

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 760

AMENDMENT NO. A4
(to be filled in by
Principal Clerk)

H760-ATAF-12 [v.3]

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Amends Title [NO]
Second Edition

Date _____, 2015

Representative Millis

1 moves to amend the bill on page 25,
2 by inserting the following between lines 18 and 19:

3
4 **"ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS**

5 **SECTION 3B.4(a) G.S. 130A-334 reads as rewritten:**

6 **"§ 130A-334. Definitions.**

7 The following definitions shall apply throughout this Article:

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

9 ~~(1a)~~(1a) "Construction" means any work at the site of placement done for the purpose
10 of preparing a residence, place of business or place of public assembly for
11 initial occupancy, or subsequent additions or modifications which increase
12 sewage flow.

13 (1b) "Conventional wastewater system" has the same meaning as in
14 G.S. 130A-343.

15 ~~(1a)~~(1c) "Department" means the Department of Health and Human Services.

16 ~~(1b)~~(1d) "Ground absorption system" means a system of tanks, treatment units,
17 nitrification fields, and appurtenances for wastewater collection, treatment,
18 and subsurface disposal.

19 (2) Repealed by Session Laws 1985, c. 462, s. 18.

20 (2a) "Industrial process wastewater" means any water-carried waste resulting
21 from any process of industry, manufacture, trade, or business.

22 (2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.

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

25 (3a) "Maintenance" means normal or routine maintenance including replacement
26 of broken pipes, cleaning, or adjustment to an existing wastewater system.

27 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

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

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



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

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

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

13 **SECTION 3B.4(b)** G.S. 130A-335 reads as rewritten:

14 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

...."

SECTION 3B.4.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

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

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

(b) Criteria for private option permit. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with

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1 jurisdiction over the location of the proposed wastewater system a notice of intent to construct
2 a wastewater system utilizing the private permit option. The Department shall develop a
3 common form for use as the notice of intent to construct that includes all of the following:

- 4 (1) The owner's name, address, and telephone number.
5 (2) The professional engineer's name, address, and telephone number.
6 (3) Certified copy of the wastewater system owner's contract with the
7 professional engineer.
8 (4) Proof of errors and omissions insurance coverage or other appropriate
9 liability insurance that has policy limits of not less than one million dollars
10 (\$1,000,000) per claim and that shall remain in force as applicable:
11 a. Two years following the date on which a professional engineer
12 delivers an engineering package to the owner of the wastewater
13 system; or
14 b. Two years following the date on which a licensed soil scientist
15 deliver a soils report to the owner of the wastewater system.
16 (5) A description of the facility the proposed site is to serve and any factors that
17 would affect the wastewater load.
18 (6) The proposed wastewater system and its location.
19 (7) The design wastewater flow and characteristics.
20 (8) Any proposed landscape, site, drainage, or soil modifications.
21 (9) A soils evaluation that is conducted and signed and sealed by a licensed soil
22 scientist.

23 (c) Site design, construction, and activities. –

- 24 (1) The professional engineer designing the proposed wastewater system shall
25 use recognized principles and practices of engineering in the calculations
26 and design of the wastewater system. The investigations and findings of the
27 professional engineer shall include, at a minimum, the information required
28 in G.S. 130A-335(e). The professional engineer may, at the engineer's
29 discretion, employ wastewater system technologies not yet approved in this
30 State.
31 (2) The professional engineer designing the proposed wastewater system shall
32 be responsible and accountable for all aspects of the construction and
33 installation of the wastewater system, including the selection and oversight
34 of an on-site wastewater system contractor certified pursuant to Article 5 of
35 Chapter 90A of the General Statutes.

36 (d) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed
37 wastewater system shall assume all liability for the findings of the soil scientist's initial soils
38 evaluation and final soils report. The professional engineer designing the proposed wastewater
39 system shall assume all liability for the engineer's scope of work in the design, calculation,
40 construction, and requirements for the development of the operation and management plan for
41 the wastewater system. The owner of the wastewater system shall assume all liability for the
42 proper operation and management of the wastewater system. The Department, the Department's
43 authorized agents, or local health departments shall have no liability for wastewater systems

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1 approved under a private option permit. After the owner of the wastewater system has
2 commenced operation of the system pursuant to subsection (i) of this section, neither the
3 professional engineer nor the licensed soil scientist shall be held liable for any damages that
4 result from any unapproved changes made to the wastewater system by the owner.

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

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

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

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

31 (i) Documentation and recordkeeping. –

32 (1) At the completion of the postconstruction conference required pursuant to
33 subsection (h) of this section, the professional engineer who designed the
34 wastewater system shall deliver certified copies of the following to the
35 owner: (i) design and construction specifications; (ii) operator's management
36 program manual, that includes a contract with the operator; and (iii) any
37 reports and findings related to the design and installation of the wastewater
38 system.

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

42 (3) The owner of the wastewater system shall deliver to the local health
43 department: (i) a certified copy of the authorized professional engineer's

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report, (ii) a copy of the operations and management program, (iii) the fee required pursuant to subsection (j) of this section; and (iv) a notarized letter that documents the owner's acceptance of the system from the professional engineer.

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

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

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

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

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

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

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

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

SECTION 3B.4.(e) G. S. 130A-339 reads as rewritten:

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

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical

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1 inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that
2 the required improvement permit authorization for wastewater system construction and an
3 operation permit or authorization under G.S. 130A-337(c) or the letter of confirmation issued to
4 an owner by the local health department pursuant to G.S. 130A-336.1(i)(4) has been obtained.
5 Temporary electrical service necessary for constructing a residence, place of business or place
6 of public assembly can be provided upon compliance with G.S. 130A-338."

7 **SECTION 3B.4.(f)** The Commission, in consultation with the Department of
8 Health and Human Services and local health departments, shall study the minimum on-site
9 wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A
10 .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of
11 on-site wastewater systems. In the conduct of its study, the Commission shall consider: (i) the
12 compliance history of wastewater systems, including whether operators' reports and laboratory
13 reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules
14 adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of
15 remote Web-based monitoring for alarm and compliance notification; (iii) whether the required
16 verification visit conducted by local health departments shows a statistically significant
17 justification for duplicative costs to the owner of the wastewater system; (iv) methods for
18 notifications of changes to and expirations of operations contracts; and (v) methods for local
19 health departments to provide certified operator management for sites that are not under
20 contract with a water pollution control system operator certified pursuant to Part 1 of Article 3
21 of Chapter 90A of the General Statutes. The Commission shall report its findings and
22 recommendations, including any legislative proposals, to the Environmental Review
23 Commission and the Joint Legislative Oversight Committee on Health and Human Services on
24 or before January 1, 2016.

25 **SECTION 3B.5** G.S. 130A-336 reads as rewritten:

26 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
27 **required.**

28 (a) Any proposed site for a residence, place of business, or place of public assembly in
29 an area not served by an approved wastewater system shall be evaluated by the local health
30 department in accordance with rules adopted pursuant to this ~~Article~~ Article or by a registered
31 Professional Engineer acting under the conditions of the private option permit. An
32 improvement permit shall be issued in compliance with the rules adopted pursuant to this
33 ~~Article~~ Article. An improvement permit issued by a local health department shall include:

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

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

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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 of a private option
9 permit. This requirement shall not apply to a manufactured residence exhibited for sale or
10 stored for later sale and intended to be located at another site after sale.

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

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

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

33 **SECTION 3B.6** G.S. 130A-342 reads as rewritten:

34 "**§ 130A-342. Residential wastewater treatment systems.**

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

41 (b) A permitted system with a design flow of less than 1,500 gallons per day shall be
42 operated by a person who is a Grade I Operator as certified by the Water Pollution Control
43 System Operators Certification Commission. The Commission may establish additional

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1 standards for wastewater systems with a design flow of 1,500 gallons or greater per day. and
2 maintained by a certified wastewater treatment facility operator.

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

7 **AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS**

8 **SECTION 3B.7.(a) G.S. 130A-343 reads as rewritten:**

9 **"§ 130A-343. Approval of on-site subsurface wastewater systems.**

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

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

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

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

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

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1 (5) "Innovative wastewater system" means any wastewater system, other than a
2 conventional wastewater system, or any technology, device, or component of
3 a wastewater system that:

4 a. (i) ~~has~~Has been demonstrated to perform in a manner equal or
5 superior to a conventional wastewater system; (ii) ~~is~~is constructed of
6 materials whose physical and chemical properties provide the
7 strength, durability, and chemical resistance to allow the system to
8 withstand loads and conditions as required by rules adopted by the
9 Commission; and (iii) ~~has~~has been approved by the Department for
10 general use or for one or more specific ~~applications~~applications; or

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

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

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

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

39 (c) ~~Approved Systems~~Procedure for Modifications or Revocations. – The Department
40 may modify, suspend, or revoke the approval of a wastewater system if the Department
41 determines that the approval is based on false, incomplete, or misleading information or if the
42 Department finds that modification, suspension, or revocation is necessary to protect public
43 health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental,~~

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1 ~~controlled demonstration, innovative, provisional, and accepted wastewater systems to the local~~
2 ~~health departments annually, and notify the local health department within 30 days of any~~
3 ~~modification or revocation of an more frequently, when the Department makes a final agency~~
4 ~~decision related to the approval of a wastewater system or the Commission adopts rules related~~
5 ~~to the approval of a wastewater system, system or system component.~~

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

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

33 (f) ~~Controlled Provisional Demonstration~~ Systems. – A manufacturer of a wastewater
34 system ~~intended for on-site subsurface use may apply to the Department to have the system~~
35 ~~evaluated as a controlled demonstration wastewater system as provided in this subsection.~~
36 provisionally approved for use in this State. Any wastewater system approved based on its
37 approval by a national recognized certification body must be designed and installed in a manner
38 consistent with the system evaluated and approved by the nationally recognized certification
39 body. The manufacturer shall submit a proposal for evaluation of the system to the Department.
40 The proposal shall contain procedures for obtaining specified information necessary to achieve
41 innovative status upon completion of the provisional status. The proposal for evaluation shall
42 include the design of the system, a description of any laboratory or field research or testing that
43 will be used to evaluate the system, a description of the research or testing protocol, and the

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1 credentials of the independent laboratory, consultant, or other entity that will be conducting the
2 research or testing on the system. ~~If the system was evaluated as an experimental system under~~
3 ~~subsection (e) of this section, the proposal shall include the results of the evaluation.~~ The
4 proposal may include an evaluation of research and testing conducted in other states to the
5 extent that the research and testing involves soil types, climate, hydrology, and other relevant
6 conditions that are comparable to conditions in this State and if the research or testing was
7 conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter
8 into a contract for an evaluation of the performance of the controlled demonstration wastewater
9 system with an independent laboratory, consultant, or other entity that has expertise in the
10 evaluation of wastewater systems and that is approved by the Department. The manufacturer
11 may install up to 200 ~~controlled demonstration~~ provisional wastewater systems ~~pursuant to a~~
12 ~~protocol approved by the Department~~ on sites that are suitable for a conventional wastewater
13 system and that have a repair area of sufficient size to allow installation of a conventional
14 wastewater system, an approved innovative wastewater system, or an accepted wastewater
15 system if the ~~controlled demonstration~~ provisional wastewater system fails to perform properly.
16 If the ~~controlled demonstration~~ provisional wastewater system is intended for use on sites that
17 are not suitable, ~~or that are provisionally suitable,~~ suitable for a conventional wastewater
18 system, the Department may approve the installation of the ~~controlled~~
19 ~~demonstration~~ provisional wastewater system if the Department determines that the
20 manufacturer can provide an acceptable alternative method for collection, treatment, and
21 ~~disposal-dispersal~~ of the wastewater. The Department shall approve applications for provisional
22 systems based on approval by a nationally recognized certification body within 90 days of
23 receipt of a complete application. A manufacturer that chooses to remove its product from the
24 nationally recognized standard during the provisional approval may continue its application in
25 this State pursuant to requirements and procedures established by the Department.

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

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

38 (2) If A manufacturer of a ~~the~~ wastewater system for on-site subsurface use that
39 has not been evaluated or approved as an experimental a provisional
40 wastewater system pursuant to subsection (f) of this section, or as a
41 controlled demonstration wastewater system the manufacturer may also
42 apply to the Department to have the system approved as an innovative
43 wastewater system on the basis of comparable research and testing

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1 conducted in other states. The manufacturer shall provide the Department
2 with the data and findings of all evaluations of the performance of the
3 system that have been conducted in any state by or on behalf of the
4 manufacturer. The manufacturer shall also provide the Department with a
5 summary of the data and findings of all other evaluations of the performance
6 of the system that are known to the manufacturer.

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

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

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

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

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- (1) The Commission shall approve a wastewater trench system as an innovative wastewater system if it finds that there is clear, convincing, and cogent evidence that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system. A wastewater trench system shall be considered functionally equivalent to an accepted wastewater trench system if the performance characteristics of the wastewater trench system satisfy all of the following requirements:
 - a. The physical properties and chemical durability of the materials from which the wastewater trench system is constructed are equal to or superior to the physical properties and chemical durability of the materials from which the accepted wastewater trench system is constructed.
 - b. The permeable sidewall area and bottom infiltrative area of the wastewater trench system are equal to or greater than the permeable sidewall area and bottom infiltrative area of the accepted wastewater trench system at a field-installed size.
 - c. The wastewater trench system utilizes a similar method and manner of function for the conveyance and application of effluent as the accepted wastewater trench system.
 - d. The structural integrity of the wastewater trench system is equal to or superior to the structural integrity of the accepted wastewater trench system.
 - e. The wastewater trench system shall provide a field installed system storage volume equal to or greater than the field installed system storage volume of the accepted wastewater trench system.
- (2) As part of its petition, the manufacturer shall provide to the Commission all of the following information:
 - a. Specifications of the wastewater trench system.
 - b. Data necessary to demonstrate that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system.
 - c. A certified statement from an independent, third-party professional engineer or testing laboratory that, based on verified documentation, the wastewater trench system is functionally equivalent to an accepted wastewater system.
- (3) Approval of a wastewater trench system as an innovative wastewater system shall not be conditioned on the manufacturer of the wastewater trench system having operational systems installed in the State.
- (4) The Commission shall authorize the use of a wastewater trench system as an innovative wastewater system in the same applications as the accepted wastewater trench system.

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

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

21 (i) ~~Miscellaneous Provisions.~~ Nonproprietary wastewater systems. –

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

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

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

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

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

29 **SECTION 3B.7.(b)** The Commission for Public Health shall review and amend its
30 rules to conform to the provisions of this section.

31 **SECTION 3B.7.(c)** Section 3B.7 of this act is effective when it becomes law and
32 the effective date of any rules amended pursuant to this section shall be no later than June 1,
33 2016.

34 **SECTION 3B.8** The Commission for Public Health, in consultation with the
35 Department of Health and Human Services and local health departments, shall study the costs
36 and benefits of requiring treatment standards greater than those listed by nationally recognized
37 standards, including the recorded advantage of such higher treatment standards for the
38 protection of the public health and the environment. The Commission shall report its findings
39 and recommendations, including any legislative proposals, to the Environmental Review
40 Commission and the Joint Legislative Oversight Committee on Health and Human Services on
41 or before January 1, 2016."
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Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

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