to Sections 4.14 and 4.15 of this act are adopted or amended, the Commission for Public Health shall submit written reports as to its progress on adopting or amending rules as required by Sections 4.14 and 4.15 of this act to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

SECTION 4.15.(d) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, 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.
CONTESTED CASES FOR AIR PERMITS

SECTION 4.17. G.S. 143-215.108 reads as rewritten:

"§ 143-215.108. Control of sources of air pollution; permits required.

... (e) A permit applicant, permittee, or third party applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit applicant, permittee, or third party applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publicly available Web site. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

...."

AMEND ISOLATED WETLANDS LAW

SECTION 4.18.(a) For the purposes of implementing Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall apply only to Basin Wetlands and Bogs that are not jurisdictional wetlands under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not apply to an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.

SECTION 4.18.(b) The Environmental Management Commission may adopt rules to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code consistent with subsection (a) of this section.

SECTION 4.18.(c) Section 54 of S.L. 2014-120 reads as rewritten:

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

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

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95 for the entire project.

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

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

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

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

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

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

AMEND COASTAL STORMWATER REQUIREMENTS

"SECTION 4.19.(a) Section 2(b) of S.L. 2008-211 reads as rewritten:

"SECTION 2.(b) Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties that will add more than 10,000 square feet of built upon area or that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

(1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) shall meet the requirements of 15A NCAC 02H..."
be permitted as follows:

a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:
   1. The development has a built upon area of twelve percent (12%) - twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.
   2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
   3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:
   1. The development has a built upon area of greater than twelve percent (12%) - twenty-four percent (24%).
   2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
   3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems,
constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-division, provided that the stormwater control system fully complies with the requirements of this sub-division. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any minimum separation from the seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-division.

4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.

5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

SECTION 4.19.(b) Section 2(c) of S.L. 2008-211 reads as rewritten:
"SECTION 2.(c) Requirements for Limited Residential Development in Coastal Counties.

For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than twelve percent (12%), twenty-four percent (24%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

1. Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rainwater on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

2. Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

3. Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain.

SECTION 4.19.(c) As necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities pursuant to Section 3 of S.L. 2008-211 is repealed.

SECTION 4.19.(d) The Department of Environment and Natural Resources shall evaluate the water quality of surface waters in the Coastal Counties and the impact of stormwater on this water quality. The Department shall specifically consider the appropriate levels of built-upon area and stormwater management requirements necessary to protect the water quality of surface waters in the Coastal Counties. No later than April 1, 2016, the Department shall report the results of its study, including recommendations, to the Environmental Review Commission.

SECTION 4.19.(e) Section 4.19(d) of this act is effective when the act becomes law. The remainder of this section becomes effective July 1, 2016.

STUDY EXEMPTING LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

SECTION 4.21. The Department of Environment and Natural Resources shall study whether and to what extent activities related to the construction, maintenance, and removal of linear utility projects should be exempt from certain environmental regulations. For purposes of this section, "linear utility project" means an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, communications-related line, or natural gas pipeline. For purposes of this section, "environmental regulation" means a regulation established or implemented by any of the following:

1. The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.

2. The Environmental Management Commission created pursuant to G.S. 143B-282.
(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The North Carolina Oil and Gas Commission created pursuant to G.S. 143B-293.1.

No later than March 1, 2016, the Department shall report the results of this study, including any recommendations, to the Environmental Review Commission.

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

SECTION 4.24. The Secretary of Environment and Natural Resources shall repeal 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).

AMBIENT AIR MONITORING

SECTION 4.25.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 4.25.(b) No later than September 1, 2016, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 4.25.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 4.25.(d) The Division of Air Quality, Department of Environment and Natural Resources, shall report to the Environmental Review Commission no later than November 1, 2016, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

SECTION 4.27. G.S. 143-215.110 reads as rewritten:

"§ 143-215.110. Special orders.
(a) Issuance. – The Commission is hereby empowered, after the effective date of standards and classifications adopted pursuant to G.S. 143-215.107, to issue (and from time to time to modify or revoke) a special order or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the air within the area for which standards have been established. Such an order or instrument may direct such person to take or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Commission deems necessary and feasible in order to alleviate or eliminate such pollution. The Commission is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement.
with the person responsible for pollution of the air, subject to the provisions of subsection (a1) of this section regarding proposed orders, and such consent order, when entered into by the Commission after public review, shall have the same force and effect as a special order of the Commission issued pursuant to hearing.

(a1) Public Notice and Review of Consent Orders.

(1) The Commission shall give notice of a proposed consent order to the proper State, interstate, and federal agencies, to interested persons, and to the public. The Commission may also provide any other data it considers appropriate to those notified. The Commission shall prescribe the form and content of the notice. The notice shall be given at least 45-30 days prior to any final action regarding the consent order. Public notice shall be given by publication of the notice one time in a newspaper having general circulation within the county in which the pollution originates for 30 days on the regulatory agency Web site.

(2) Any person who desires a public meeting on any proposed consent order may request one in writing to the Commission within 30 days following date of the notice of the proposed consent order. The Commission shall consider all such requests for meetings. If the Commission determines that there is significant public interest in holding a meeting, the Commission shall schedule a meeting and shall give notice of such meeting at least 30 days in advance to all persons to whom notice of the proposed consent order was given and to any other person requesting notice. At least 30 days prior to the date of meeting, the Commission shall also have a copy of the notice of the meeting published at least one time in a newspaper having general circulation within the county in which the pollution originates for 30 days on the regulatory agency Web site. The Commission shall prescribe the form and content of notices under this subsection.

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

SECTION 4.29.(a) G.S. 143-254.5 reads as rewritten:

"§ 143-254.5. Disclosure of personal identifying information.
Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

SECTION 4.29.(b) G.S. 143B-289.52(h) reads as rewritten:

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

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS

SECTION 4.30.(a) The Environmental Management Commission shall amend its rules for water quality certifications (15A NCAC 2H .0501 through 2H .0507) to provide for all of the following:

(1) With respect to mitigation required for activities that result in the loss of a perennial stream or an ephemeral/intermittent stream, the requirement of mitigation by the U.S. Army Corps of Engineers for less than 300 linear feet of streambed shall not be considered to be the mitigation required by the
water quality certification, unless the Commission makes a specific finding based upon ecological, hydrological, or other scientific data that total, critical, and irreversible damage to existing uses of the stream will occur if no mitigation is required.

(2) In cases where more than 300 linear feet of streambed are lost, the Commission shall require mitigation at a one-to-one ratio only for the number of feet of streambed lost above 300 linear feet.

SECTION 4.30.(b) The Environmental Management Commission shall adopt temporary rules to implement this section no later than September 30, 2015. The Commission shall also adopt permanent rules to implement this section.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

SECTION 4.31.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.
(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.
(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.31.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.

PIGEON HUNTING

SECTION 4.32. G.S. 113-129(15a) reads as rewritten:

"(15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. Except as otherwise provided in this subdivision, the Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources. Pigeons are wild birds."

WILDLIFE RESOURCES COMMISSION STUDIES

SECTION 4.33.(a) The Wildlife Resources Commission shall review the methods and criteria by which it adds, removes, or changes the status of animals on the State protected animal list as defined in G.S. 113-331 and compare these to federal regulations and the methods and criteria of other states in the region. The Commission shall also review the policies by which the State addresses introduced species and make recommendations for improving these policies, including impacts associated with hybridization that occurs among federally listed, State-listed, and nonlisted animals.

SECTION 4.34.(a) The Wildlife Resources Commission shall establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State.

SECTION 4.34.(b) The Wildlife Resources Commission shall report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the Environmental Review Commission by March 1, 2016.

SECTION 4.35.(a) The Wildlife Resources Commission shall establish a pilot coyote management assistance program in Mitchell County. In implementing the program, the Commission shall document and assess private property damage associated with coyotes; evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program.


ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

SECTION 4.36.(a) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

§ 114-8.7. Reports of animal cruelty and animal welfare violations.

(a) The Attorney General shall establish a hotline, to be known as the "NC Pets We Care Hotline," to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes, against animals under private ownership, by means including telephone, electronic mail, and Internet Web site. The Attorney General shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Attorney General may receive reports of allegations of animal cruelty or violations of the Animal Welfare Act. Any individual who makes a report under this section shall disclose his or her name and telephone number and any other information the Attorney General may require.

(b) When the Attorney General receives allegations involving activity that the Attorney General determines may involve cruelty to animals under private ownership in violation of Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the appropriate local animal control authority for the unit or units of local government within which the violations are alleged to have occurred. When the Attorney General receives allegations involving activity that the Attorney General determines may involve violations of the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and Consumer Services. The Attorney General shall record the total number of reports received on the hotline and the number of reports received against any individual on the hotline.

SECTION 4.36.(b) G.S. 7A-304(a) is amended by adding a new subdivision to read:


(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section.

…
For support of law enforcement in the investigation of violations of Article 47 of Chapter 14 of the General Statutes and Animal Welfare Act violations, the district or superior court judge shall, upon conviction of a defendant charged with violating Article 47 of Chapter 14 of the General Statutes or the Animal Welfare Act, order payment of the sum of two hundred fifty dollars ($250.00) to be remitted to the general fund of the local governmental unit that investigated the crime to be used for local animal control authorities."

SECTION 4.36.(c) Section 4.36(b) of this act becomes effective January 1, 2016, and applies to fees assessed or collected on or after that date. The remainder of this section is effective when this act becomes law.

AMEND STORMWATER MANAGEMENT LAW

SECTION 4.37.(a) Section 3 of S.L. 2013-82 reads as rewritten:

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

SECTION 4.37.(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.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

SECTION 4.38. The Department of Insurance, the Department of Public Safety, and the Building Code Council shall jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and the Council 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 Departments and the Council 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 Departments and the Council shall jointly submit the results of their study, including any legislative recommendations, to the 2015 General Assembly.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. 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 5.2. Except as otherwise provided, this act is effective when it becomes law.