

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/29/15
Senate Finance Committee Substitute Adopted 6/30/15
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Short Title: Regulatory Reform Act of 2015.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

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REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED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CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS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

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statutes are repealed: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:

"§ 150B-25.1. Burden of proof.

(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."



1 **SECTION 1.2.(b)** The Joint Legislative Administrative Procedure Oversight
2 Committee shall study whether there are other categories of contested cases in which the
3 burden of proof should be placed with the agency.

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

6 7 **LEGISLATIVE APPOINTMENTS**

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

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

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

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

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

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

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

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

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

35 **"§ 120-124. Appointments made by legislators.**

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

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

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

49 **SECTION 1.3.(c)** This section is effective when this act becomes law and applies
50 to recommendations, consultations, and nominations made on or after that date.

51

1 **ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN**
2 **CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE**
3 **REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE**
4 **STATE**

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

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

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

- 16 (1) The court finds that the agency acted without substantial justification in
17 pressing its claim against the party; and
18 (2) The court finds that there are no special circumstances that would make the
19 award of attorney's fees unjust. ~~The party shall petition for the attorney's fees~~
20 ~~within 30 days following final disposition of the case. The petition shall be~~
21 ~~supported by an affidavit setting forth the basis for the request.~~

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

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

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

31 (b) Expired.

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

- 35 (1) Contesting the State's ability to construct improvements to real property
36 based on environmental impact.
37 (2) Contesting the State's issuance of a permit authorizing activity on real
38 property based on environmental impact.

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

46 (d) Petition and Award. – The prevailing party must petition for the attorneys' fees
47 within 30 days following final disposition of the case. The petition must be supported by an
48 affidavit setting forth the basis for the request. When the presiding judge determines that an
49 award of attorneys' fees is to be made under this section, the judge must issue a written order
50 including the factual basis and amount of attorneys' fees to be awarded.

1 (e) No Grant of Jurisdiction. – Nothing in this section grants permission to bring an
2 action against the State when otherwise immune from suit or gives a right to bring an action to
3 a party who otherwise lacks standing to bring the action.

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

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

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

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

11 **OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS**

12 **SECTION 1.5.** Chapter 93B of the General Statutes is amended by adding a new
13 section to read:

14 **"§ 93B-8.2. Prohibit licensees from serving as investigators.**

15 No occupational licensing board shall contract with or employ a person licensed by the
16 board to serve as an investigator or inspector if the licensee is actively practicing in the
17 profession or occupation over which the board has jurisdiction. Nothing in this section shall
18 prevent a board from employing licensees who are not otherwise employed in the same
19 profession or occupation or for other purposes."

21 **NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES**

22 **SECTION 1.6.(a)** G.S. 150B-21.3A(d) reads as rewritten:

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

25 ...

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

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

38 **APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD** 39 **CHANGES**

40 **SECTION 1.7.** Pursuant to G.S. 120-70.101(3a), the Joint Legislative
41 Administrative Procedure Oversight Committee (APO) shall review the recommendations
42 contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled
43 "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is
44 Needed," to determine the best way to accomplish the recommendations contained in the report
45 and to improve oversight of occupational licensing boards. In conducting the review, APO shall
46 consult with occupational licensing boards, licensees, associations representing licensees, the
47 Department of Commerce, and other interested parties. The APO cochairs may establish
48 subcommittees to assist with various parts of the review, including determining whether
49 licensing authority should be continued for the 12 boards identified in the report. The APO
50 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:

"§ 20-116. Size of vehicles and loads.

...
(g) ...

(3) 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, and the partnership.

c. The ~~managers~~ 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. 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, 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.

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

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

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

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

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

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

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

20 "Employee" shall not include any person elected or appointed and
21 empowered as an executive officer, director, or committee member under the
22 charter, articles, or bylaws of a nonprofit corporation subject to Chapter
23 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization
24 exempt from federal income tax under section 501(c)(3) of the Internal
25 Revenue Code, who performs only voluntary service for the nonprofit
26 corporation, provided that the person receives no remuneration for the
27 voluntary service other than reasonable reimbursement for expenses incurred
28 in connection with the voluntary service. When a nonprofit corporation as
29 described herein employs one or more persons who do receive remuneration
30 other than reasonable reimbursement for expenses, then any volunteer
31 officers, directors, or committee members excluded from the definition of
32 "employee" by operation of this paragraph shall be counted as employees for
33 the sole purpose of determining the number of persons regularly employed
34 in the same business or establishment pursuant to G.S. 97-2(1). Other than
35 for the limited purpose of determining the number of persons regularly
36 employed in the same business or establishment, such volunteer nonprofit
37 officers, directors, or committee members shall not be "employees" under
38 the Act. Nothing herein shall prohibit a nonprofit corporation as described
39 herein from voluntarily electing to provide for workers' compensation
40 benefits in the manner provided in G.S. 97-93 for volunteer officers,
41 directors, or committee members excluded from the definition of
42 "employee" by operation of this paragraph. This paragraph shall not apply to
43 any volunteer firefighter, volunteer member of an organized rescue squad, an
44 authorized pickup firefighter when that individual is engaged in emergency
45 fire suppression activities for the North Carolina Forest Service, a duly
46 appointed and sworn member of an auxiliary police department organized
47 pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol
48 functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the
49 General Statutes, even if such person is elected or appointed and empowered
50 as an executive officer, director, or committee member under the charter,
51 articles, or bylaws of a nonprofit corporation as described herein.

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

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

18 It shall be a rebuttable presumption that the term "employee" shall not
19 include any person performing services in the sale of newspapers or
20 magazines to ultimate consumers under an arrangement whereby the
21 newspapers or magazines are to be sold by that person at a fixed price and
22 the person's compensation is based on the retention of the excess of the fixed
23 price over the amount at which the newspapers or magazines are charged to
24 the person."
25

26 PART III. STATE AND LOCAL GOVERNMENT REGULATION

27 28 REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

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

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

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

1 employees and contractors are complying with agency policies and State requirements for their
2 use.

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

- 9 (1) Any changes to agency policies on the use of mobile devices.
- 10 (2) The number and types of new devices issued since the last report.
- 11 (3) The total number of mobile devices issued by the agency.
- 12 (4) The total cost of mobile devices issued by the agency.
- 13 (5) The number of each type of mobile device issued, with the total cost for each
14 type."

15 16 **GOOD SAMARITAN EXPANSION**

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

18 "**§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles,
19 trailers, aircraft, boats, or other watercraft.**

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

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

- 32 (1) The person acts in good faith to access the person inside the railroad car,
33 motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to
34 provide first aid or emergency health care treatment or because the person
35 inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
- 36 (2) It is reasonably apparent that the circumstances require prompt decisions and
37 actions in medical, other health care, or other assistance for the person inside
38 the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any
39 kind.
- 40 (3) The necessity of immediate health care treatment or removal of the person
41 from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft
42 of any kind is so reasonably apparent that any delay in the rendering of
43 treatment or removal would seriously worsen the physical condition or
44 endanger the life of the person."

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

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

49 "Article 43F.

50 "Immunity for Damage to Vehicle.

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

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

- 7 (1) The person acts in good faith to access a person inside the railroad car,
8 motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to
9 provide first aid or emergency health care treatment or because the person
10 inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
11 (2) It is reasonably apparent that the circumstances require prompt decisions and
12 actions in medical care, other health care, or other assistance.
13 (3) The necessity of immediate health care treatment or removal of the person
14 from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft
15 of any kind is so reasonably apparent that any delay in the rendering of
16 treatment or removal would seriously worsen the physical condition or
17 endanger the life of the person.

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

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

22
23 **DIRECT DMV TO ISSUE SUITABLY REDUCED SIZE REGISTRATION PLATES**
24 **FOR MOTORCYCLES AND PROPERTY HAULING TRAILERS ATTACHED TO**
25 **MOTORCYCLES.**

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

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

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

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

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

45
46 **STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY**
47 **ACCREDITED**

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

49 **"§ 122C-81. National accreditation benchmarks.**

- 50 (a) As used in this section, the term:

1 (1) "National accreditation" applies to accreditation by an entity approved by the
2 Secretary that accredits mental health, developmental disabilities, and
3 substance abuse services.

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

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

13 ...

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

21
22 **CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED**
23 **FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME**
24 **ESTABLISHMENT IN THAT LOCATION BECOMES VOID**

25 **SECTION 3.8.** G.S. 130A-248(c) reads as rewritten:

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

36
37 **OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN**
38 **WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS**

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

41 **§ 143-129.10. Public entities shall consider all acceptable piping materials in water,**
42 **wastewater, or stormwater projects.**

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

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

1 (1) Acceptable piping material. – Piping material that meets or exceeds the
2 standards issued by the American Society for Testing and Materials, the
3 American Water Works Association, or the American Association of State
4 Highway & Transportation Officials.

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

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

13 14 **LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES**

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

16 "**§ 146-33. State agencies to locate and mark boundaries of lands.**

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

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

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

31 32 **AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD,** 33 **ENFORCEMENT, AND CIVIL PENALTIES**

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

35 "**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

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

- 40 (1) A representative from the North Carolina Department of Transportation;
- 41 (2) A representative from a facility contract locator;
- 42 (3) A representative from the Notification Center;
- 43 (4) A representative from an electric public utility;
- 44 (5) A representative from the telecommunications industry;
- 45 (6) A representative from a natural gas utility;
- 46 (7) A representative from a hazardous liquid transmission pipeline company;
- 47 (8) A representative recommended by the League of Municipalities;
- 48 (9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or
49 operate facilities;
- 50 (10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not
51 own or operate facilities;

- 1 (11) A surveyor licensed under Chapter 89C of the General Statutes;
2 (12) A representative from a rural water system;
3 (13) A representative from an investor-owned water system;
4 (14) A representative from an electric membership corporation; and
5 (15) A representative from a cable company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL 21 SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

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

23 "§ 20-171.15. Age restrictions.

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

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

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

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

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

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

43 "§ 20-171.17. Prohibited acts by sellers.

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

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

46 (2) ~~With an engine capacity of 70 cubic centimeter displacement or greater for~~
 47 ~~use by a person less than 12 years of age.~~ In violation of the Age Restriction
 48 Warning Label affixed by the manufacturer as required by the applicable
 49 American National Standards Institute/Specialty Vehicle Institute of
 50 America (ANSI/SVIA) design standard for use by a person less than 16
 51 years of age.

- 1 (3) ~~With an engine capacity of greater than 90 cubic centimeter displacement for~~
2 ~~use by a person less than 16 years of age."~~

3
4 **PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION**

5
6 **ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY**

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

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

10 **"§ 8-58.50. Purpose.**

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

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

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

23 **"§ 8-58.51. Definitions.**

24 The following definitions apply in this Part:

- 25 (1) "Department" means the Department of Environment and Natural Resources.
26 (2) "Enforcement agencies" means the Department, any other agency of the
27 State, and units of local government responsible for enforcement of
28 environmental laws.
29 (3) "Environmental audit" means a voluntary, internal evaluation or review of
30 one or more facilities or an activity at one or more facilities regulated under
31 federal, State, regional, or local environmental law, or of compliance
32 programs, or management systems related to the facility or activity if
33 designed to identify and prevent noncompliance and to improve compliance
34 with these laws. For the purposes of this Part, an environmental audit does
35 not include an environmental site assessment of a facility conducted solely
36 in anticipation of the purchase, sale, or transfer of the business or facility. An
37 environmental audit may be conducted by the owner or operator, the parent
38 corporation of the owner or operator or by their officers or employees, or by
39 independent contractors. An environmental audit must be a discrete activity
40 with a specified beginning date and scheduled ending date reflecting the
41 auditor's bona fide intended completion schedule.
42 (4) "Environmental audit report" means a document marked or identified as
43 such with a completion date existing either individually or as a compilation
44 prepared in connection with an environmental audit. An environmental audit
45 report may include field notes and records of observations, findings,
46 opinions, suggestions, recommendations, conclusions, drafts, memoranda,
47 drawings, photographs, computer-generated or electronically recorded
48 information, maps, charts, graphs, and surveys, provided the supporting
49 information is collected or developed for the primary purpose and in the
50 course of an environmental audit. An environmental audit report, when
51 completed, may include all of the following components:

- 1 a. An audit report prepared by an auditor, which may include the scope
2 and date of the audit and the information gained in the audit, together
3 with exhibits and appendices and may include conclusions,
4 recommendations, exhibits, and appendices.
- 5 b. Memoranda and documents analyzing any portion of the audit report
6 or issues relating to the implementation of an audit report.
- 7 c. An implementation plan that addresses correcting past
8 noncompliance, improving current compliance, or preventing future
9 noncompliance.
- 10 (5) "Environmental laws" means all provisions of federal, State, and local laws,
11 rules, and ordinances pertaining to environmental matters.

12 **"§ 8-58.52. Applicability.**

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

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

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

26 **"§ 8-58.53. Environmental audit report; privilege.**

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

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

50 (b) If an environmental audit report or any part of an environmental audit report is
51 subject to the privilege provided for in subsection (a) of this section, no person who conducted

1 or participated in the audit or who significantly reviewed the audit report may be compelled to
2 testify regarding the audit report or a privileged part of the audit report except as provided for
3 in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

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

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

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

20 **"§ 8-58.54. Waiver of privilege.**

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

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

- 27 (1) A person employed by the owner or operator or the parent corporation of the
28 audited facility.
- 29 (2) A legal representative of the owner or operator or parent corporation.
- 30 (3) An independent contractor retained by the owner or operator or parent
31 corporation to conduct an audit on or to address an issue or issues raised by
32 the audit.

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

- 36 (1) Disclosure made under the terms of a confidentiality agreement between the
37 owner or operator of the facility audited and a potential purchaser of the
38 business or facility audited.
- 39 (2) Disclosure made under the terms of a confidentiality agreement between
40 governmental officials and the owner or operator of the facility audited.
- 41 (3) Disclosure made under the terms of a confidentiality agreement between a
42 customer, lending institution, or insurance company with an existing or
43 proposed relationship with the facility.

44 **"§ 8-58.55. Notification of audit.**

45 In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
46 facility conducting the environmental audit shall, upon inspection of the facility by an
47 enforcement agency, or no later than 10 working days after completion of an agency's
48 inspection, notify the enforcement agency of the existence of any audit relevant to the subject
49 of the agency's inspection, as well as the beginning date and completion date of that audit. Any
50 environmental audit report shall include a signed certification from the owner or operator of the
51 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

1 proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection
2 (c) of this section and (ii) that the person is therefore entitled to immunity from any
3 administrative or civil penalties associated with the issues disclosed. Nothing in this section
4 may be construed to provide immunity from criminal penalties.

5 (c) For purposes of this section, disclosure is voluntary if all of the following criteria
6 are met:

7 (1) The disclosure is made within 14 days following a reasonable investigation
8 of the violation's discovery through the environmental audit.

9 (2) The disclosure is made to an enforcement agency having regulatory
10 authority over the violation disclosed.

11 (3) The person or entity making the disclosure initiates an action to resolve the
12 violation identified in the disclosure in a diligent manner.

13 (4) The person or entity making the disclosure cooperates with the applicable
14 enforcement agency in connection with investigation of the issues identified
15 in the disclosure.

16 (5) The person or entity making the disclosure diligently pursues compliance
17 and promptly corrects the noncompliance within a reasonable period of time.

18 (d) A disclosure is not voluntary for purposes of this section if any of the following
19 factors apply:

20 (1) Specific permit conditions require monitoring or sampling records and
21 reports or assessment plans and management plans to be maintained or
22 submitted to the enforcement agency pursuant to an established schedule.

23 (2) Environmental laws or specific permit conditions require notification of
24 releases to the environment.

25 (3) The violation was committed intentionally, willfully, or through criminal
26 negligence by the person or entity making the disclosure.

27 (4) The violation was not corrected in a diligent manner.

28 (5) The violation posed or poses a significant threat to public health, safety, and
29 welfare; the environment; and natural resources.

30 (6) The violation occurred within one year of a similar prior violation at the
31 same facility, and immunity from civil and administrative penalties was
32 granted by the applicable enforcement agency for the prior violation.

33 (7) The violation has resulted in a substantial economic benefit to the owner or
34 operator of the facility.

35 (8) The violation is a violation of the specific terms of a judicial or
36 administrative order.

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

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

45 **"§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

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

51 **"§ 8-58.63. Preemption of local laws.**

1 No local law, rule, ordinance, or permit condition may circumvent or limit the privilege
2 established by this Part or the exercise of the privileges or the presumption and immunity
3 established by this Part."

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

11 **SECTION 4.1.(c)** No later than September 1, 2015, the Department shall report to
12 the Environmental Review Commission on its activities conducted pursuant to subsection (b) of
13 this section and shall report monthly thereafter until approval to implement Part 7D of Chapter
14 8 of the General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by
15 this section, is received from the United States Environmental Protection Agency.

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

20 **REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER** 21 **EQUIPMENT AND TELEVISIONS**

22 **SECTION 4.2.(a)** Part 2H of Article 9 of Chapter 130A of the General Statutes is
23 repealed.
24

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

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

27 **"§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic**
28 **containers required; disposal of certain solid wastes in landfills or by**
29 **incineration prohibited.**

30 ...

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

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

33 (2) Used oil.

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

38 (4) White goods.

39 (5) Antifreeze (ethylene glycol).

40 (6) Aluminum cans.

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

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

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

46 (10) Motor vehicle oil filters.

47 (11) Recyclable rigid plastic containers that are required to be labeled as provided
48 in subsection (e) of this section, that have a neck smaller than the body of the
49 container, and that accept a screw top, snap cap, or other closure. The
50 prohibition on disposal of recyclable rigid plastic containers in landfills does

- 1 not apply to rigid plastic containers that are intended for use in the sale or
 2 distribution of motor oil or pesticides.
- 3 (12) Wooden pallets, except that wooden pallets may be disposed of in a landfill
 4 that is permitted to only accept construction and demolition debris.
- 5 (13) Oyster shells.
- 6 (14) Discarded computer ~~equipment~~, ~~as defined in~~
 7 ~~G.S. 130A-309.131~~. For purposes of this section, "computer" means an
 8 electronic, magnetic, optical, electrochemical, or other high-speed data
 9 processing device that has all of the following features:
- 10 a. Performs logical, arithmetic, and storage functions for general
 11 purpose needs that are met through interaction with a number of
 12 software programs contained in the computer.
- 13 b. Is not designed to exclusively perform a specific type of limited or
 14 specialized application.
- 15 c. Achieves human interface through a keyboard, display unit, and
 16 mouse or other pointing device.
- 17 d. Is designed for a single user.
- 18 (15) Discarded ~~televisions~~, ~~as defined in G.S. 130A-309.131~~. For
 19 purposes of this section, "television" means any electronic device that
 20 contains a tuner that locks on to a selected carrier frequency and is capable
 21 of receiving and displaying of television or video programming via
 22 broadcast, cable, or satellite, including, without limitation, any direct view or
 23 projection television with a viewable screen of nine inches or larger whose
 24 display technology is based on cathode ray tube (CRT), plasma, liquid
 25 crystal display (LCD), digital light processing (DLP), liquid crystal on
 26 silicon (LCOS), silicon crystal reflective display (SXRD), light emitting
 27 diode (LED), or similar technology marketed and intended for use by a
 28 consumer primarily for personal purposes. The term does not include
 29 computer equipment.
- 30 (f1) No person shall knowingly dispose of the following solid wastes by incineration in
 31 an incinerator for which a permit is required under this Article:
- 32 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
 33 (2) Aluminum cans.
 34 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
 35 (4) White goods.
 36 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
 37 (6) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.
 38 (7) Discarded computer ~~equipment~~, ~~as defined in~~
 39 ~~G.S. 130A-309.131~~.
 40 (8) Discarded ~~televisions~~, ~~as defined in G.S. 130A-309.131~~.
 41"

42
 43 **PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS**
 44 **FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR**
 45 **HOT WATER TO A RESIDENCE OR BUSINESS**

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

47 "§ 143-215.107. Air quality standards and classifications.

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

51 ...

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

5 ...

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

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

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

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

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

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

24 25 **AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY** 26 **STANDARDS**

27 **SECTION 4.4.(a)** 15A NCAC 02D .0524(c) (New Source Performance Standards).

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

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

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

49 **SECTION 4.4.(d)** Sunset. – Section 4.4(b) of this act expires on the date that the
50 rule adopted pursuant to Section 4.4(c) of this act becomes effective.

1 **SECTION 4.5.(a)** 15A NCAC 02D .1111(c) (Maximum Achievable Control
2 Technology). – Until the effective date of the revised permanent rule that the Environmental
3 Management Commission is required to adopt pursuant to Section 4.5(c) of this act, the
4 Commission and the Department of Environment and Natural Resources shall implement 15A
5 NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section
6 4.5(b) of this act.

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

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

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

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

32 **SECTION 4.6.(b)** Implementation. – 15A NCAC 02D .1110(b) (National
33 Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national
34 emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code
35 of Federal Regulations except by a three-fifths vote of the Commission. If the Commission
36 adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title
37 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to
38 legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections
39 had been received as provided by G.S. 150B-21.3(b2).

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

49 **SECTION 4.6.(d)** Sunset. – Section 4.6(b) of this act expires on the date that the
50 rule adopted pursuant to Section 4.6(c) of this act becomes effective.

1 **SECTION 4.6A.** Effective January 1, 2016, the Environmental Management
2 Commission shall not enforce any federal standard that was adopted by reference pursuant to
3 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such
4 standards are readopted by the Commission as provided in Sections 4.4, 4.5, and 4.6 of this act.
5

6 **AMEND RISK-BASED REMEDIATION PROVISIONS**

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

9 "Part 8. Risk-Based Environmental Remediation of ~~Industrial~~-Sites.

10 **"§ 130A-310.65. Definitions.**

11 As used in this Part:

- 12 (1) "Background standard" means the naturally occurring concentration of a
13 substance in the absence of the release of a contaminant.
- 14 (2) Repealed by Session Laws 2014-122, s. 11(i), effective September 20, 2014.
- 15 (3) "Contaminant" means any substance regulated under any program listed in
16 G.S. 130A-310.67(a).
- 17 (3a) "Contaminated off-site property" means property under separate ownership
18 from the contaminated site that is contaminated as a result of a release or
19 migration of contaminants at the contaminated site.
- 20 (4) "Contaminated ~~industrial~~-site" or "site" means any real property that ~~meets~~
21 ~~all of the following criteria:~~
- 22 a. ~~The property is contaminated and may be subject to remediation~~
23 ~~under any of the programs or requirements set out in~~
24 ~~G.S. 130A-310.67(a).~~
- 25 b. ~~The property is or has been used primarily for manufacturing or other~~
26 ~~industrial activities for the production of a commercial product. This~~
27 ~~includes a property used primarily for the generation of electricity.~~
- 28 e. ~~No contaminant associated with activities at the property is located~~
29 ~~off of the property at the time the remedial action plan is submitted.~~
- 30 d. ~~No contaminant associated with activities at the property will migrate~~
31 ~~to any adjacent properties above unrestricted use standards for the~~
32 ~~contaminant.~~
- 33 (5) "Contamination" means a contaminant released into an environmental
34 medium that has resulted in or has the potential to result in an increase in the
35 concentration of the contaminant in the environmental medium in excess of
36 unrestricted use standards.
- 37 (6) "Fund" means the ~~Inactive Hazardous Sites Cleanup Risk-Based~~
38 Remediation Fund established pursuant to
39 ~~G.S. 130A-310.11~~ G.S. 130A-310.76.
- 40 (7) "Institutional controls" means nonengineered measures used to prevent
41 unsafe exposure to contamination, such as land-use restrictions.
- 42 (8) "Registered environmental consultant" means an environmental consulting
43 or engineering firm approved to implement and oversee voluntary remedial
44 actions pursuant to Part 3 of Article 9 of Chapter 130A of the General
45 Statutes and rules adopted to implement the Part.
- 46 (9) "Remedial action plan" means a plan for eliminating or reducing
47 contamination or exposure to contamination.
- 48 (10) "Remediation" means all actions that are necessary or appropriate to clean
49 up, mitigate, correct, abate, minimize, eliminate, control, or prevent the
50 spreading, migration, leaking, leaching, volatilization, spilling, transport, or

1 further release of a contaminant into the environment in order to protect
2 public health, safety, or welfare or the environment.

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

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

11 **"§ 130A-310.66. Purpose.**

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

17 **"§ 130A-310.67. Applicability.**

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

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

24 (2) The hazardous waste management program administered by the State
25 pursuant to the federal Resource Conservation and Recovery Act of 1976,
26 Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended,
27 and Article 9 of Chapter 130A of the General Statutes.

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

30 (4) The federal Superfund program administered in part by the State pursuant to
31 the Comprehensive Environmental Response, Compensation, and Liability
32 Act of 1980, Public Law 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as
33 amended, the Superfund Amendments and Reauthorization Act of 1986,
34 Public Law 99-499, 100 Stat. 1613, as amended, and under Part 4 of Article
35 9 of Chapter 130A of the General Statutes.

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

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

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

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

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

50 (3) The pre-1983 landfill assessment and remediation program established under
51 G.S. 130A-310.6(c) through (g).

1 (4) The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter
2 130A of the General Statutes and rules promulgated pursuant to that Part.

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

5 ...

6 **"§ 130A-310.71. Review and approval of proposed remedial action plans.**

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

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

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

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

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

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

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

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

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

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

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

50 (b) The person who proposes a remedial action plan has the burden of demonstrating
51 with reasonable assurance that contamination from the site will not migrate to ~~adjacent off-site~~

1 property above unrestricted use ~~levels~~ levels, except as may remain pursuant to a cleanup
2 conducted pursuant to G.S. 130A-310.73A(a)(2), and that the remedial action plan is protective
3 of public health, safety, and welfare and the environment by virtue of its compliance with this
4 Part. The demonstration shall (i) take into account actions proposed in the remedial action plan
5 that will prevent contamination from migrating off the site; and (ii) use scientifically valid
6 site-specific data.

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

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

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

30 ...

31 **"§ 130A-310.73. Attainment of the remediation standards.**

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

47 (b) The person conducting the remediation has the burden of demonstrating that the
48 remedial action plan has been fully implemented and that the remediation standards have been
49 attained in compliance with the requirements of this Part. The Department may require a person
50 who implements the remedial action plan to supply any additional information necessary for
51 the Department to determine whether the remediation standards have been attained.

1 (c) The Department shall review the final report, and, upon determining that the person
2 conducting the remediation has completed remediation to the approved remediation standard
3 and met all the requirements of the approved remedial action plan, the Department shall issue a
4 determination that no further remediation beyond that specified in the approved remedial action
5 plan is required at the site. Once the Department has issued a no further action determination,
6 the Department may require additional remedial action by the responsible party only upon
7 finding any of the following:

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

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

38 **"§ 130A-310.73A. Remediation of sites with off-site migration of contaminants.**

39 (a) Contaminated sites at which contamination has migrated to off-site properties may
40 be remediated pursuant to this Part if either of the following occur:

- 41 (1) The person who proposes to conduct the remediation pursuant to this Part
42 remediates the contaminated off-site property to unrestricted use standards.
- 43 (2) The person who proposes to conduct the remediation pursuant to this Part (i)
44 provides the owner of the contaminated off-site property with a copy of this
45 Part and the publication produced by the Department pursuant to subsection
46 (b) of this section and (ii) obtains written consent from the owner of the
47 contaminated off-site property for the person to remediate the contaminated
48 off-site property using site-specific remediation standards pursuant to this
49 Part. Provided that the site-specific remediation standards shall not allow
50 concentrations of contaminants on the off-site property to increase above the
51 levels present on the date the written consent is obtained. Written consent

1 from the owner of the off-site property shall be on a form prescribed by the
2 Department and include an affirmation that the owner has received and read
3 the publication and authorizes the person to remediate the owner's property
4 using site-specific remediation standards pursuant to this Part.

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

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

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

21"

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

- 24 (1) Develop internal processes to govern remediation of contaminated industrial
25 sites conducted under this Part that are consistent across all programs or
26 requirements identified in subsection (a) of G.S. 130A-310.67.
- 27 (2) Develop a coordinated program and processes for remediation of
28 contaminated industrial sites conducted under this Part that are subject to
29 more than one program or requirement identified in subsection (a) of
30 G.S. 130A-310.67.
- 31 (3) Develop reforms to expand the role, and otherwise enhance the use of,
32 registered environmental consultants approved to implement and oversee
33 voluntary remedial actions pursuant to this Part.

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

38
39 **AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO**
40 **CONFORM CLASSES OF PERSONS ELIGIBLE TO PARTICIPATE TO THOSE**
41 **AUTHORIZED UNDER FEDERAL LAW**

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

43 **"§ 130A-310.31. Definitions.**

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

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

48 ...

- 49 (10) ~~"Prospective developer" means any person with a bona fide, demonstrable~~
50 ~~desire to either buy or sell a brownfields property for the purpose of~~
51 ~~developing or redeveloping that brownfields property and who did not cause~~

1 ~~or contribute to the contamination at the brownfields property~~ includes "bona
2 ~~fide prospective purchasers," "contiguous property owners," and "innocent~~
3 ~~landowners," as those terms are defined under the Small Business Liability~~
4 ~~Relief and Brownfields Revitalization Act (Pub. L. No. 107-118, 115 stat.~~
5 ~~2356), 42 U.S.C. § 9601."~~

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

9 **ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS**

10 **SECTION 4.10.(a)** G.S. 105-102.6 is repealed.

11 **SECTION 4.10.(b)** G.S. 130A-309.17(d) and (i) are repealed.

13 **REPEAL ENERGY AUDIT REQUIREMENTS**

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

15 **"§ 143-64.12. Authority and duties of the Department; State agencies and State**
16 **institutions of higher learning.**

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

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

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

43 (b) The Department of Administration shall develop and implement policies,
44 procedures, and standards to ensure that State purchasing practices improve efficiency
45 regarding energy, water, and other utility use and take the cost of the product over the
46 economic life of the product into consideration. The Department of Administration shall adopt
47 and implement Building Energy Design Guidelines. These guidelines shall include energy-use
48 goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on
49 building systems and technologies. The Department of Administration shall modify the design
50 criteria for construction and renovation of facilities of State buildings and State institutions of

1 higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to
2 G.S. 143-64.15.

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

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

23 ...

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

- 29 (1) A comprehensive overview of how State agencies and State institutions of
30 higher learning are managing energy, water, and other utility use and
31 achieving efficiency gains.
- 32 (2) Any new measures that could be taken by State agencies and State
33 institutions of higher learning to achieve greater efficiency gains, including
34 any changes in general law that might be needed.
- 35 (3) A summary of the State agency and State institutions of higher learning
36 management plans required by subsection (a) of this section ~~and the energy
37 audits required by subsection (b1) of this section.~~
- 38 (4) A list of the State agencies and State institutions of higher learning that did
39 and did not submit management plans required by subsection (a) of this
40 section ~~and a list of the State agencies and State institutions of higher
41 learning that received an energy audit.~~ section.
- 42 (5) Any recommendations on how management plans can be better managed
43 and implemented."

44 45 **DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES** 46 **REPORTING REQUIREMENTS**

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

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

49 **"§ 113-182.1. Fishery Management Plans.**

50 ...

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

14 **SECTION 4.12.(c)** G.S. 143B-279.15 is repealed.

15 **SECTION 4.12.(d)** G.S. 143B-289.44(d) is repealed.

16 **SECTION 4.12.(e)** G.S. 159I-29 is repealed.

17 **SECTION 4.12.(f)** Section 2.3 of S.L. 2007-485 is repealed.

18 19 **ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS**

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

21 **"§ 130A-334. Definitions.**

22 The following definitions shall apply throughout this Article:

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

24 ~~(1a)~~ (1a) "Construction" means any work at the site of placement done for the purpose
25 of preparing a residence, place of business or place of public assembly for
26 initial occupancy, or subsequent additions or modifications which increase
27 sewage flow.

28 (1b) "Conventional wastewater system" has the same meaning as in
29 G.S. 130A-343.

30 ~~(1a)~~ (1c) "Department" means the Department of Health and Human Services.

31 ~~(1b)~~ (1d) "Ground absorption system" means a system of tanks, treatment units,
32 nitrification fields, and appurtenances for wastewater collection, treatment,
33 and subsurface disposal.

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

35 (2a) "Industrial process wastewater" means any water-carried waste resulting
36 from any process of industry, manufacture, trade, or business.

37 (2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.

38 (3) "Location" means the initial placement for occupancy of a residence, place
39 of business or place of public assembly.

40 (3a) "Maintenance" means normal or routine maintenance including replacement
41 of broken pipes, cleaning, or adjustment to an existing wastewater system.

42 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

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

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

48 (7a) "Plat" means a property survey prepared by a registered land surveyor,
49 drawn to a scale of one inch equals no more than 60 feet, that includes: the
50 specific location of the proposed facility and appurtenances, the site for the
51 proposed wastewater system, and the location of water supplies and surface

1 waters. "Plat" also means, for subdivision lots approved by the local
2 planning authority if a local planning authority exists at the time of
3 application for a permit under this Article, a copy of the subdivision plat that
4 has been recorded with the county register of deeds and is accompanied by a
5 site plan that is drawn to scale.

6 (7b) "Pretreatment" means any biological, chemical, or physical process or
7 system for improving wastewater quality and reducing wastewater
8 constituents prior to final treatment and disposal in a subsurface wastewater
9 system and includes, but is not limited to aeration, clarification, digestion,
10 disinfection, filtration, separation, and settling.

11 (7c) "Private option permit" means approval of an on-site wastewater system by a
12 professional engineer who has both expertise and education in civil or
13 environmental engineering and who has designed the wastewater system
14 acting under the authority of the owner thereof.

15 (7d) "Professional engineer" has the same meaning as in G.S. 89C-3.

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

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

22 (9a) "Repair" means the extension, alteration, replacement, or relocation of
23 existing components of a wastewater system.

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

27 (10a) "Secretary" means the Secretary of Environment and Natural Resources.

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

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

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

35 (13a) "Site plan" means a drawing not necessarily drawn to scale that shows the
36 existing and proposed property lines with dimensions, the location of the
37 facility and appurtenances, the site for the proposed wastewater system, and
38 the location of water supplies and surface waters.

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

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

51 **SECTION 4.14.(b)** G.S. 130A-335 reads as rewritten:

1 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

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

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

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

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

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

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

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

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

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

1 (d1) The Department or owner of a wastewater system may file a written complaint with
2 the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules
3 and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing
4 failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to
5 this Article. The Department or owner of a wastewater system may file a written complaint
6 with the North Carolina Board of Licensed Soil Scientists in accordance with rules and
7 procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure
8 of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this
9 Article.

10 "

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

13 **"§ 130A-336.1. Alternative process for wastewater system approvals.**

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

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

27 (1) The owner's name, address, e-mail address, and telephone number.

28 (2) The professional engineer's name, address, e-mail address, and telephone
29 number.

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

32 (4) For both the professional engineer and the licensed soil scientist, proof of
33 errors and omissions insurance coverage or other appropriate liability
34 insurance that has policy limits of not less than one million dollars
35 (\$1,000,000) per claim and that shall remain in force as applicable:

36 a. Two years following the date on which a professional engineer
37 delivers an engineering report pursuant to subdivision (k)(1) of this
38 section to the owner of the wastewater system; or

39 b. Two years following the date on which a licensed soil scientist
40 delivers a soils report to the owner of the wastewater system.

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

43 (6) The type of proposed wastewater system and its location.

44 (7) The design wastewater flow and characteristics.

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

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

48 (10) A plat, as defined in G.S. 130A-334(7a).

49 (c) Completeness Review for Notice of Intent to Construct. – The local health
50 department shall determine whether a notice of intent to construct, as required pursuant
51 subsection (b) of this section, is complete within 14 days after the local health department

1 receives the notice of intent to construct. A determination of completeness means that the
2 notice of intent to construct includes all of the required components. If the local health
3 department determines that the notice of intent to construct is not complete, the department
4 shall notify the owner or the professional engineer of the components needed to complete the
5 notice. The owner or professional engineer may submit additional information to the
6 department to cure the deficiencies in the notice. The local health department shall make a final
7 determination as to whether the notice of intent to construct is complete within 10 days after the
8 department receives the additional information from the owner or professional engineer. If the
9 department fails to act within any time period set out in this subsection, the owner or
10 professional engineer may treat the failure to act as a denial of the completeness of the notice of
11 intent and may challenge the denial as provided in Chapter 150B of the General Statutes.

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

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

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

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

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

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

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

46 (f) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed
47 wastewater system shall assume all liability for the findings of the soil scientist's initial soil
48 evaluation and final soils report. The professional engineer designing the proposed wastewater
49 system shall assume all liability for the engineer's scope of work in the design, calculation,
50 construction and installation, and requirements for the development of the operation and
51 management plan for the wastewater system. The owner of the wastewater system shall assume

1 all liability for the proper operation and management of the wastewater system. The
2 Department, the Department's authorized agents, or local health departments shall have no
3 liability for wastewater systems approved under a private option permit. After the owner of the
4 wastewater system has commenced operation of the system pursuant to subsection (m) of this
5 section, neither the professional engineer nor the licensed soil scientist shall be held liable for
6 any damages that result from any unapproved changes made to the wastewater system by the
7 owner.

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

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

15 (i) Operations and Management. –

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

20 (2) The professional engineer shall assist the owner in the owner's selection of a
21 water pollution control system operator. The owner shall enter into a
22 contract with a water pollution control system operator certified pursuant to
23 Part 1 of Article 3 of Chapter 90A of the General Statutes and who is
24 selected from the list of certified operators maintained by the Division of
25 Water Resources in the Department of Environment and Natural Resources
26 for operation and maintenance of the system in accordance with rules
27 adopted by the Commission.

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

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

40 (k) Required Documentation. –

41 (1) At the completion of the postconstruction conference conducted pursuant to
42 subsection (j) of this section, the professional engineer who designed the
43 wastewater system shall deliver to the owner signed, sealed, and dated
44 certified copies of the engineer's report, which, for purposes of this section,
45 shall include (i) the evaluation of soil conditions and site features as
46 prepared by the licensed soil scientist; (ii) design and construction
47 specifications; (iii) operator's management program manual that includes a
48 copy of the contract entered into with the certified water pollution control
49 system operator required pursuant to subsection (i) of this section; and (iv)
50 any reports and findings related to the design and installation of the
51 wastewater system.

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

4 (1) Reporting Requirements. –

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

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

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

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

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

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

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

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

43 **"§ 130A-338. Authorization for wastewater system construction required before other**
44 **permits to be issued.**

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

1 **SECTION 4.14.(e)** G.S. 130A-339 reads as rewritten:

2 "**§ 130A-339. Limitation on electrical service.**

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

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

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

32 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
33 **required.**

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

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

49 ~~The~~ Neither the improvement permit nor the authorization for wastewater system construction
50 shall not be affected by change in ownership of the site for the wastewater system provided
51 both the site for the wastewater system and the facility the system serves are unchanged and

1 remain under the ownership or control of the person owning the facility. The improvement
2 permit and the authorization for wastewater system construction shall remain valid once issued,
3 without expiration, provided the design wastewater flow and characteristics and the description
4 of the proposed facility the wastewater system will serve remains unchanged. No person shall
5 commence or assist in the construction, location, or relocation of a residence, place of business,
6 or place of public assembly in an area not served by an approved wastewater system unless an
7 improvement permit and an authorization for wastewater system construction are obtained from
8 the local health ~~department~~department unless acting within the conditions and criteria of a
9 private option permit pursuant to G.S. 130A-336.1. This requirement shall not apply to a
10 manufactured residence exhibited for sale or stored for later sale and intended to be located at
11 another site after sale.

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

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

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

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

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

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

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

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

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

10 **SECTION 4.14.(i)** This section is effective when this act becomes law, and the
11 Commission for Public Health shall adopt or amend rules pursuant to Sections 4.14(a) through
12 4.14(e) of this act no later than June 1, 2016. No person shall utilize the private permit option
13 authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act, however,
14 until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of this act
15 become effective.

16 17 **AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS**

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

19 **"§ 130A-343. Approval of on-site subsurface wastewater systems.**

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

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

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

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

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

1 (5) "Innovative wastewater system" means any wastewater system, other than a
2 conventional wastewater system or a provisional wastewater system, or any
3 technology, device, or component of a wastewater system that: (i) has been
4 demonstrated to perform in a manner equal or superior to a conventional
5 wastewater system; (ii) is constructed of materials whose physical and
6 chemical properties provide the strength, durability, and chemical resistance
7 to allow the system to withstand loads and conditions as required by rules
8 adopted by the Commission; and (iii) has been approved by the Department
9 for general use or for one or more specific applications. An innovative
10 wastewater system may be approved for use in applications for which a
11 conventional wastewater system is unsuitable. The Department may impose
12 any design, operation, maintenance, monitoring, and management
13 requirements on the use of an innovative wastewater system that it
14 determines to be appropriate. A wastewater system approved by a nationally
15 recognized certification body and in compliance with the ongoing
16 verification program of such body may submit a sampling protocol for
17 innovative system approval that reduces the data sets required for such
18 approval by fifty percent (50%). Such an application shall include all of the
19 data associated with the nationally recognized certification body's
20 verification of the system's performance.

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

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

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

46 (d) Evaluation Protocols. – The Department shall approve one or more nationally
47 recognized protocols for the evaluation of ~~on-site subsurface~~ wastewater systems. Any protocol
48 approved by the Department shall specify a minimum number of sites that must be evaluated
49 and the duration of the evaluation period. At the request of a manufacturer of a wastewater
50 system, the Department may approve an alternative protocol for use in the evaluation of the
51 performance of the manufacturer's wastewater system. A protocol for the evaluation of an

1 ~~on-site subsurface~~ a wastewater system approved by the Department pursuant to this section is
2 a scientific standard within the meaning of G.S. 150B-2(8a)h.

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

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

1 determines that the manufacturer can provide an acceptable alternative method for collection,
2 treatment, and ~~disposal-dispersal~~ of the wastewater. The Department shall approve applications
3 for provisional systems based on approval by a nationally recognized certification body within
4 90 days of receipt of a complete application. A manufacturer that chooses to remove its product
5 from the nationally recognized standard during the provisional approval may continue its
6 application in this State pursuant to requirements and procedures established by the
7 Department.

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

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

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

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

40 Within 30 days of receipt of the initial application, the Department shall either (i) notify the
41 manufacturer of any items necessary to complete the application or (ii) notify the manufacturer
42 that its application is complete. The Department shall publish a notice that the manufacturer has
43 submitted an application under this subsection in the North Carolina Register and may provide
44 additional notice to the public via the Internet or by other means. The Department shall receive
45 public comment on the application for at least 30 days after the date the notice is published in
46 the North Carolina Register. In making a determination under this subsection, the Department
47 shall consider the data, findings, and recommendations submitted by the manufacturer and all
48 public comment. The Department may also consider any other information that the Department
49 determines to be relevant. The Department shall determine: (i) whether the system performs in
50 a manner equal or superior to a conventional wastewater ~~system;~~ system, in terms of structural
51 integrity, treatment, and hydraulic performance; (ii) whether the system is constructed of

1 materials whose physical and chemical properties provide the strength, durability, and chemical
2 resistance to allow the system to withstand loads and conditions as required by rules adopted by
3 the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any
4 conditions and limitations related to the use of the system. The Department shall make the
5 determinations required by this subsection and approve or deny the application within ~~180~~90
6 days after the Department receives a complete application from a manufacturer. If the
7 Department fails to act on the application within ~~180 days~~,90 days of the notice of receipt of the
8 complete application, the manufacturer may treat the application as denied and challenge the
9 denial by filing a contested case as provided in Article 3 of Chapter 150B of the General
10 Statutes. If the Department approves an innovative wastewater system, the Department shall
11 notify the manufacturer of the approval and specify the circumstances in which use of the
12 system is appropriate and any conditions and limitations related to the use of the system.

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

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

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

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

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

1 the wastewater trench system is functionally equivalent to an
2 accepted wastewater system.

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

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

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

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

29 (i) ~~Miscellaneous Provisions.~~ Nonproprietary Wastewater Systems. –

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

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

43 (j) ~~Warranty Required in Certain Circumstances.~~ – ~~The Department shall not approve a~~
44 ~~reduction of the total nitrification trench length for an innovative wastewater system or~~
45 ~~accepted wastewater system handling untreated septic tank effluent of more than twenty five~~
46 ~~percent (25%) as compared to the total nitrification trench length required for a 36-inch wide~~
47 ~~conventional wastewater system unless the manufacturer of the innovative wastewater system~~
48 ~~or accepted wastewater system provides a performance warranty for the nitrification trench~~
49 ~~system to each owner or purchaser of the system for a warranty period of at least five years~~
50 ~~from the date on which the wastewater system is placed in operation. The warranty shall~~
51 ~~provide that the manufacturer shall provide all material and labor that may be necessary to~~

1 provide a fully functional wastewater system. The Commission shall establish minimum terms
 2 and conditions for the warranty required by this subsection. This subsection shall not be
 3 construed to require that a manufacturer warrant a wastewater system that is not properly sized
 4 to meet the design load required for a particular use, that is improperly installed, or that is
 5 improperly operated and maintained.

6 (j1) Clarification With Respect to Certain Dispersal Media. – In considering the
 7 application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic
 8 aggregate particles as a septic effluent dispersal medium for approval of the system under this
 9 section, neither the Commission nor the Department may condition, delay, or deny the approval
 10 based on the particle or bulk density of the expanded polystyrene material. With respect to
 11 approvals already issued by the Department or Commission that include conditions or
 12 requirements related to the particle or bulk density of expanded polystyrene material, the
 13 Commission or Department, as applicable, shall promptly reissue all such approvals with the
 14 conditions and requirements relating to the density of expanded polystyrene material
 15 permanently deleted while leaving all other terms and conditions of the approval intact.

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

- | | |
|----------------------------------------------------------------------------------|-----------------------|
| 17 (1) Review of an alternative protocol | |
| 18 under subsection (d) of this section | \$1,000.00 |
| 19 (2) Review of an experimental system | \$3,000.00 |
| 20 (3) Review of a controlled demonstration <u>provisional</u> system | \$3,000.00 |
| 21 (4) Review of an innovative system | \$3,000.00 |
| 22 (5) Review of an accepted system | \$3,000.00 |
| 23 (6) Review of a residential wastewater treatment | |
| 24 system pursuant to G.S. 130A-342 | \$1,500.00 |
| 25 (7) Review of a component <u>or device required</u> of a system | \$ 100.00 |
| 26 (8) Modification to approved <u>accepted, provisional, or</u> | \$1,000.00 |
| 27 innovative system | |

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

32 **SECTION 4.15.(b)** The Commission for Public Health shall review and amend its
 33 rules to implement Section 4.15(a) of this act.

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

44 **SECTION 4.15.(d)** The Commission for Public Health, in consultation with the
 45 Department of Health and Human Services, local health departments, and stakeholders
 46 representing the wastewater system industry, shall study the costs and benefits of requiring
 47 treatment standards greater than those listed by nationally recognized standards, including the
 48 recorded advantage of such higher treatment standards for the protection of the public health
 49 and the environment. The Commission shall report its findings and recommendations,
 50 including any legislative proposals, to the Environmental Review Commission and the Joint
 51 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~~

1 ~~Assessment User Manual prepared by the North Carolina Wetland~~
2 ~~Functional Assessment Team, version 4.1 October, 2010, that are not~~
3 ~~jurisdictional wetlands under the federal Clean Water Act. An "isolated~~
4 ~~wetland" does not include an isolated man-made ditch or pond constructed~~
5 ~~for stormwater management purposes or any other man-made isolated pond.~~

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

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

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

27 "SECTION 54.(e) This section is effective when it becomes law. Section 54(b) of this act
28 expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."
29

30 AMEND COASTAL STORMWATER REQUIREMENTS

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

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

- 48 (1) Development Near Outstanding Resource Waters (ORW). – Development
49 activities within the Coastal Counties and located within 575 feet of the
50 mean high waterline of areas designated by the Commission as Outstanding
51 Resource Waters (ORW) ~~shall meet the requirements of 15A NCAC 02H~~

1 ~~.1007 (Stormwater Requirements: Outstanding Resource Waters)~~ and shall
2 be permitted as follows:

3 a. Low-Density Option. – Development shall be permitted pursuant to
4 15A NCAC 02H .1003(d)(1) if the development meets all of the
5 following requirements:

- 6 1. The development has a built upon area of ~~twelve percent~~
7 ~~(12%)~~twenty-four percent (24%) or less. A development
8 project with an overall density at or below the low-density
9 threshold, but containing areas with a density greater than the
10 overall project density, shall be considered low-density as
11 long as the project meets or exceeds the requirements for
12 low-density development and locates the higher density
13 development in upland areas and away from surface waters
14 and drainageways to the maximum extent practicable.
- 15 2. Stormwater runoff from the development is transported
16 primarily by vegetated conveyances. As used in this
17 sub-sub-subdivision, "conveyance system" shall not include a
18 stormwater collection system. Stormwater runoff from built
19 upon areas that is directed to flow through any wetlands shall
20 flow into and through these wetlands at a non-erosive
21 velocity.
- 22 3. The development contains a 50-foot-wide vegetative buffer
23 for new development activities and a 30-foot-wide vegetative
24 buffer for redevelopment activities. The width of a buffer is
25 measured horizontally from the normal pool elevation of
26 impounded structures, from the bank of each side of streams
27 or rivers, and from the mean high waterline of tidal waters,
28 perpendicular to the shoreline. The vegetative buffer may be
29 cleared or graded, but must be planted with and maintained in
30 grass or any other vegetative or plant material. The Division
31 of Water Quality may, on a case-by-case basis, grant a minor
32 variance from the vegetative buffer requirements of this
33 section pursuant to the procedures set out in 15A NCAC 02B
34 .0233(9)(b). Vegetative buffers and filters required by this
35 section and any other buffers or filters required by State water
36 quality or coastal management rules or local government
37 requirements may be met concurrently and may contain, in
38 whole or in part, coastal, isolated, or 404 jurisdictional
39 wetlands that are located landward of the normal waterline.

40 b. High-Density Option. – Development shall be permitted pursuant to
41 15A NCAC 02H .1003(d)(2) if the development meets all of the
42 following requirements:

- 43 1. The development has a built upon area of greater than ~~twelve~~
44 ~~percent (12%)~~twenty-four percent (24%).
- 45 2. The development has no direct outlet channels or pipes to
46 Class SA waters unless permitted in accordance with 15A
47 NCAC 02H .0126. Stormwater runoff from built upon areas
48 that is directed to flow through any wetlands shall flow into
49 and through these wetlands at a non-erosive velocity.
- 50 3. The development utilizes control systems that are any
51 combination of infiltration systems, bioretention systems,

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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-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. 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-subdivision.

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:

1 "SECTION 2.(c) Requirements for Limited Residential Development in Coastal Counties.
2 – For residential development activities within the 20 Coastal Counties that are located within
3 one-half mile and draining to Class SA waters, that have a built upon area greater than ~~twelve~~
4 ~~percent (12%),~~ twenty-four percent (24%), that do not require a stormwater management permit
5 under subsection (b) of this section, and that will add more than 10,000 square feet of built
6 upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The
7 permit shall require recorded deed restrictions or protective covenants to ensure that the plans
8 and specifications approved in the permit are maintained. Under this permit, stormwater runoff
9 shall be managed using any one or combination of the following practices:

- 10 (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from
11 the first one and one-half inches of rain. Rain barrels and cisterns shall be
12 installed in such a manner as to facilitate the reuse of the collected rain water
13 on site and shall be installed in such a manner that any overflow from these
14 devices is directed to a vegetated area in a diffuse flow. Construct all
15 uncovered driveways, uncovered parking areas, uncovered walkways, and
16 uncovered patios out of permeable pavement or other pervious materials.
- 17 (2) Direct rooftop runoff from the first one and one-half inches of rain to an
18 appropriately sized and designed rain garden. Construct all uncovered
19 driveways, uncovered parking areas, uncovered walkways, and uncovered
20 patios out of permeable pavement or other pervious materials.
- 21 (3) Install any other stormwater best management practice that meets the
22 requirements of 15A NCAC 02H .1008 to control and treat the stormwater
23 runoff from all built upon areas of the site from the first one and one-half
24 inches of rain."

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

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

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

37 38 **STUDY EXEMPTING LINEAR UTILITY PROJECTS FROM CERTAIN** 39 **ENVIRONMENTAL REGULATIONS**

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

- 48 (1) The Department of Environment and Natural Resources created pursuant to
49 G.S. 143B-279.1.
- 50 (2) The Environmental Management Commission created pursuant to
51 G.S. 143B-282.

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

10 No later than March 1, 2016, the Department shall report the results of this study, including any
11 recommendations, to the Environmental Review Commission.
12

13 **REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES** 14 **IDLING RULES**

15 **SECTION 4.24.** The Secretary of Environment and Natural Resources shall repeal
16 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before December 1,
17 2015. Until the effective date of the repeal of the rule required pursuant to this section, the
18 Secretary, the Department of Environment and Natural Resources, the Environmental
19 Management Commission, or any other political subdivision of the State shall not implement or
20 enforce 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).
21

22 **AMBIENT AIR MONITORING**

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

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

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

35 **SECTION 4.25.(d)** The Division of Air Quality, Department of Environment and
36 Natural Resources, shall report to the Environmental Review Commission no later than
37 November 1, 2016, on the status of the ambient air monitoring network and the Division's
38 implementation of the requirements of this section.
39

40 **DIVISION OF AIR QUALITY NOTICE REQUIREMENTS**

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

42 **"§ 143-215.110. Special orders.**

43 (a) Issuance. – The Commission is hereby empowered, after the effective date of
44 standards and classifications adopted pursuant to G.S. 143-215.107, to issue (and from time to
45 time to modify or revoke) a special order or other appropriate instrument, to any person whom
46 it finds responsible for causing or contributing to any pollution of the air within the area for
47 which standards have been established. Such an order or instrument may direct such person to
48 take or refrain from taking such action, or to achieve such results, within a period of time
49 specified by such special order, as the Commission deems necessary and feasible in order to
50 alleviate or eliminate such pollution. The Commission is authorized to enter into consent
51 special orders, assurances of voluntary compliance or other similar documents by agreement

1 with the person responsible for pollution of the air, subject to the provisions of subsection (a1)
2 of this section regarding proposed orders, and such consent order, when entered into by the
3 Commission after public review, shall have the same force and effect as a special order of the
4 Commission issued pursuant to hearing.

5 (a1) Public Notice and Review of Consent Orders.

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

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

28"

29
30 **DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION**

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

32 **"§ 143-254.5. Disclosure of personal identifying information.**

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

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

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

42
43 **PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR**
44 **MITIGATION OF LINEAR STREAM IMPACTS**

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

48 (1) With respect to mitigation required for activities that result in the loss of a
49 perennial stream or an ephemeral/intermittent stream, the requirement of
50 mitigation by the U.S. Army Corps of Engineers for less than 300 linear feet
51 of streambed shall not be considered to be the mitigation required by the

1 water quality certification, unless the Commission makes a specific finding
2 based upon ecological, hydrological, or other scientific data that total,
3 critical, and irreversible damage to existing uses of the stream will occur if
4 no mitigation is required.

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

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

11 12 **PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO** 13 **INTERMITTENT STREAMS**

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

16 **"§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent**
17 **streams.**

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

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

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

31 32 **PIGEON HUNTING**

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

34 "(15a) Wild Birds. – Migratory game birds; upland game birds; and all
35 undomesticated feathered vertebrates. ~~The~~Except as otherwise provided in
36 this subdivision, the Wildlife Resources Commission may by regulation list
37 specific birds or classes of birds excluded from the definition of wild birds
38 based upon the need for protection or regulation in the interests of
39 conservation of wildlife resources. Pigeons are wild birds."

40 41 **WILDLIFE RESOURCES COMMISSION STUDIES**

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

49 **SECTION 4.33.(b)** The Wildlife Resources Commission shall report its findings
50 and recommendations to the Environmental Review Commission by March 1, 2016.

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

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

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

12 **SECTION 4.35.(b)** The Wildlife Resources Commission shall submit an interim
13 report on the progress of the pilot program to the Environmental Review Commission by
14 March 1, 2016. The Wildlife Resources Commission shall submit a final report on the results of
15 the pilot program, including any proposed legislation, to the Environmental Review
16 Commission by January 1, 2017.

17
18 **ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE**
19 **INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS**

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

22 **"§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

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

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

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

43 **"§ 7A-304. Costs in criminal actions.**

44 (a) In every criminal case in the superior or district court, wherein the defendant is
45 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
46 prosecuting witness, the following costs shall be assessed and collected. No costs may be
47 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
48 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
49 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
50 (8a), (11), (12), or (13) of this section.

51 ...

1 (14) For support of law enforcement in the investigation of violations of Article
2 47 of Chapter 14 of the General Statutes and Animal Welfare Act violations,
3 the district or superior court judge shall, upon conviction of a defendant
4 charged with violating Article 47 of Chapter 14 of the General Statutes or
5 the Animal Welfare Act, order payment of the sum of two hundred fifty
6 dollars (\$250.00) to be remitted to the general fund of the local
7 governmental unit that investigated the crime to be used for local animal
8 control authorities."

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

12 **AMEND STORMWATER MANAGEMENT LAW**

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

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

16 **SECTION 4.37.(d)** The Environmental Review Commission, with the assistance
17 of the Department of Environment and Natural Resources, shall review the current status of
18 State statutes, session laws, rules, and guidance documents related to the management of
19 stormwater in the State. The Commission shall specifically examine whether State statutes,
20 session laws, rules, and guidance documents related to the management of stormwater in the
21 State should be recodified or reorganized in order to clarify State law for the management of
22 stormwater. The Commission shall submit legislative recommendations, if any, to the 2016
23 Regular Session of the 2015 General Assembly.

24 **STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS**

25 **SECTION 4.38.** The Department of Insurance, the Department of Public Safety,
26 and the Building Code Council shall jointly study how flood elevations and building heights for
27 structures are established and measured in the coastal region of the State. The Departments and
28 the Council shall specifically consider how flood elevations and coastal building height
29 requirements affect flood insurance rates and how height calculation methods might be made
30 more consistent and uniform in order to provide flood insurance rate relief. In conducting this
31 study, the Departments and the Council shall engage a broad group of stakeholders, including
32 property owners, local governments, representatives of the surveying industry, and
33 representatives of the development industry. No later than January 1, 2016, the Departments
34 and the Council shall jointly submit the results of their study, including any legislative
35 recommendations, to the 2015 General Assembly.

36 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

37 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or
38 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
39 the part declared to be unconstitutional or invalid.

40 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
41 law.
42
43
44