

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H

D

HOUSE BILL 765

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted  
6/29/15

Senate Finance Committee Substitute Adopted 6/30/15  
Fourth Edition Engrossed 7/2/15

Proposed Conference Committee Substitute H765-PCCS30438-SBf-4

Short Title: Regulatory Reform Act of 2015.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF  
3 NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE  
4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED  
5 STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING  
6 CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS  
7 OTHER STATUTORY CHANGES.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. ADMINISTRATIVE REFORMS**

11  
12 **REPEAL OBSOLETE STATUTES**

13 **SECTION 1.1.** The following statutes are repealed:

- 14 (1) G.S. 14-197. Using profane or indecent language on public highways;  
15 counties exempt.  
16 (2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency;  
17 false statement of emergency.  
18

19 **BURDEN OF PROOF IN CERTAIN CONTESTED CASES**

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

22 **"§ 150B-25.1. Burden of proof.**

23 (a) Except as otherwise provided by law or by this section, the petitioner in a contested  
24 case has the burden of proving the facts alleged in the petition by a preponderance of the  
25 evidence.

26 (b) In a contested case involving the imposition of civil fines or penalties by a State  
27 agency for violation of the law, the burden of showing by clear and convincing evidence that  
28 the person who was fined actually committed the act for which the fine or penalty was imposed  
29 rests with the State agency.



\* H 7 6 5 - P C C S 3 0 4 3 8 - C S S B F - 4 \*

1       (c) The burden of showing by a preponderance of the evidence that a career State  
2 employee subject to Chapter 126 of the General Statutes was discharged, suspended, or  
3 demoted for just cause rests with the agency employer."

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

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

## 10 **LEGISLATIVE APPOINTMENTS**

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

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

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

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

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

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

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

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

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

### 38 **"§ 120-124. Appointments made by legislators.**

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

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

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

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

## 3 4 **OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS**

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

### 7 **"§ 93B-8.2. Prohibit licensees from serving as investigators.**

8           No occupational licensing board shall contract with or employ a person licensed by the  
9 board to serve as an investigator or inspector if the licensee is actively practicing in the  
10 profession or occupation and is in competition with other members of the profession or  
11 occupation over which the board has jurisdiction. Nothing in this section shall prevent a board  
12 from (i) employing licensees who are not otherwise employed in the same profession or  
13 occupation as investigators or inspectors or for other purposes or (ii) contracting with licensees  
14 of the board to serve as expert witnesses or consultants in cases where special knowledge and  
15 experience is required, provided that the board limits the duties and authority of the expert  
16 witness or consultant to serving as an information resource to the board and board personnel."

## 17 18 **NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES**

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

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

22           ...

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

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

## 34 35 **APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD** 36 **CHANGES**

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

## 48 49 **TECHNICAL CORRECTIONS**

50           **SECTION 1.8.(a)** G.S. 20-116 reads as rewritten:

51 **"§ 20-116. Size of vehicles and loads.**

- 1 ...  
 2 (g) ...  
 3 (3) A truck, trailer, or other ~~vehicle~~:  
 4 a. ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle  
 5 weight and loaded with rock, gravel, stone, or any other similar  
 6 substance that could fall, blow, leak, or sift, or licensed for any gross  
 7 vehicle weight and loaded with sand; or sand,  
 8 b. ~~Licensed for 7,500 pounds or less gross vehicle weight and loaded~~  
 9 ~~with rock, gravel, stone, or any other similar substance that could~~  
 10 ~~fall, blow, leak, sift, or drop;~~  
 11 shall not be driven or moved on any highway unless:  
 12 a. The height of the load against all four walls does not extend above a  
 13 horizontal line six inches below the top when loaded at the loading  
 14 point;  
 15 b. The load is securely covered by tarpaulin or some other suitable  
 16 covering; or  
 17 c. The vehicle is constructed to prevent any of its load from falling,  
 18 dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

19 ...."

20 **SECTION 1.8.(b)** If House Bill 44, 2015 Regular Session becomes law, then  
 21 House Bill 44 is amended by adding a new section to read:

22 **"SECTION 3.1.(a)** G.S. 160A-381(c) reads as rewritten:

23 "(c) The regulations may also provide that the board of adjustment, the planning board,  
 24 or the city council may issue special use permits or conditional use permits in the classes of  
 25 cases or situations and in accordance with the principles, conditions, safeguards, and  
 26 procedures specified therein and may impose reasonable and appropriate conditions and  
 27 safeguards upon these permits. Conditions and safeguards imposed under this subsection shall  
 28 not include requirements for which the city does not have authority under statute to regulate nor  
 29 requirements for which the courts have held to be unenforceable if imposed directly by the city.  
 30 When deciding special use permits or conditional use permits, the city council or planning  
 31 board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use  
 32 permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority  
 33 vote shall be required for the city council or planning board to issue such permits. For the  
 34 purposes of this section, vacant positions on the board and members who are disqualified from  
 35 voting on a quasi-judicial matter shall not be considered "members of the board" for calculation  
 36 of the requisite majority. Every such decision of the city council or planning board shall be  
 37 subject to review of the superior court in the nature of certiorari in accordance with  
 38 G.S. 160A-388.

39 Where appropriate, such conditions may include requirements that street and utility  
 40 rights-of-way be dedicated to the public and that provision be made of recreational space and  
 41 facilities."

42 **"SECTION 3.1.(b)** G.S. 153A-340(c1) reads as rewritten:

43 "(c1) The regulations may also provide that the board of adjustment, the planning board,  
 44 or the board of commissioners may issue special use permits or conditional use permits in the  
 45 classes of cases or situations and in accordance with the principles, conditions, safeguards, and  
 46 procedures specified therein and may impose reasonable and appropriate conditions and  
 47 safeguards upon these permits. Conditions and safeguards imposed under this subsection shall  
 48 not include requirements for which the county does not have authority under statute to regulate  
 49 nor requirements for which the courts have held to be unenforceable if imposed directly by the  
 50 county. Where appropriate, the conditions may include requirements that street and utility  
 51 rights-of-way be dedicated to the public and that recreational space be provided. When

1 deciding special use permits or conditional use permits, the board of county commissioners or  
2 planning board shall follow quasi-judicial procedures. Notice of hearings on special or  
3 conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater  
4 than a majority vote shall be required for the board of county commissioners or planning board  
5 to issue such permits. For the purposes of this section, vacant positions on the board and  
6 members who are disqualified from voting on a quasi-judicial matter shall not be considered  
7 "members of the board" for calculation of the requisite majority. Every such decision of the  
8 board of county commissioners or planning board shall be subject to review of the superior  
9 court in the nature of certiorari consistent with G.S. 160A-388."

10 **SECTION 1.8.(c)** If House Bill 44, 2015 Regular Session becomes law, then  
11 G.S. 153A-457 reads as rewritten:

12 **"§ 153A-457. Notice prior to construction.**

13 (a) A county shall notify the property owners and adjacent property owners prior to  
14 commencement of any construction project by the county.

15 (b) Notice under this section shall be in writing at least 15 days prior to the  
16 commencement of construction, except in any of the following instances:

- 17 (1) If the construction is ~~a repair~~ of an emergency nature, the notice may be  
18 given by any means, including verbally, that the county has for contacting  
19 the property owner within a reasonable time prior to, or after,  
20 commencement of the ~~repair~~construction.  
21 (2) The property owner requests action of the county that requires construction  
22 activity.  
23 (3) The property owner consents to less than 15 days' notice.  
24 (4) Notice of the construction project is given in any open meeting of the county  
25 prior to the commencement of the construction project.

26 (c) For purposes of this section, "construction" shall mean the building, erection, or  
27 establishment of new buildings, facilities, and infrastructure and shall not include routine  
28 maintenance and repair."

29 **SECTION 1.8.(d)** If House Bill 44, 2015 Regular Session becomes law, then  
30 G.S. 160A-499.4 reads as rewritten:

31 **"§ 160A-499.4. Notice prior to construction.**

32 (a) A city shall notify the property owners and adjacent property owners prior to  
33 commencement of any construction project by the city.

34 (b) Notice under this section shall be in writing at least 15 days prior to the  
35 commencement of construction, except in any of the following instances:

- 36 (1) If the construction is ~~a repair~~ of an emergency nature, the notice may be  
37 given by any means, including verbally, that the city has for contacting the  
38 property owner within a reasonable time prior to, or after, commencement of  
39 the ~~repair~~construction.  
40 (2) The property owner requests action of the city that requires construction  
41 activity.  
42 (3) The property owner consents to less than 15 days' notice.  
43 (4) Notice of the construction project is given in any open meeting of the city  
44 prior to the commencement of the construction project.

45 (c) For purposes of this section, "construction" shall mean the building, erection, or  
46 establishment of new buildings, facilities, and infrastructure and shall not include routine  
47 maintenance and repair."

48  
49 **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 managers partnership.

c. The managers, member-managers, and employees whose income is reported on IRS Form W-2 of an exempt limited liability company when said persons are engaged in acts or services for which the corporation, partnership, or limited liability company would be exempt hereunder-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, and (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."

1  
2 **MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK**

3 **SECTION 2.2.** G.S. 143-143.10A reads as rewritten:

4 **"§ 143-143.10A. Criminal history checks of applicants for licensure.**

5 (a) Definitions. – The following definitions shall apply in this section:

6 (1) Applicant. – A person applying for initial licensure as a manufactured home  
7 ~~manufacturer, dealer, salesperson, salesperson~~ or set-up contractor.

8 ...

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

21 ...."

22  
23 **AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS'**  
24 **COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF**  
25 **CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS**

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

27 **"§ 97-2. Definitions.**

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

29 ...

30 (2) Employee. – The term "employee" means every person engaged in an  
31 employment under any appointment or contract of hire or apprenticeship,  
32 express or implied, oral or written, including aliens, and also minors,  
33 whether lawfully or unlawfully employed, but excluding persons whose  
34 employment is both casual and not in the course of the trade, business,  
35 profession, or occupation of his employer, and as relating to those so  
36 employed by the State, the term "employee" shall include all officers and  
37 employees of the State, including such as are elected by the people, or by the  
38 General Assembly, or appointed by the Governor to serve on a per diem,  
39 part-time or fee basis, either with or without the confirmation of the Senate;  
40 as relating to municipal corporations and political subdivisions of the State,  
41 the term "employee" shall include all officers and employees thereof,  
42 including such as are elected by the people. The term "employee" shall  
43 include members of the North Carolina National Guard while on State active  
44 duty under orders of the Governor and members of the North Carolina State  
45 Defense Militia while on State active duty under orders of the Governor. The  
46 term "employee" shall include deputy sheriffs and all persons acting in the  
47 capacity of deputy sheriffs, whether appointed by the sheriff or by the  
48 governing body of the county and whether serving on a fee basis or on a  
49 salary basis, or whether deputy sheriffs serving upon a full-time basis or a  
50 part-time basis, and including deputy sheriffs appointed to serve in an  
51 emergency, but as to those so appointed, only during the continuation of the

1 emergency. The sheriff shall furnish to the board of county commissioners a  
2 complete list of all deputy sheriffs named or appointed by him immediately  
3 after their appointment and notify the board of commissioners of any  
4 changes made therein promptly after such changes are made. Any reference  
5 to an employee who has been injured shall, when the employee is dead,  
6 include also the employee's legal representative, dependents, and other  
7 persons to whom compensation may be payable: Provided, further, that any  
8 employee, as herein defined, of a municipality, county, or of the State of  
9 North Carolina, while engaged in the discharge of the employee's official  
10 duty outside the jurisdictional or territorial limits of the municipality, county,  
11 or the State of North Carolina and while acting pursuant to authorization or  
12 instruction from any superior officer, shall have the same rights under this  
13 Article as if such duty or activity were performed within the territorial  
14 boundary limits of their employer.

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

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

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

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

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

46 "Employee" shall not include any person elected or appointed and  
47 empowered as an executive officer, director, or committee member under the  
48 charter, articles, or bylaws of a nonprofit corporation subject to Chapter  
49 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization  
50 exempt from federal income tax under section 501(c)(3) of the Internal  
51 Revenue Code, who performs only voluntary service for the nonprofit



1 corporation, provided that the person receives no remuneration for the  
2 voluntary service other than reasonable reimbursement for expenses incurred  
3 in connection with the voluntary service. When a nonprofit corporation as  
4 described herein employs one or more persons who do receive remuneration  
5 other than reasonable reimbursement for expenses, then any volunteer  
6 officers, directors, or committee members excluded from the definition of  
7 "employee" by operation of this paragraph shall be counted as employees for  
8 the sole purpose of determining the number of persons regularly employed  
9 in the same business or establishment pursuant to G.S. 97-2(1). Other than  
10 for the limited purpose of determining the number of persons regularly  
11 employed in the same business or establishment, such volunteer nonprofit  
12 officers, directors, or committee members shall not be "employees" under  
13 the Act. Nothing herein shall prohibit a nonprofit corporation as described  
14 herein from voluntarily electing to provide for workers' compensation  
15 benefits in the manner provided in G.S. 97-93 for volunteer officers,  
16 directors, or committee members excluded from the definition of  
17 "employee" by operation of this paragraph. This paragraph shall not apply to  
18 any volunteer firefighter, volunteer member of an organized rescue squad, an  
19 authorized pickup firefighter when that individual is engaged in emergency  
20 fire suppression activities for the North Carolina Forest Service, a duly  
21 appointed and sworn member of an auxiliary police department organized  
22 pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol  
23 functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the  
24 General Statutes, even if such person is elected or appointed and empowered  
25 as an executive officer, director, or committee member under the charter,  
26 articles, or bylaws of a nonprofit corporation as described herein.

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

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

44 It shall be a rebuttable presumption that the term "employee" shall not  
45 include any person performing services in the sale of newspapers or  
46 magazines to ultimate consumers under an arrangement whereby the  
47 newspapers or magazines are to be sold by that person at a fixed price and  
48 the person's compensation is based on the retention of the excess of the fixed  
49 price over the amount at which the newspapers or magazines are charged to  
50 the person."  
51

**PART III. STATE AND LOCAL GOVERNMENT REGULATION****REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY**

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

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

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

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

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

**GOOD SAMARITAN EXPANSION**

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

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

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

1 section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or  
2 other watercraft.

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

7 (1) The person acts in good faith to access the 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, other health care, or other assistance for the person inside  
13 the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any  
14 kind.

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

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

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

24 "Article 43F.

25 "Immunity for Damage to Vehicle.

26 **"§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle,**  
27 **trailer, aircraft, boat, or other watercraft necessary for assistance.**

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

32 (1) The person acts in good faith to access a 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 care, other health care, or other assistance.

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

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

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

47  
48 **DIRECT DMV TO ISSUE SUITABLY REDUCED SIZE REGISTRATION PLATES**  
49 **FOR MOTORCYCLES AND PROPERTY HAULING TRAILERS ATTACHED TO**  
50 **MOTORCYCLES**

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

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

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

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

**SECTION 3.5.(b)** This section becomes effective January 1, 2016.

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

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

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

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

- (1) "National accreditation" applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.
- (2) "Provider" applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

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

...

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

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

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

"(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for

1 a transitional permit. A transitional permit may be issued upon the transfer of ownership or  
2 lease of an establishment to allow the correction of construction and equipment problems that  
3 do not represent an immediate threat to the public health. Upon issuance of a new permit or a  
4 transitional permit for ~~an~~the same establishment, any previously issued permit for an  
5 establishment in that location becomes void. This subsection does not prohibit issuing more  
6 than one owner or lessee a permit for the same location if (i) more than one establishment is  
7 operated in the same physical location and (ii) each establishment satisfies all of the rules and  
8 requirements of subsection (g) of this section. For purposes of this subsection, "transitional  
9 permit" shall mean a permit issued upon the transfer of ownership or lease of an existing food  
10 establishment to allow the correction of construction and equipment problems that do not  
11 represent an immediate threat to the public health."  
12

### 13 ENVIRONMENTAL REVIEW COMMISSION TO STUDY OPEN AND FAIR 14 COMPETITION WITH RESPECT TO MATERIALS USED IN WASTEWATER, 15 STORMWATER, AND OTHER WATER PROJECTS

16 SECTION 3.9. The Environmental Review Commission may study whether to  
17 require public entities to consider all acceptable piping materials before determining which  
18 piping material should be used in the constructing, developing, financing, maintaining,  
19 rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater  
20 drainage project. The Environmental Review Commission shall report its findings and  
21 recommendations to the 2016 Regular Session of the 2015 General Assembly.  
22

### 23 AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, 24 ENFORCEMENT, AND CIVIL PENALTIES

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

26 "**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Utilities Commission, any actions and penalties assessed against any person for violation of this  
2 Article shall include the actions and penalties set out in subsection (b1) of this section.

- 3 (1) ~~If the violation was the result of negligence, the penalty shall be a~~  
4 ~~requirement of training, a requirement of education, or both.~~  
5 (2) ~~If the violation was the result of gross negligence, the penalty shall be a civil~~  
6 ~~penalty of one thousand dollars (\$1,000), a requirement of training, a~~  
7 ~~requirement of education, or a combination of the three.~~  
8 (3) ~~If the violation was the result of willful or wanton negligence or intentional~~  
9 ~~conduct, the penalty shall be a civil penalty of two thousand five hundred~~  
10 ~~dollars (\$2,500), a requirement of training, and a requirement of education."~~  
11

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

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

15 **"§ 20-171.15. Age restrictions.**

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

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

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

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

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

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

35 **"§ 20-171.17. Prohibited acts by sellers.**

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

- 37 (1) For use by a person under the age of eight years.  
38 (2) ~~With an engine capacity of 70 cubic centimeter displacement or greater for~~  
39 ~~use by a person less than 12 years of age.~~ In violation of the Age Restriction  
40 Warning Label affixed by the manufacturer as required by the applicable  
41 American National Standards Institute/Specialty Vehicle Institute of  
42 America (ANSI/SVIA) design standard for use by a person less than 16  
43 years of age.  
44 (3) ~~With an engine capacity of greater than 90 cubic centimeter displacement for~~  
45 ~~use by a person less than 16 years of age."~~  
46

47 **PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION**

48  
49 **ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY**

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

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

**"§ 8-58.50. Purpose.**

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

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

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

**"§ 8-58.51. Definitions.**

The following definitions apply in this Part:

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

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

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

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

a. An audit report prepared by an auditor, which may include the scope and date of the audit and the information gained in the audit, together with exhibits and appendices and may include conclusions, recommendations, exhibits, and appendices.

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



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

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

6    **"§ 8-58.52. Applicability.**

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

9                             (1)    Article 7 of Chapter 74.

10                            (2)    Chapter 104E.

11                            (3)    Article 25 of Chapter 113.

12                            (4)    Articles 1, 4, and 7 of Chapter 113A.

13                            (5)    Article 9 of Chapter 130A, except as provided in subsection (b) of this  
14                             section.

15                            (6)    Articles 21, 21A, and 21B of Chapter 143.

16                            (7)    Part 1 of Article 7 of Chapter 143B.

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

20    **"§ 8-58.53. Environmental audit report; privilege.**

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

25                            (1)    Information obtained by observation of an enforcement agency.

26                            (2)    Information obtained from a source independent of the environmental audit.

27                            (3)    Documents, communication, data, reports, or other information required to  
28                             be collected, maintained, otherwise made available, or reported to an  
29                             enforcement agency or any other entity by environmental laws, permits,  
30                             orders, consent agreements, or as otherwise provided by law.

31                            (4)    Documents prepared either prior to the beginning of the environmental audit  
32                             or subsequent to the completion date of the audit report and, in all cases, any  
33                             documents prepared independent of the audit or audit report.

34                            (5)    Documents prepared as a result of multiple or continuous self-auditing  
35                             conducted in an effort to intentionally avoid liability for violations.

36                            (6)    Information that is knowingly misrepresented or misstated or that is  
37                             knowingly deleted or withheld from an environmental audit report, whether  
38                             or not included in a subsequent environmental audit report.

39                            (7)    Information in instances where the material shows evidence of  
40                             noncompliance with environmental laws, permits, orders, consent  
41                             agreements, and the owner or operator failed to either promptly take  
42                             corrective action or eliminate any violation of law identified during the  
43                             environmental audit within a reasonable period of time.

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

49                   (c)    Nothing in this Part shall be construed to restrict a party in a proceeding before the  
50                             Industrial Commission from obtaining or discovering any evidence necessary or appropriate for  
51                             the proof of any issue pending in an action before the Commission, regardless of whether

1 evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to  
2 prevent the admissibility of evidence that is otherwise relevant and admissible in a proceeding  
3 before the Industrial Commission, regardless of whether the evidence is privileged pursuant to  
4 this Part. Provided, however, the Commission, upon motion made by a party to the proceeding,  
5 may issue appropriate protective orders preventing disclosure of information outside of the  
6 Commission's proceeding.

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

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

14 **"§ 8-58.54. Waiver of privilege.**

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

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

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

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

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

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

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

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

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

38 **"§ 8-58.55. Notification of audit.**

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

46 **"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

47 In a civil or administrative proceeding, an enforcement agency may seek by motion a  
48 declaratory ruling on the issue of whether an environmental audit report is privileged. The court  
49 shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set  
50 forth in this section apply. In a civil proceeding, the court, after an in camera review, shall  
51 revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of

1 the environmental audit report was sought after the effective date of this Part and either of the  
2 following apply:

3 (1) The privilege is asserted for purposes of deception or evasion.

4 (2) The material shows evidence of significant noncompliance with applicable  
5 environmental laws; the owner or operator of the facility has not promptly  
6 initiated and pursued with diligence appropriate action to achieve  
7 compliance with these environmental laws or has not made reasonable  
8 efforts to complete any necessary permit application; and, as a result, the  
9 owner or operator of the facility did not or will not achieve compliance with  
10 applicable environmental laws or did not or will not complete the necessary  
11 permit application within a reasonable period of time.

12 **"§ 8-58.57. Privilege in criminal proceedings.**

13 The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

14 **"§ 8-58.58. Burden of proof.**

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

20 **"§ 8-58.59. Stipulations; declaratory rulings.**

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

27 **"§ 8-58.60. Construction of Part.**

28 Nothing in this Part limits, waives, or abrogates any of the following:

29 (1) The scope or nature of any statutory or common law privilege, including the  
30 work-product privilege or the attorney-client privilege.

31 (2) Any existing ability or authority under State law to challenge privilege.

32 (3) An enforcement agency's ability to obtain or use documents or information  
33 that the agency otherwise has the authority to obtain under State law adopted  
34 pursuant to federally delegated programs.

35 **"§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative  
36 penalties and fines.**

37 (a) An owner or operator of a facility is immune from imposition of civil and  
38 administrative penalties and fines for a violation of environmental laws voluntarily disclosed  
39 subject to the requirements and criteria set forth in this section. Provided, however, that waiver  
40 of penalties and fines shall not be granted until the applicable enforcement agency has certified  
41 that the violation was corrected within a reasonable period of time. If compliance is not  
42 certified by the enforcement agency, the enforcement agency shall retain discretion to assess  
43 penalties and fines for the violation.

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

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

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

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

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

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

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

39          **"§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

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

45          **"§ 8-58.63. Preemption of local laws.**

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

49          **SECTION 4.1.(b)** No later than 30 days after this bill becomes law, the  
50 Department of Environment and Natural Resources shall submit Part 7D of Chapter 8 of the  
51 General Statutes, Environmental Audit Privilege and Limited Immunity, as enacted by this

1 section, to the United States Environmental Protection Agency and shall request the Agency's  
2 approval to implement the Part in concert with the State's legal authority to continue  
3 administering delegated, approved, or authorized federal environmental programs within the  
4 State.

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

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

14  
15 **STUDY (1) COMPUTER EQUIPMENT, TELEVISION, AND ELECTRONICS**  
16 **RECYCLING PROGRAM AND (2) UTILITY-SCALE SOLAR PROJECTS IN THE**  
17 **STATE AND THE ADVISABILITY OF ESTABLISHING PERMITTING AND**  
18 **RECYCLING REQUIREMENTS FOR SUCH PROJECTS**

19 **SECTION 4.2.(a)** The Department of Environment and Natural Resources shall, in  
20 consultation with the North Carolina League of Municipalities, the North Carolina Association  
21 of County Commissioners, the Consumer Electronics Association, the Retail Merchants  
22 Association, and representatives of the recycling and waste management industries, study  
23 North Carolina's recycling requirements for discarded computer equipment and televisions. In  
24 conducting this study, the Department shall consider (i) the changing waste stream, including  
25 the transition from televisions containing cathode ray tubes to flat screen televisions; (ii) the  
26 current status of North Carolina's recycling system, including cost and financing issues, and  
27 options that may be available to reduce costs and establish sufficient funding to cover necessary  
28 costs; (iii) opportunities for more efficient and effective recycling systems; and (iv) any other  
29 issue the Department deems relevant. The Department shall report its findings, including  
30 specific recommendations for legislative action, to the Environmental Review Commission on  
31 or before April 1, 2016.

32 **SECTION 4.2.(b)** The Department of Environment and Natural Resources shall  
33 study issues associated with siting and operation of utility-scale solar projects in the State. The  
34 Department shall report its findings, including specific recommendations for legislative action,  
35 to the Environmental Review Commission on or before April 1, 2016. In the conduct of this  
36 study, the Department shall examine and report on all of the following issues:

- 37 (1) The current number of utility-scale solar projects installed in North Carolina,  
38 as well as those projects currently under construction, and projections for  
39 future growth of utility-scale solar projects anticipated in the State. For  
40 projects installed, and for those under construction, the Department shall  
41 provide information on the location, the number of solar panels included in  
42 the project, the power to be generated from the project, and whether the land  
43 on which the project is located is leased or owned by the project's owner. For  
44 projects installed, and for those under construction, the Department shall  
45 also estimate all power expected to be generated from these projects in total  
46 and the effect of this contribution to the electrical grid in terms of stability  
47 and reliability.
- 48 (2) Current State and federal law governing siting and operation of utility-scale  
49 solar projects. In addition, the Department shall review other state laws  
50 governing utility-scale solar projects.

- 1 (3) Landowner concerns that may arise from siting and operation of utility-scale  
2 solar projects, including liability issues.
- 3 (4) Potential environmental impacts associated with utility-scale solar projects,  
4 including the following:
- 5 a. Waste management issues associated with solar panels, and  
6 particularly the advisability of establishing a requirement that such  
7 panels be recycled. In assessing the need for such a program, the  
8 Department shall identify the following:
- 9 1. Materials included in panels that may be recyclable.
- 10 2. Materials included in panels that may be considered  
11 hazardous, and which would pose a threat to public health,  
12 safety, and welfare; the environment; or natural resources, if  
13 improperly disposed.
- 14 3. Costs associated with the separation of any hazardous  
15 components contained in solar panels.
- 16 4. The current market for any recyclable components contained  
17 in solar panels.
- 18 5. The State's capacity for disposal of materials from solar  
19 panels in landfills.
- 20 b. The impervious and pervious nature of solar panels and any potential  
21 stormwater runoff issues.
- 22 (5) The advisability of establishing a permitting process, similar to that in place  
23 for wind energy facilities under Article 21C of Chapter 143 of the General  
24 Statutes.
- 25

## 26 PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS 27 FOR WOOD HEATERS

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

### 29 "§ 143-215.107. Air quality standards and classifications.

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

- 33 ...
- 34 (10) ~~To~~ Except as provided in subsection (h) of this section, to develop and adopt  
35 standards and plans necessary to implement requirements of the federal  
36 Clean Air Act and implementing regulations adopted by the United States  
37 Environmental Protection Agency.

38 ...

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

- 42 (1) Issue rules limiting emissions from wood heaters to implement the federal  
43 regulations described in this subsection.
- 44 (2) Enforce against a manufacturer, distributor, or consumer the federal  
45 regulations described in this subsection."

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

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

1  
2 **AMEND RISK-BASED REMEDIATION PROVISIONS**

3 **SECTION 4.7.(a)** Part 8 of Article 9 of Chapter 130A of the General Statutes reads  
4 as rewritten:

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

6 **"§ 130A-310.65. Definitions.**

7 As used in this Part:

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

- 1 (11) "Systemic toxicant" means any substance that may enter the body and have a  
2 harmful effect other than causing cancer.
- 3 (12) "Unrestricted use standards" means contaminant concentrations for each  
4 environmental medium that are acceptable for all uses; that are protective of  
5 public health, safety, and welfare and the environment; and that comply with  
6 generally applicable standards, guidance, or methods established by statute  
7 or adopted, published, or implemented by the Commission or the  
8 Department.

9 **"§ 130A-310.66. Purpose.**

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

15 **"§ 130A-310.67. Applicability.**

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

- 18 (1) The Inactive Hazardous Sites Response Act of 1987 under Part 3 of Article 9  
19 of Chapter 130A of the General Statutes, including voluntary actions under  
20 G.S. 130A-310.9 of that act, and rules promulgated pursuant to those  
21 statutes.
- 22 (2) The hazardous waste management program administered by the State  
23 pursuant to the federal Resource Conservation and Recovery Act of 1976,  
24 Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended,  
25 and Article 9 of Chapter 130A of the General Statutes.
- 26 (3) The solid waste management program administered pursuant to Article 9 of  
27 Chapter 130A of the General Statutes.
- 28 (4) The federal Superfund program administered in part by the State pursuant to  
29 the Comprehensive Environmental Response, Compensation, and Liability  
30 Act of 1980, Public Law 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as  
31 amended, the Superfund Amendments and Reauthorization Act of 1986,  
32 Public Law 99-499, 100 Stat. 1613, as amended, and under Part 4 of Article  
33 9 of Chapter 130A of the General Statutes.
- 34 (5) The groundwater protection corrective action requirements adopted by the  
35 Commission pursuant to Article 21 of Chapter 143 of the General Statutes.
- 36 (6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and 2  
37 of Article 21A of Chapter 143 of the General ~~Statutes~~. Statutes, except with  
38 respect to those sites identified in subdivision (1a) of subsection (b) of this  
39 section.

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

- 42 (1) The Leaking Petroleum Underground Storage Tank Cleanup program under  
43 Part 2A of Article 21A of Chapter 143 of the General Statutes and rules  
44 promulgated pursuant to that statute.
- 45 (1a) Leaking petroleum aboveground storage tanks and other sources of  
46 petroleum releases governed by Part 7 of Article 21A of Chapter 143 of the  
47 General Statutes and rules promulgated pursuant to that Part.
- 48 (2) The Dry-Cleaning Solvent Cleanup program under Part 6 of Article 21A of  
49 Chapter 143 of the General Statutes and rules promulgated pursuant to that  
50 statute.



- 1 (3) The pre-1983 landfill assessment and remediation program established under  
2 G.S. 130A-310.6(c) through (g).  
3 (4) The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter  
4 130A of the General Statutes and rules promulgated pursuant to that Part.  
5 (5) Animal waste management systems permitted under Part 1 or Part 1A of  
6 Article 21 of Chapter 143 of the General Statutes.

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

9 **"§ 130A-310.68. Remediation standards.**

10 ...

11 (b) Site-specific remediation standards shall be developed for each medium as provided  
12 in this subsection to achieve remediation that eliminates or reduces to protective levels any  
13 substantial present or probable future risk to human health, including sensitive subgroups, and  
14 the environment based upon the present or currently planned future use of the property  
15 comprising the site. Site-specific remediation standards shall be developed in accordance with  
16 all of the following:

- 17 (1) Remediation methods and technologies that result in emissions of air  
18 pollutants shall comply with applicable air quality standards adopted by the  
19 Commission.
- 20 (2) The site-specific remediation standard for surface waters shall be the water  
21 quality standards adopted by the Commission.
- 22 (3) The current and probable future use of groundwater shall be identified and  
23 protected. Site-specific sources of contaminants and potential receptors shall  
24 be identified. Potential receptors must be protected, controlled, or eliminated  
25 whether the receptors are located on or off the site where the source of  
26 contamination is located. Natural environmental conditions affecting the fate  
27 and transport of contaminants, such as natural attenuation, shall be  
28 determined by appropriate scientific methods.
- 29 (4) Permits for facilities located at sites covered by any of the programs or  
30 requirements set out in G.S. 130A-310.67(a) shall contain conditions to  
31 avoid exceedances of applicable groundwater standards adopted by the  
32 Commission pursuant to Article 21 of Chapter 143 of the General Statutes  
33 due to operation of the facility.
- 34 (5) Soil shall be remediated to levels that no longer constitute a continuing  
35 source of groundwater contamination in excess of the site-specific  
36 groundwater remediation standards approved under this Part.
- 37 (6) Soil shall be remediated to unrestricted use standards on residential property  
38 with the following exceptions:
- 39 a. For mixed-use developments where the ground level uses are  
40 nonresidential and where all potential exposure to contaminated soil  
41 has been eliminated, the Department may allow soil to remain on the  
42 site in excess of unrestricted use standards.
- 43 b. If soil remediation is impracticable because of the presence of  
44 preexisting structures or impracticability of removal, all areas of the  
45 real property at which a person may come into contact with soil shall  
46 be remediated to unrestricted use standards, and, on all other areas of  
47 the real property, engineering and institutional controls that are  
48 sufficient to protect public health, safety, and welfare and the  
49 environment shall be implemented and maintained.

- 1 (7) The potential for human inhalation of contaminants from the outdoor air and  
2 other site-specific indoor air exposure pathways shall be considered, if  
3 applicable.
- 4 (8) The site-specific remediation standard shall protect against human exposure  
5 to contamination through the consumption of contaminated fish or wildlife  
6 and through the ingestion of contaminants in surface water or groundwater  
7 supplies.
- 8 (9) For known or suspected carcinogens, site-specific remediation standards  
9 shall be established at exposures that represent an excess lifetime cancer risk  
10 of one in 1,000,000. The site-specific remediation standard may depart from  
11 the one-in-1,000,000 risk level based on the criteria set out in 40 Code of  
12 Federal Regulations § 300.430(e)(9)(July 1, 2003 Edition). The cumulative  
13 excess lifetime cancer risk to an exposed individual shall not be greater than  
14 one in 10,000 based on the sum of carcinogenic risk posed by each  
15 contaminant present.
- 16 (10) For systemic toxicants, site-specific remediation standards shall represent  
17 levels to which the human population, including sensitive subgroups, may be  
18 exposed without any adverse health effect during a lifetime or part of a  
19 lifetime. Site-specific remediation standards for systemic toxicants shall  
20 incorporate an adequate margin of safety and shall take into account cases  
21 where two or more systemic toxicants affect the same organ or organ  
22 system.
- 23 (11) The site-specific remediation standards for each medium shall be adequate to  
24 avoid foreseeable adverse effects to other media or the environment that are  
25 inconsistent with the risk-based approach under this Part.

26 ...

27 **"§ 130A-310.71. Review and approval of proposed remedial action plans.**

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

- 32 (1) Determine whether site-specific remediation standards are appropriate for a  
33 particular contaminated site. In making this determination, the Department  
34 shall consider proximity of the contamination to water supply wells or other  
35 receptors; current and probable future reliance on the groundwater as a water  
36 supply; current and anticipated future land use; environmental impacts; and  
37 the feasibility of remediation to unrestricted use standards.
- 38 (2) Determine whether the party conducting the remediation has adequately  
39 demonstrated through modeling or other scientific means acceptable to the  
40 Department that no contamination will migrate to ~~adjacent off-site property~~  
41 at levels above unrestricted use ~~standards~~standards, except as may remain  
42 pursuant to a cleanup conducted pursuant to G.S. 130A-310.73A(a)(2).
- 43 (3) Determine whether the proposed remedial action plan meets the  
44 requirements of G.S. 130A-310.69.
- 45 (4) Determine whether the proposed remedial action plan meets the  
46 requirements of any other applicable remediation program except those  
47 pertaining to remediation standards.
- 48 (5) Establish the acceptable level or range of levels of risk to public health,  
49 safety, and welfare and to the environment.
- 50 (6) Establish, for each contaminant, the maximum allowable quantity,  
51 concentration, range, or other measures of contamination that will remain at

1 the contaminated site at the conclusion of the contaminant-reduction phase  
2 of the remediation.

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

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

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

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

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

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

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

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

51 ...

1 **"§ 130A-310.73. Attainment of the remediation standards.**

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

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

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

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

50 (d) The Department shall issue a final decision on a request for a determination that  
51 remediation has been completed to approved standards and that no further remediation beyond

1 that specified in the approved remedial action plan is required within 180 days after receipt of a  
2 complete final report. Failure of the Department to issue a final decision on a no further  
3 remediation determination within 180 days after receipt of a complete final report and request  
4 for a determination of no further remediation may be treated as a denial of the request for a no  
5 further remediation determination. The responsible person may seek review of a denial of a  
6 request for a release from further remediation as provided in Article 3 of Chapter 150B of the  
7 General Statutes.

8 **"§ 130A-310.73A. Remediation of sites with off-site migration of contaminants.**

9 (a) Contaminated sites at which contamination has migrated to off-site properties may  
10 be remediated pursuant to this Part consistent with the remediation standards set out in  
11 G.S. 130A-310.68 if either of the following occur:

12 (1) The person who proposes to conduct the remediation pursuant to this Part  
13 remediates the contaminated off-site property to unrestricted use standards.

14 (2) The person who proposes to conduct the remediation pursuant to this Part (i)  
15 provides the owner of the contaminated off-site property with a copy of this  
16 Part and the publication produced by the Department pursuant to subsection  
17 (b) of this section and (ii) obtains written consent from the owner of the  
18 contaminated off-site property for the person to remediate the contaminated  
19 off-site property using site-specific remediation standards pursuant to this  
20 Part; provided that the site-specific remediation standards shall not allow  
21 concentrations of contaminants on the off-site property to increase above the  
22 levels present on the date the written consent is obtained. Written consent  
23 from the owner of the off-site property shall be on a form prescribed by the  
24 Department and include an affirmation that the owner has received and read  
25 the publication and authorizes the person to remediate the owner's property  
26 using site-specific remediation standards pursuant to this Part.

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

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

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

43 **"§ 130A-310.74. Compliance with other laws.**

44 Where a site is covered by an agreement under the Brownfields Property Reuse Act of  
45 1997, as codified as Part 5 of Article 9 of Chapter 130A of the General Statutes, any work  
46 performed by the prospective developer pursuant to that agreement is not required to comply  
47 with this Part, but any work not covered by such agreement and performed at the site by  
48 another person not a party to that agreement may be performed pursuant to this Part.

49 **"§ 130A-310.75. Use of registered environmental consultants.**

50 The Department may approve the use of a registered environmental consultant to provide  
51 oversight for the assessment and remediation of a site under this ~~Part~~ Part based on the risk

1 posed by the site and the availability of Department staff for oversight of remediation activities.  
2 If remediation under this Part is not undertaken voluntarily, the Department may not require the  
3 use of a registered environmental consultant to provide oversight for the assessment and  
4 remediation of a site under this Part.

5 **"§ 130A-310.76. Fees; permissible uses of fees.**

6 (a) ~~A person who undertakes remediation of environmental contamination under~~  
7 ~~site-specific remediation standards as provided in G.S. 130A-310.68 shall pay a fee to the Fund~~  
8 ~~in an amount equal to four thousand five hundred dollars (\$4,500) for each acre or portion of an~~  
9 ~~acre of contamination, including any area that will become contaminated as a result of the~~  
10 ~~release; however, no person shall be required to pay more than one hundred twenty five~~  
11 ~~thousand dollars (\$125,000) to the Fund for any individual site, regardless of its size. This~~  
12 ~~one-time fee shall be payable at the time the person undertaking remediation submits the~~  
13 ~~remedial action plan to the Department. The following fees, payable to the Risk-Based~~  
14 ~~Remediation Fund established under G.S. 130A-310.76A, are applicable to activities under this~~  
15 Part:

16 (1) Application fee. – A person who proposes to conduct remediation pursuant  
17 to this Part shall pay an application fee due at the time a proposed remedial  
18 action plan is submitted to the Department for approval. The application fee  
19 shall not exceed five thousand dollars (\$5,000) for each acre or portion of an  
20 acre of contamination, including any area that will become contaminated as  
21 a result of the release; however, no person shall be required to pay more than  
22 one hundred thousand dollars (\$100,000) in fees attributable to this  
23 subdivision to the Fund, with the total amount owed calculated by the  
24 Department after evaluation of the factors set forth in subsection (a1) of this  
25 section and any rules promulgated thereunder.

26 (2) Oversight fee. – A person who has been approved by the Department to  
27 conduct a remedial action plan pursuant to this Part shall pay an oversight  
28 fee to the Department within 30 days of such approval or at such other time  
29 as the Department may authorize. The total ongoing oversight fees shall not  
30 exceed five hundred dollars (\$500.00) for each acre or portion of an acre of  
31 contamination, including any area that will become contaminated as a result  
32 of the release; however, no person shall be required to pay more than  
33 twenty-five thousand dollars (\$25,000) in fees attributable to this subdivision  
34 to the Fund, with the total amount owed calculated by the Department after  
35 evaluation of the factors set forth in subsection (a1) of this section and any  
36 rules promulgated thereunder.

37 (a1) The Department shall take all of the following factors into account prior to imposing  
38 a fee on a person pursuant to subsection (a) of this section and provide the person written  
39 documentation of the Department's findings with respect to each factor at the time the fee is  
40 imposed:

41 (1) The size of the site subject to a proposed remedial action plan.

42 (2) Whether groundwater contamination from the site has migrated, or is likely  
43 to migrate, to off-site properties.

44 (3) The complexity of the work to be conducted at a site under a proposed  
45 remedial action plan.

46 (4) The resources that the Department will need to evaluate and oversee the  
47 work to be conducted at a site under a proposed remedial action plan and the  
48 resources the Department will need to monitor a site after completion of  
49 remediation. If such work, or any portion thereof, is to be performed by a  
50 registered environmental consultant in accordance with the provisions of

1 G.S. 130A-310.75, the Department shall take this into account accordingly  
2 in imposing a reduced fee.

3 (b) Funds collected pursuant to subsection (a) of this section may be used only for the  
4 following purposes:

5 (1) To pay for administrative and operating expenses necessary to implement  
6 this Part, including the full cost of the Department's activities associated  
7 with any human health or ecological risk assessments, groundwater  
8 modeling, financial assurance matters, or community outreach.

9 (2) To establish, administer, and maintain a system for the tracking of land-use  
10 restrictions recorded at sites that are remediated pursuant to this Part.

11 (c) The Department shall report to the Joint Legislative Commission on Governmental  
12 Operations, the Environmental Review Commission, and the Fiscal Research Division on or  
13 before October 1 of each year on the amounts and sources of funds collected by year received  
14 pursuant to this Part, the amounts and sources of those funds paid into the Risk-Based  
15 Remediation Fund established under G.S. 130A-310.76A, the number of acres of  
16 contamination for which funds have been received pursuant to subsection (a) of this section,  
17 and a detailed annual accounting of how the funds collected pursuant to this Part have been  
18 utilized by the Department to advance the purposes of this Part.

19 (d) The Commission may adopt rules to implement the requirements of subsection (a)  
20 of this section.

21 **"§ 130A-310.76A. Risk-Based Remediation Fund.**

22 There is established under the control and direction of the Department the Risk-Based  
23 Remediation Fund. This fund shall be a revolving fund consisting of fees collected pursuant to  
24 G.S. 130A-310.76 and other monies paid to it or recovered by or on behalf of the Department.  
25 The Risk-Based Remediation Fund shall be treated as a nonreverting special trust fund pursuant  
26 to G.S. 147-69.2 and G.S. 147-69.3, except that interest and other income received on the Fund  
27 balance shall be treated as set forth in G.S. 147-69.1(d).

28 ...."

29 **SECTION 4.7.(b)** Article 21A of Chapter 143 of the General Statutes is amended  
30 by adding a new Part to read:

31 "Part 7. Risk-Based Remediation for Petroleum Releases from Aboveground Storage Tanks and  
32 Other Sources.

33 **"§ 143-215.104AA. Standards for petroleum releases from aboveground storage tanks**  
34 **and other sources.**

35 (a) Legislative Findings and Intent. –

36 (1) The General Assembly finds the following:

37 a. Risk-based corrective action gives the State flexibility in requiring  
38 different levels of cleanup based on scientific analysis of different  
39 site characteristics and allowing no action or no further action at sites  
40 that pose little risk to human health or the environment.

41 b. A risk-based approach to the cleanup of environmental damage can  
42 adequately protect human health and the environment while  
43 preventing excessive or unproductive cleanup efforts, thereby  
44 assuring that limited resources are directed toward those sites that  
45 pose the greatest risk to human health and the environment.

46 c. Risk-based corrective action has successfully been used to clean up  
47 contamination from petroleum underground storage tanks, as well as  
48 contamination at sites governed by other environmental programs.

49 (2) The General Assembly intends the following:

50 a. To direct the Commission to adopt rules that will provide for  
51 risk-based assessment and cleanup of discharges and releases of

1 petroleum from aboveground storage tanks and other sources. These  
2 rules are intended to combine groundwater standards that protect  
3 current and potential future uses of groundwater with risk-based  
4 analysis to determine the appropriate cleanup levels and actions.

5 b. That these rules apply to all discharges or releases that are reported  
6 on or after the date the rules become effective in order to ascertain  
7 whether cleanup is necessary, and if so, the appropriate level of  
8 cleanup.

9 c. That these rules may be applied to any discharge or release that has  
10 been reported at the time the rules become effective at the discretion  
11 of the Commission.

12 d. That these rules, and decisions of the Commission and the  
13 Department in implementing these rules, facilitate the completion of  
14 more cleanups in a shorter period of time.

15 (b) The Commission shall adopt rules to establish a risk-based approach for the cleanup  
16 of discharges and releases of petroleum from aboveground storage tanks and other sources. At  
17 a minimum, the rules shall address all of the following:

18 (1) The circumstances where site-specific information should be considered.

19 (2) Criteria for determining acceptable cleanup levels.

20 (3) The acceptable level or range of levels of risk to human health and the  
21 environment. Rules that use the distance between a source area of a  
22 confirmed discharge or release to a water supply well or a private drinking  
23 water well, as those terms are defined under G.S. 87-85, shall include a  
24 determination whether a nearby well is likely to be affected by the discharge  
25 or release as a factor in determining levels of risk.

26 (4) Remediation standards and processes.

27 (5) Requirements for financial assurance, where the Commission deems it  
28 necessary.

29 (6) Appropriate fees to be applied to persons who undertake remediation of  
30 environmental contamination under site-specific remediation pursuant to this  
31 Part to pay for administrative and operating expenses necessary to  
32 implement this Part and rules adopted to implement this Part.

33 (c) The Commission may require an owner, operator, or landowner to provide  
34 information necessary to determine the degree of risk to human health and the environment that  
35 is posed by a discharge or release of petroleum from an aboveground storage tank or other  
36 source.

37 (d) If the Commission concludes that a discharge or release poses a degree of risk to  
38 human health or the environment that is no greater than the acceptable level of risk established  
39 by the Commission, the Commission shall notify an owner, operator, or landowner who  
40 provides the information required by subsection (c) of this section that no cleanup, further  
41 cleanup, or further action will be required unless the Commission later determines that the  
42 discharge or release poses an unacceptable level of risk or a potentially unacceptable level of  
43 risk to human health or the environment. If the Commission concludes that a discharge or  
44 release poses a degree of risk to human health or the environment that requires further cleanup,  
45 the Commission shall notify the owner, operator, or landowner who provides the information  
46 required by subsection (c) of this section of the cleanup method approved by the Commission.  
47 This section shall not be construed to prohibit an owner, operator, or landowner from selecting  
48 a cleanup method other than the cleanup method approved by the Commission so long as the  
49 Commission determines that the alternative cleanup method will address imminent threats to  
50 human health and the environment.



- 1       (e) Remediation of sites with off-site migration shall be subject to the following  
2 provisions:
- 3           (1) Contaminated sites at which contamination has migrated to off-site  
4 properties may be remediated pursuant to this Part if either of the following  
5 occur:
- 6           a. The person who proposes to conduct the remediation pursuant to this  
7 Part remediates the contaminated off-site property to unrestricted use  
8 standards.
- 9           b. The person who proposes to conduct the remediation pursuant to this  
10 Part (i) provides the owner of the contaminated off-site property with  
11 a copy of this Part and the publication produced by the Department  
12 pursuant to subdivision (2) of this subsection and (ii) obtains written  
13 consent from the owner of the contaminated off-site property for the  
14 person to remediate the contaminated off-site property using  
15 site-specific remediation standards pursuant to this Part. Provided  
16 that the site-specific remediation standards shall not allow  
17 concentrations of contaminants on the off-site property to increase  
18 above the levels present on the date the written consent is obtained.  
19 Written consent from the owner of the off-site property shall be on a  
20 form prescribed by the Department and include an affirmation that  
21 the owner has received and read the publication and authorizes the  
22 person to remediate the owner's property using site-specific  
23 remediation standards pursuant to this Part.
- 24           (2) In order to inform owners of contaminated off-site property of the issues and  
25 liabilities associated with the contamination on their property, the  
26 Department, in consultation with the Consumer Protection Division of the  
27 North Carolina Department of Justice and the North Carolina Real Estate  
28 Commission, shall develop and make available a publication entitled  
29 "Contaminated Property: Issues and Liabilities" to provide information on  
30 the nature of risk-based remediation and how it differs from remediation to  
31 unrestricted use standards, potential health impacts that may arise from  
32 residual contamination, as well as identification of liabilities that arise from  
33 contaminated property and associated issues, including potential impacts to  
34 real estate transactions and real estate financing. The Department shall  
35 update the publication as necessary.
- 36           (3) If, after issuance of a no further action determination, the Department  
37 determines that additional remedial action is required for a contaminated  
38 off-site property, the responsible party shall be liable for the additional  
39 remediation deemed necessary.
- 40           (4) Nothing in this subsection shall be construed to preclude or impair any  
41 person from obtaining any and all other remedies allowed by law.
- 42       (f) This section shall not be construed to limit the authority of the Commission to  
43 require investigation, initial response, and abatement of a discharge or release pending a  
44 determination by the Commission under subsection (d) of this section as to whether cleanup,  
45 further cleanup, or further action will be required. Notwithstanding any authority provided  
46 under this section to the Commission and the Department allowing use of a risk-based approach  
47 for the cleanup of discharges and releases of petroleum from aboveground storage tanks and  
48 other sources, a responsible party shall, at a minimum, do all of the following:
- 49           (1) Perform initial abatement actions to (i) measure for the presence of a release  
50 where contamination is most likely to be present and to confirm the precise  
51 source of the release; (ii) determine the possible presence of free product and

1 to begin free product removal immediately; (iii) continue to monitor and  
2 mitigate any additional fire, vapor, or explosion hazards posed by vapors or  
3 by free product; and (iv) submit a report summarizing these initial abatement  
4 actions within 20 days after a discharge or release. For purposes of this  
5 subdivision, the term "free product" means a non-aqueous phase liquid  
6 which may be present within the saturated zone or in surface water.

7 (2) Remove, or in situ remediate, contaminated soil or free product that would  
8 act as a continuing source of contamination to groundwater. Actions  
9 conducted in conformance with this subdivision shall require approval by the  
10 Department.

11 (g) This section shall apply to discharges of petroleum from aboveground storage tanks  
12 and other sources not otherwise governed by the provisions of G.S. 143-215.94V."

13 **SECTION 4.7.(c)** G.S. 130A-310.8 is amended by adding a new subsection to  
14 read:

15 **"§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.**

16 ...  
17 (i) If a site subject to the requirements of this section is remediated pursuant to the  
18 requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of  
19 Residual Contamination may be prepared and filed in accordance with G.S. 130A-310.71(a)(9),  
20 in lieu of a Notice prepared and filed pursuant to this section."

21 **SECTION 4.7.(d)** G.S. 143-215.85A is amended by adding a new subsection to  
22 read:

23 **"§ 143-215.85A. Recordation of oil or hazardous substance discharge sites.**

24 ...  
25 (g) If a site subject to the requirements of this section is remediated pursuant to the  
26 requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of  
27 Residual Contamination may be prepared and filed in accordance with G.S. 130A-310.71(a)(9),  
28 in lieu of a Notice prepared and filed pursuant to this section."

29 **SECTION 4.7.(e)** G.S. 143B-279.10 is amended by adding a new subsection to  
30 read:

31 **"§ 143B-279.10. Recordation of contaminated sites.**

32 ...  
33 (i) If a site subject to the requirements of this section is remediated pursuant to the  
34 requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of  
35 Residual Contamination may be prepared and filed in accordance with G.S. 130A-310.71(a)(9),  
36 in lieu of a Notice prepared and filed pursuant to this section."

37 **SECTION 4.7.(f)** G.S. 130A-310.10(a)(8a) is repealed.

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

- 40 (1) Develop internal processes to govern remediation of contaminated sites  
41 conducted under this Part that are consistent across all programs or  
42 requirements identified in subsection (a) of G.S. 130A-310.67.
- 43 (2) Develop a coordinated program and processes for remediation of  
44 contaminated sites conducted under this Part that are subject to more than  
45 one program or requirement identified in subsection (a) of  
46 G.S. 130A-310.67.
- 47 (3) Develop reforms to expand the role, and otherwise enhance the use of,  
48 registered environmental consultants approved to implement and oversee  
49 voluntary remedial actions pursuant to this Part.
- 50 (4) Examine the criteria for development of site-specific remediation standards  
51 pursuant to this Part, specifically distances between water bodies and other

1 receptors to plumes of contamination that originate from the source, to  
2 ensure that such standards are protective of public health, safety, and  
3 welfare; the environment; and natural resources.

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

8 **SECTION 4.8A.(a)** The Department of Environment and Natural Resources, in  
9 conjunction with the Department of Health and Human Services, shall study the State's  
10 groundwater standards under 15A NCAC 2L, or State Interim Allowable Maximum  
11 Contaminant Levels (IMAC), as applicable, as well as State health screening levels, for  
12 hexavalent chromium and vanadium relative to other southeastern states' standards for these  
13 contaminants and the federal maximum contaminant levels (MCLs) for these contaminants  
14 under the Safe Drinking Water Act, in order to identify appropriate standards to protect public  
15 health, safety, and welfare; the environment; and natural resources. The Department shall also  
16 evaluate background standards for these contaminants where they naturally occur in  
17 groundwater in the State.

18 **SECTION 4.8A.(b)** The Department shall submit an interim report no later than  
19 November 1, 2015, and a final report no later than April 1, 2016, to the Environmental Review  
20 Commission and the Joint Legislative Oversight Committee on Health and Human Services on  
21 its activities conducted pursuant to subsection (a) of this section, together with any pertinent  
22 findings or recommendations, including any legislative proposals that it deems advisable.

23  
24 **MODIFY EFFECTIVE DATE FOR LIFE-OF-SITE PERMITS FOR SANITARY**  
25 **LANDFILLS AND TRANSFER STATIONS AND MAKE OTHER TECHNICAL,**  
26 **CLARIFYING, AND CONFORMING CHANGES**

27 **SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 reads as rewritten:

28 "SECTION 14.20.(a) G.S. 130A-294 reads as rewritten:

29 "**§ 130A-294. Solid waste management program.**

30 (a) The Department is authorized and directed to engage in research, conduct  
31 investigations and surveys, make inspections and establish a statewide solid waste management  
32 program. In establishing a program, the Department shall have authority to:

33 ...

- 34 (4) a. Develop a permit system governing the establishment and operation  
35 of solid waste management facilities. A landfill with a disposal area  
36 of 1/2 acre or less for the on-site disposal of land clearing and inert  
37 debris is exempt from the permit requirement of this section and shall  
38 be governed by G.S. 130A-301.1. Demolition debris from the  
39 decommissioning of manufacturing buildings, including electric  
40 generating stations, that is disposed of on the same site as the  
41 decommissioned buildings, is exempt from the permit requirement of  
42 this section and rules adopted pursuant to this section and shall be  
43 governed by G.S. 130A-301.3. The Department shall not approve an  
44 application for a new permit, the renewal of a permit, or a substantial  
45 amendment to a permit for a sanitary landfill, excluding demolition  
46 landfills as defined in the rules of the Commission, except as  
47 provided in subdivisions (3) and (4) of subsection (b1) of this  
48 section. No permit shall be granted for a solid waste management  
49 facility having discharges that are point sources until the Department  
50 has referred the complete plans and specifications to the Commission  
51 and has received advice in writing that the plans and specifications

1 are approved in accordance with the provisions of G.S. 143-215.1. In  
2 any case where the Department denies a permit for a solid waste  
3 management facility, it shall state in writing the reason for denial and  
4 shall also state its estimate of the changes in the applicant's proposed  
5 activities or plans that will be required for the applicant to obtain a  
6 permit.  
7

8 (a2) ~~Permits for sanitary landfills and transfer stations shall be issued for (i) a design and~~  
9 ~~operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued~~  
10 ~~for a design and operation phase of 10 years shall be subject to a limited review within five~~  
11 ~~years of the issuance date.~~the life-of-site of the facility unless revoked as otherwise provided  
12 under this Article or upon the expiration of any local government franchise required for the  
13 facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site"  
14 means the period from the initial receipt of solid waste at the facility until the Department  
15 approves final closure of the facility. Permits issued pursuant to this subsection shall take into  
16 account the duration of any permits previously issued for the facility and the remaining  
17 capacity at the facility.

18 (a3) As used in this section, the following definitions apply:

19 (1) "New permit" means any of the following:

- 20 a. An application for a permit for a solid waste management facility  
21 that has not been previously permitted by the Department. The term  
22 includes one site suitability review, the initial permit to construct,  
23 and one permit to operate.  
24 b. An application that proposes to expand the permitted activity of the  
25 waste management facility through an increase of ten percent (10%)  
26 or more in (i) the population of the geographic area to be served by  
27 the sanitary landfill; (ii) the quantity of solid waste to be disposed of  
28 in the sanitary landfill; or (iii) the geographic area to be served by the  
29 sanitary landfill.  
30 c. An application that includes a proposed expansion to the boundary of  
31 a waste disposal unit within a permitted solid waste management  
32 facility.  
33 d. An application that includes a proposed change in the categories of  
34 solid waste to be disposed of in the sanitary landfill.  
35 e. An application for a permit to be issued pursuant to  
36 G.S. 130A-294(a2), which is issued for a duration of less than a  
37 facility's life-of-site based upon permits previously issued to a  
38 facility.

39 (2) "Permit amendment" means any of the following:

- 40 a. An application for the five-year renewal of a permit for a permitted  
41 solid waste management facility or for a permit review of a permitted  
42 solid waste management facility. This sub-subdivision shall not  
43 apply to sanitary landfills or transfer stations.  
44 b. Any application that proposes a change in ownership or corporate  
45 structure of a permitted solid waste management facility.

46 (3) "Permit modification" means any of the following:

- 47 a. An application for any change to the plans approved in a permit for a  
48 solid waste management facility that does not constitute a "permit  
49 amendment" or a "new permit."  
50 b. An application for a five-year limited review of a 10-year permit,  
51 including review of the operations plan, closure plan, post-closure

1 plan, financial assurance cost estimates, environmental monitoring  
2 plans, and any other applicable plans for the facility.

3 (b) The Commission shall adopt and the Department shall enforce rules to implement a  
4 comprehensive statewide solid waste management program. The rules shall be consistent with  
5 applicable State and federal law; and shall be designed to protect the public health, safety, and  
6 welfare; preserve the environment; and provide for the greatest possible conservation of  
7 cultural and natural resources. Rules for the establishment, location, operation, maintenance,  
8 use, discontinuance, recordation, post-closure care of solid waste management facilities also  
9 shall be based upon recognized public health practices and procedures, including applicable  
10 epidemiological research and studies; hydrogeological research and studies; sanitary  
11 engineering research and studies; and current technological development in equipment and  
12 methods. The rules shall not apply to the management of solid waste that is generated by an  
13 individual or individual family or household unit on the individual's property and is disposed of  
14 on the individual's property.

15 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this  
16 section, a "substantial amendment" means either:

17 a. An increase of ten percent (10%) or more in:

- 18 1. The population of the geographic area to be served by the  
19 sanitary landfill;
- 20 2. The quantity of solid waste to be disposed of in the sanitary  
21 landfill; or
- 22 3. The geographic area to be served by the sanitary landfill.

23 b. A change in the categories of solid waste to be disposed of in the  
24 sanitary landfill or any other change to the application for a permit or  
25 to the permit for a sanitary landfill that the Commission or the  
26 Department determines to be substantial.

27 (2) A person who intends to apply for a new ~~permit, the renewal of a permit, or~~  
28 ~~a substantial amendment to a permit~~ for a sanitary landfill shall obtain, prior  
29 to applying for a permit, a franchise for the operation of the sanitary landfill  
30 from each local government having jurisdiction over any part of the land on  
31 which the sanitary landfill and its appurtenances are located or to be located.  
32 A local government may adopt a franchise ordinance under G.S. 153A-136  
33 or G.S. 160A-319. A franchise granted for a sanitary landfill shall be granted  
34 for the life-of-site of the landfill and shall include all of the following:

- 35 a. A statement of the population to be served, including a description of  
36 the geographic area.
- 37 b. A description of the volume and characteristics of the waste stream.
- 38 c. A projection of the useful life of the sanitary landfill.
- 39 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
- 40 e. The procedures to be followed for governmental oversight and  
41 regulation of the fees and rates to be charged by facilities subject to  
42 the franchise for waste generated in the jurisdiction of the franchising  
43 entity.
- 44 f. A facility plan for the sanitary landfill that shall include the  
45 boundaries of the proposed facility, proposed development of the  
46 facility ~~site in five-year operational phases, site,~~ the boundaries of all  
47 waste disposal units, final elevations and capacity of all waste  
48 disposal units, the amount of waste to be received per day in tons, the  
49 total waste disposal capacity of the sanitary landfill in tons, a  
50 description of environmental controls, and a description of any other  
51 waste management activities to be conducted at the facility. In

1 addition, the facility plan shall show the proposed location of soil  
2 borrow areas, leachate facilities, and all other facilities and  
3 infrastructure, including ingress and egress to the facility.

- 4 ...  
5 (4) An applicant for a new ~~permit, the renewal of a permit, or a substantial~~  
6 ~~amendment to a permit~~ for a sanitary landfill shall request each local  
7 government having jurisdiction over any part of the land on which the  
8 sanitary landfill and its appurtenances are located or to be located to issue a  
9 determination as to whether the local government has in effect a franchise,  
10 zoning, subdivision, or land-use planning ordinance applicable to the  
11 sanitary landfill and whether the proposed sanitary landfill, or the existing  
12 sanitary landfill as it would be operated under the ~~renewed or substantially~~  
13 ~~amended~~ permit, would be consistent with the applicable ordinances. The  
14 request to the local government shall be accompanied by a copy of the  
15 permit application and shall be delivered to the clerk of the local government  
16 personally or by certified mail. In order to serve as a basis for a  
17 determination that an application for a new ~~permit, the renewal of a permit,~~  
18 ~~or a substantial amendment to a permit~~ for a sanitary landfill is consistent  
19 with a zoning, subdivision, or land-use planning ordinance, an ordinance or  
20 zoning classification applicable to the real property designated in the permit  
21 application shall have been in effect not less than 90 days prior to the date  
22 the request for a determination of consistency is delivered to the clerk of the  
23 local government. The determination shall be verified or supported by  
24 affidavit signed by the chief administrative officer, the chief administrative  
25 officer's designee, clerk, or other official designated by the local government  
26 to make the determination and, if the local government states that the  
27 sanitary landfill as it would be operated under the ~~new, renewed, or~~  
28 ~~substantially amended~~ new permit is inconsistent with a franchise, zoning,  
29 subdivision, or land-use planning ordinance, shall include a copy of the  
30 ordinance and the specific reasons for the determination of inconsistency. A  
31 copy of the determination shall be provided to the applicant when the  
32 determination is submitted to the Department. The Department shall not act  
33 upon an application for a permit under this section until it has received a  
34 determination from each local government requested to make a  
35 determination by the applicant; provided that if a local government fails to  
36 submit a determination to the Department as provided by this subsection  
37 within 15 days after receipt of the request, the Department shall proceed to  
38 consider the permit application without regard to a franchise, local zoning,  
39 subdivision, and land-use planning ordinances. Unless the local government  
40 makes a subsequent determination of consistency with all ordinances cited in  
41 the determination or the sanitary landfill as it would be operated under the  
42 ~~new, renewed, or substantially amended~~ new permit is determined by a court  
43 of competent jurisdiction to be consistent with the cited ordinances, the  
44 Department shall attach as a condition of the permit a requirement that the  
45 applicant, prior to construction or operation of the sanitary landfill under the  
46 permit, comply with all lawfully adopted local ordinances cited in the  
47 determination that apply to the sanitary landfill. This subsection shall not be  
48 construed to affect the validity of any lawfully adopted franchise, local  
49 zoning, subdivision, or land-use planning ordinance or to affect the  
50 responsibility of any person to comply with any lawfully adopted franchise,  
51 local zoning, subdivision, or land-use planning ordinance. This subsection

1 shall not be construed to limit any opportunity a local government may have  
 2 to comment on a permit application under any other law or rule. This  
 3 subsection shall not apply to any facility with respect to which local  
 4 ordinances are subject to review under either G.S. 104E-6.2 or  
 5 G.S. 130A-293.

- 6 (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned  
 7 public utility" have the same meaning as in G.S. 143-215.107D(a).  
 8 Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no  
 9 franchise shall be required for a sanitary landfill used only to dispose of  
 10 waste generated by a coal-fired generating unit that is owned or operated by  
 11 an investor-owned utility subject to the requirements of G.S. 143-215.107D.

12 ...."

13 **SECTION 4.9.(b)** Section 14.20(a) of S.L. 2015-241 reads as rewritten:

14 **"SECTION 14.20.(c)** G.S. 130A-295.8 reads as rewritten:

15 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

16 (a) The Solid Waste Management Account is established as a nonreverting account  
 17 within the Department. All fees collected under this section shall be credited to the Account  
 18 and shall be used to support the solid waste management program established pursuant to  
 19 G.S. 130A-294.

20 (b) ~~As used in this section:~~

21 (1) ~~"Major permit modification" means an application for any change to the~~  
 22 ~~approved engineering plans for a sanitary landfill or transfer station~~  
 23 ~~permitted for a 10-year design capacity that does not constitute a "permit~~  
 24 ~~amendment," "new permit," or "permit modification."~~

25 (1a) ~~"New permit" means any of the following:~~

- 26 a. ~~An application for a permit for a solid waste management facility~~  
 27 ~~that has not been previously permitted by the Department. The term~~  
 28 ~~includes one site suitability review, the initial permit to construct,~~  
 29 ~~and one permit to operate the constructed portion of a phase included~~  
 30 ~~in the permit to construct.~~
- 31 b. ~~An application that proposes to expand the boundary of a permitted~~  
 32 ~~waste management facility for the purpose of expanding the~~  
 33 ~~permitted activity.~~
- 34 c. ~~An application that includes a proposed expansion to the boundary of~~  
 35 ~~a waste disposal unit within a permitted solid waste management~~  
 36 ~~facility.~~
- 37 d. ~~An application for a substantial amendment to a solid waste permit,~~  
 38 ~~as defined in G.S. 130A-294.~~

39 (2) ~~"Permit amendment" means any of the following:~~

- 40 a. ~~An application for a permit to construct and one permit to operate for~~  
 41 ~~the second and subsequent phases of landfill development described~~  
 42 ~~in the approved facility plan for a permitted solid waste management~~  
 43 ~~facility.~~
- 44 b. ~~An application for the five-year renewal of a permit for a permitted~~  
 45 ~~solid waste management facility or for a permit review of a permitted~~  
 46 ~~solid waste management facility.~~
- 47 c. ~~Any application that proposes a change in ownership or corporate~~  
 48 ~~structure of a permitted solid waste management facility.~~

49 (3) ~~"Permit modification" means any of the following:~~

- 1 a: An application for any change to the plans approved in a permit for a  
2 solid waste management facility that does not constitute a "permit  
3 amendment" or a "new permit".
- 4 b: A second or subsequent permit to operate for a constructed portion of  
5 a phase included in the permit to construct.
- 6 e: An application for a five year limited review of a 10 year permit,  
7 including review of the operations plan, closure plan, post closure  
8 plan, financial assurance cost estimates, environmental monitoring  
9 plans, and any other applicable plans for the facility.
- 10 (e) An applicant for a permit shall pay an application fee upon submission of an  
11 application according to the following schedule:
- 12 (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
13 solid waste, New Permit (Five Year) — \$25,000.
- 14 (1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
15 solid waste, New Permit (Ten Year) — \$38,500.
- 16 (2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
17 solid waste, Amendment (Five Year) — \$15,000.
- 18 (2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
19 solid waste, Amendment (Ten Year) — \$28,500.
- 20 (3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
21 solid waste, Modification (Five Year) — \$1,500.
- 22 (3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
23 solid waste, Major Modification (Ten Year) — \$7,500.
- 24 (4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
25 waste, New Permit (Five Year) — \$50,000.
- 26 (4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
27 waste, New Permit (Ten Year) — \$77,000.
- 28 (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
29 waste, Amendment (Five Year) — \$30,000.
- 30 (5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
31 waste, Amendment (Ten Year) — \$57,000.
- 32 (6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
33 waste, Modification (Five Year) — \$3,000.
- 34 (6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid  
35 waste, Major Modification (Ten Year) — \$15,000.
- 36 (7) Construction and Demolition Landfill accepting less than 100,000 tons/year  
37 of solid waste, New Permit (Five Year) — \$15,000.
- 38 (7a) Construction and Demolition Landfill accepting less than 100,000 tons/year  
39 of solid waste, New Permit (Ten Year) — \$22,500.
- 40 (8) Construction and Demolition Landfill accepting less than 100,000 tons/year  
41 of solid waste, Amendment (Five Year) — \$9,000.
- 42 (8a) Construction and Demolition Landfill accepting less than 100,000 tons/year  
43 of solid waste, Amendment (Ten Year) — \$16,500.
- 44 (9) Construction and Demolition Landfill accepting less than 100,000 tons/year  
45 of solid waste, Modification (Five Year) — \$1,500.
- 46 (9a) Construction and Demolition Landfill accepting less than 100,000 tons/year  
47 of solid waste, Major Modification (Ten Year) — \$4,500.
- 48 (10) Construction and Demolition Landfill accepting 100,000 tons/year or more  
49 of solid waste, New Permit (Five Year) — \$30,000.
- 50 (10a) Construction and Demolition Landfill accepting 100,000 tons/year or more  
51 of solid waste, New Permit (Ten Year) — \$46,000.



- 1           (11)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
2           of solid waste, Amendment (Five Year) — \$18,500.
- 3           (11a)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
4           of solid waste, Amendment (Ten Year) — \$34,500.
- 5           (12)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
6           of solid waste, Modification (Five Year) — \$2,500.
- 7           (12a)   Construction and Demolition Landfill accepting 100,000 tons/year or more  
8           of solid waste, Major Modification (Ten Year) — \$9,250.
- 9           (13)   Industrial Landfill accepting less than 100,000 tons/year of solid waste, New  
10          Permit (Five Year) — \$15,000.
- 11          (13a)   Industrial Landfill accepting less than 100,000 tons/year of solid waste, New  
12          Permit (Ten Year) — \$22,500.
- 13          (14)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
14          Amendment (Five Year) — \$9,000.
- 15          (14a)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
16          Amendment (Ten Year) — \$16,500.
- 17          (15)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
18          Modification (Five Year) — \$1,500.
- 19          (15a)   Industrial Landfill accepting less than 100,000 tons/year of solid waste,  
20          Major Modification (Ten Year) — \$4,500.
- 21          (16)   Industrial Landfill accepting 100,000 tons/year or more of solid waste, New  
22          Permit (Five Year) — \$30,000.
- 23          (16a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste, New  
24          Permit (Ten Year) — \$46,000.
- 25          (17)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
26          Amendment (Five Year) — \$18,500.
- 27          (17a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
28          Amendment (Ten Year) — \$34,500.
- 29          (18)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
30          Modification (Five Year) — \$2,500.
- 31          (18a)   Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
32          Major Modification (Ten Year) — \$9,250.
- 33          (19)   Tire Monofill, New Permit — \$1,750.
- 34          (19a)   Tire Monofill, New Permit (Ten Year) — \$2,500.
- 35          (20)   Tire Monofill, Amendment — \$1,250.
- 36          (20A)   Tire Monofill, Amendment (Ten Year) — \$2,000.
- 37          (21)   Tire Monofill, Modification — \$500.
- 38          (21A)   Tire Monofill, Major Modification — \$625.
- 39          (22)   Treatment and Processing, New Permit — \$1,750.
- 40          (23)   Treatment and Processing, Amendment — \$1,250.
- 41          (24)   Treatment and Processing, Modification — \$500.
- 42          (25)   Transfer Station, New Permit (Five Year) — \$5,000.
- 43          (25a)   Transfer Station, New Permit (Ten Year) — \$7,500.
- 44          (26)   Transfer Station, Amendment (Five Year) — \$3,000.
- 45          (26a)   Transfer Station, Amendment (Ten Year) — \$5,500.
- 46          (27)   Transfer Station, Modification (Five Year) — \$500.
- 47          (27a)   Transfer Station, Major Modification (Ten Year) — \$1,500.
- 48          (28)   Incinerator, New Permit — \$1,750.
- 49          (29)   Incinerator, Amendment — \$1,250.
- 50          (30)   Incinerator, Modification — \$500.
- 51          (31)   Large Compost Facility, New Permit — \$1,750.

- 1           (32) ~~Large Compost Facility, Amendment—\$1,250.~~  
2           (33) ~~Large Compost Facility, Modification—\$500.~~  
3           (34) ~~Land Clearing and Inert, New Permit—\$1,000.~~  
4           (35) ~~Land Clearing and Inert, Amendment—\$500.~~  
5           (36) ~~Land Clearing and Inert, Modification—\$250.~~  
6       (d) ~~A permitted solid waste management facility shall pay an annual permit fee on or~~  
7 ~~before 1 August of each year according to the following schedule:~~  
8           (1) ~~Municipal Solid Waste Landfill—\$3,500.~~  
9           (2) ~~Post-Closure Municipal Solid Waste Landfill—\$1,000.~~  
10          (3) ~~Construction and Demolition Landfill—\$2,750.~~  
11          (4) ~~Post-Closure Construction and Demolition Landfill—\$500.~~  
12          (5) ~~Industrial Landfill—\$2,750.~~  
13          (6) ~~Post-Closure Industrial Landfill—\$500.~~  
14          (7) ~~Transfer Station—\$750.~~  
15          (8) ~~Treatment and Processing Facility—\$500.~~  
16          (9) ~~Tire Monofill—\$500.~~  
17          (10) ~~Incinerator—\$500.~~  
18          (11) ~~Large Compost Facility—\$500.~~  
19          (12) ~~Land Clearing and Inert Debris Landfill—\$500.~~  
20       (d1) A permitted solid waste management facility shall pay an annual permit fee on or  
21 before August 1 of each year according to the following schedule:  
22           (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of  
23 solid waste – \$6,125.  
24           (2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less  
25 than 250,000 tons/year of solid waste – \$7,000.  
26           (3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid  
27 waste – \$8,750.  
28           (4) Post-Closure Municipal Solid Waste Landfill – \$1,000.  
29           (5) Construction and Demolition Landfill accepting less than 25,000 tons/year  
30 of solid waste – \$4,813.  
31           (6) Construction and Demolition Landfill accepting 25,000 tons/year or more of  
32 solid waste – \$5,500.  
33           (7) Post-Closure Construction and Demolition Landfill – \$500.  
34           (8) Industrial Landfill accepting less than 100,000 tons/year of solid waste –  
35 \$5,500.  
36           (9) Industrial Landfill accepting 100,000 tons/year or more of solid waste –  
37 \$6,875.  
38           (10) Post-Closure Industrial Landfill – \$500.  
39           (11) Transfer Station accepting less than 25,000 tons/year of solid waste –  
40 \$1,500.  
41           (12) Transfer Station accepting 25,000 tons/year or more of solid waste – \$1,875.  
42           (13) Treatment and Processing Facility – \$500.  
43           (14) Tire Monofill – \$1,000.  
44           (15) Incinerator – \$500.  
45           (16) Large Compost Facility – \$500.  
46           (17) Land Clearing and Inert Debris Landfill – \$500.  
47       (d2) Upon submission of an application for a new permit, an applicant shall pay an  
48 application fee in the amount of ten percent (10%) of the annual permit fee imposed for that  
49 type of solid waste management facility as identified in subdivisions (1) through (17) of  
50 subsection (d1) of this section.  
51       ...."

1           **SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 reads as rewritten:

2           **"SECTION 14.20.(d)** G.S. 130A-295.3 reads as rewritten:

3           **"§ 130A-295.3. Environmental compliance review requirements for applicants and**  
4           **permit holders.**

5           ...

6           (b) The Department shall conduct an environmental compliance review of each  
7 applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article.  
8 The environmental compliance review shall evaluate the environmental compliance history of  
9 the applicant for a period of five years prior to the date of the application and may cover a  
10 longer period at the discretion of the Department. The environmental compliance review of an  
11 applicant may include consideration of the environmental compliance history of the parents,  
12 subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any  
13 business entity or joint venturer with a direct or indirect interest in the applicant, and other  
14 facilities owned or operated by any of them. The Department shall determine the scope of the  
15 review of the environmental compliance history of the applicant, parents, subsidiaries, or other  
16 affiliates of the applicant or parent, including any business entity or joint venturer with a direct  
17 or indirect interest in the applicant, and of other facilities owned or operated by any of them.  
18 An applicant for a permit shall provide environmental compliance history information for each  
19 facility, business entity, joint venture, or other undertaking in which any of the persons listed in  
20 this subsection is or has been an owner, operator, officer, director, manager, member, or  
21 partner, or in which any of the persons listed in this subsection has had a direct or indirect  
22 interest as requested by the Department.

23           ...."

24           **SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 reads as rewritten:

25           **"SECTION 14.20.(f)** This section becomes effective October 1, 2015.  
26 G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise  
27 agreements executed on or after October 1, 2015. The remainder of G.S. 130A-294, as  
28 amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c)  
29 of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit  
30 issued before the date this act becomes effective, on July 1, 2016, at which point a permittee  
31 may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by  
32 Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility  
33 when ~~that~~ the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary  
34 landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii)  
35 applications for sanitary landfills or transfer stations submitted before July 1, 2015, and  
36 pending on the date this act becomes law shall be evaluated by the Department based on the  
37 applicable laws that were in effect on July 1, 2015, and the Department shall not delay in  
38 processing such permit applications in consideration of changes made by this act, but such  
39 landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to  
40 G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point  
41 a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as  
42 amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the  
43 facility when ~~that~~ the facility's permit is next subject to renewal after July 1, 2016."

44

45           **AMEND THE DEFINITION FOR "PROSPECTIVE DEVELOPER" UNDER THE**  
46 **LAW GOVERNING BROWNFIELDS REDEVELOPMENT**

47           **SECTION 4.10.(a)** G.S. 130A-310.31(b)(10) reads as rewritten:

48           **"§ 130A-310.31. Definitions.**

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

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

2 ...  
3 (10) "Prospective developer" means any person with a bona fide, demonstrable  
4 desire to ~~either buy or sell a brownfields property for the purpose of~~  
5 ~~developing or redeveloping that~~develop or redevelop a brownfields property  
6 and who did not cause or contribute to the contamination at the brownfields  
7 property."

8 **SECTION 4.10.(b)** This section becomes effective December 1, 2015, and applies  
9 to Notices of Intent to Redevelop a Brownfields Property filed on or after that date.

## 10 **ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS**

11 **SECTION 4.11.(a)** G.S. 105-102.6 is repealed.

12 **SECTION 4.11.(b)** G.S. 130A-309.17(d) and (i) are repealed.

## 13 **DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES** 14 **REPORTING REQUIREMENTS**

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

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

### 17 **"§ 113-182.1. Fishery Management Plans.**

18 ...  
19 (e) The Secretary of Environment and Natural Resources shall monitor progress in the  
20 development and adoption of Fishery Management Plans in relation to the Schedule for  
21 development and adoption of the plans established by the Marine Fisheries Commission. ~~The~~  
22 ~~Secretary of Environment and Natural Resources shall report to the Joint Legislative~~  
23 ~~Commission on Governmental Operations on progress in developing and implementing the~~  
24 ~~Fishery Management Plans on or before 1 September of each year.~~ The Secretary of  
25 Environment and Natural Resources shall report to the Joint Legislative Commission on  
26 Governmental Operations within 30 days of the completion or substantial revision of each  
27 proposed Fishery Management Plan. The Joint Legislative Commission on Governmental  
28 Operations shall review each proposed Fishery Management Plan within 30 days of the date the  
29 proposed Plan is submitted by the Secretary. The Joint Legislative Commission on  
30 Governmental Operations may submit comments and recommendations on the proposed Plan  
31 to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

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

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

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

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

## 36 **ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS**

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

### 38 **"§ 130A-334. Definitions.**

39 The following definitions shall apply throughout this Article:

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

41 (1a) "Approved agency for special inspection" means an individual, corporation,  
42 company, association, or partnership that is objective, competent, and  
43 independent from the contractor who is responsible for the work that is  
44 inspected. The agency shall disclose possible conflicts of interest in a  
45 manner such that objectivity can be confirmed.

46 (1b) "Approved special inspector" means a person who demonstrates competence  
47 to the satisfaction of the professional engineer who designed the wastewater  
48

- 1            system for the inspection of the construction or operation subject to special  
2            inspection.
- 3            ~~(1)~~(1c) "Construction" means any work at the site of placement done for the purpose  
4            of preparing a residence, place of business or place of public assembly for  
5            initial occupancy, or subsequent additions or modifications which increase  
6            sewage flow.
- 7            (1d) "Construction observation" means the visual observation of the construction  
8            and installation of the wastewater system for general conformance with the  
9            construction documents prepared by the professional engineer who designed  
10           the wastewater system. Construction observation that is conducted by the  
11           professional engineer who designed the wastewater system does not include  
12           or waive the requirement to conduct special inspections.
- 13           (1e) "Conventional wastewater system" has the same meaning as in  
14           G.S. 130A-343.
- 15           ~~(1a)~~(1f) "Department" means the Department of Health and Human Services.
- 16           (1g) "Engineered option permit" means an on-site wastewater system that is  
17           permitted pursuant to the rules adopted by the Commission in accordance  
18           with this Article, meets the criteria established by G.S. 130A-336.1, and is  
19           designed by a professional engineer who is licensed under Chapter 89C of  
20           the General Statutes who has expertise in the design of on-site wastewater  
21           systems.
- 22           ~~(1b)~~(1h) "Ground absorption system" means a system of tanks, treatment units,  
23           nitrification fields, and appurtenances for wastewater collection, treatment,  
24           and subsurface disposal.
- 25           (2) Repealed by Session Laws 1985, c. 462, s. 18.
- 26           (2a) "Industrial process wastewater" means any water-carried waste resulting  
27           from any process of industry, manufacture, trade, or business.
- 28           (2b) "Licensed geologist" means a person who is licensed as a geologist under the  
29           provisions of Chapter 89E of the General Statutes.
- 30           (2c) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.
- 31           (3) "Location" means the initial placement for occupancy of a residence, place  
32           of business or place of public assembly.
- 33           (3a) "Maintenance" means normal or routine maintenance including replacement  
34           of broken pipes, cleaning, or adjustment to an existing wastewater system.
- 35           (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.
- 36           (6) "Place of business" means a store, warehouse, manufacturing establishment,  
37           place of amusement or recreation, service station, office building or any  
38           other place where people work.
- 39           (7) "Place of public assembly" means a fairground, auditorium, stadium, church,  
40           campground, theater or any other place where people assemble.
- 41           (7a) "Plat" means a property survey prepared by a registered land surveyor,  
42           drawn to a scale of one inch equals no more than 60 feet, that includes: the  
43           specific location of the proposed facility and appurtenances, the site for the  
44           proposed wastewater system, and the location of water supplies and surface  
45           waters. "Plat" also means, for subdivision lots approved by the local  
46           planning authority if a local planning authority exists at the time of  
47           application for a permit under this Article, a copy of the subdivision plat that  
48           has been recorded with the county register of deeds and is accompanied by a  
49           site plan that is drawn to scale.
- 50           (7b) "Pretreatment" means any biological, chemical, or physical process or  
51           system for improving wastewater quality and reducing wastewater

1 constituents prior to final treatment and disposal in a subsurface wastewater  
2 system and includes, but is not limited to aeration, clarification, digestion,  
3 disinfection, filtration, separation, and settling.

4 (7c) "Professional engineer" has the same meaning as in G.S. 89C-3.

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

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

11 (9a) "Repair" means the extension, alteration, replacement, or relocation of  
12 existing components of a wastewater system.

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

16 (10a) "Secretary" means the Secretary of ~~Environment and Natural~~  
17 ~~Resources~~ Health and Human Services.

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

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

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

25 (13a) "Site plan" means a drawing not necessarily drawn to scale that shows the  
26 existing and proposed property lines with dimensions, the location of the  
27 facility and appurtenances, the site for the proposed wastewater system, and  
28 the location of water supplies and surface waters.

29 (13b) "Special inspection" means a required inspection of the materials,  
30 installation, fabrication, erection, or placement of components and systems  
31 that require special expertise to ensure compliance with referenced standards  
32 and the construction documents prepared by the professional engineer.

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

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

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

46 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45        (d1) The Department or owner of a wastewater system may file a written complaint with  
46 the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules  
47 and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing  
48 failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to  
49 this Article. The Department or owner of a wastewater system may file a written complaint  
50 with the North Carolina Board of Licensed Soil Scientists in accordance with rules and  
51 procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure

1 of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this  
2 Article. The Department or owner of a wastewater system may file a written complaint with the  
3 North Carolina Board for Licensing of Geologists in accordance with rules and procedures  
4 adopted by the Board pursuant to Chapter 89E of the General Statutes citing failure of a  
5 licensed geologist to adhere to the rules adopted by the Commission pursuant to this Article.  
6 The Department or owner of a wastewater system may file a written complaint with the North  
7 Carolina On-Site Wastewater Contractors and Inspectors Certification Board in accordance  
8 with rules and procedures adopted by the Board pursuant to Article 5 of Chapter 90A of the  
9 General Statutes citing failure of a contractor to adhere to the rules adopted by the Commission  
10 pursuant to this Article.

11 ...."

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

14 **"§ 130A-336.1. Alternative process for wastewater system approvals.**

15 (a) Engineered Option Permit Authorized. – A professional engineer licensed under  
16 Chapter 89C of the General Statutes may, at the direction of the owner of a proposed  
17 wastewater system who wishes to utilize the engineered option permit, prepare signed and  
18 sealed drawings, specifications, plans, and reports for the design, construction, operation, and  
19 maintenance of the wastewater system in accordance with this section and rules adopted  
20 thereunder.

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

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

30 (2) The professional engineer's name, license number, address, e-mail address,  
31 and telephone number.

32 (3) For the professional engineer, the licensed soil scientist, the licensed  
33 geologist, and any on-site wastewater contractors, proof of errors and  
34 omissions insurance coverage or other appropriate liability insurance.

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

37 (5) The type of proposed wastewater system and its location.

38 (6) The design wastewater flow and characteristics.

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

40 (8) A soil evaluation that is conducted and signed and sealed by a either a  
41 licensed soil scientist or licensed geologist.

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

43 (c) Completeness Review for Notice of Intent to Construct. – The local health  
44 department shall determine whether a notice of intent to construct, as required pursuant  
45 subsection (b) of this section, is complete within 15 business days after the local health  
46 department receives the notice of intent to construct. A determination of completeness means  
47 that the notice of intent to construct includes all of the required components. If the local health  
48 department determines that the notice of intent to construct is incomplete, the department shall  
49 notify the owner or the professional engineer of the components needed to complete the notice.  
50 The owner or professional engineer may submit additional information to the department to  
51 cure the deficiencies in the notice. The local health department shall make a final determination



1 as to whether the notice of intent to construct is complete within 10 business days after the  
2 department receives the additional information from the owner or professional engineer. If the  
3 department fails to act within any time period set out in this subsection, the owner or  
4 professional engineer may treat the failure to act as a determination of completeness.

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

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

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

22 (2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater  
23 system shall employ either a licensed soil scientist or a geologist, licensed  
24 pursuant to Chapter 89E of the General Statutes and who has applicable  
25 professional experience, to evaluate soil conditions and site features.

26 (3) The professional engineer designing the proposed wastewater system:

27 a. Shall be responsible for the engineer's scope of work, including all  
28 aspects of the design and any drawings, specifications, plans, or  
29 reports that are signed and sealed by the professional engineer.

30 b. Shall prepare a signed and sealed statement of special inspections  
31 that includes the following items:

32 1. The materials, systems, components, and work subject to  
33 special inspection or testing.

34 2. The type and extent of each special inspection and each test.

35 3. The frequency of each type of special inspection. For  
36 purposes of this sub-sub-division, frequency of special  
37 inspections shall be required on either a continuous or  
38 periodic basis. Continuous special inspections mean the  
39 full-time observation of work requiring special inspection by  
40 an approved special inspector who is present in the area  
41 where the work is performed. Periodic special inspections  
42 mean the part-time or intermittent observation of work  
43 requiring a special inspection by an approved special  
44 inspector who is present in the area where the work is or has  
45 been performed and at the completion of the work.

46 c. May assist the owner of the proposed wastewater system with the  
47 selection of an on-site wastewater system contractor certified  
48 pursuant to Article 5 of Chapter 90A of the General Statutes.

49 (4) An on-site wastewater system contractor, licensed pursuant to Article 5 of  
50 Chapter 90A of the General Statutes, who is employed by the owner of the  
51 wastewater system, shall:

- 1                   a.     Be responsible for all aspects of the construction and installation of  
2                   the wastewater system or components of the wastewater system,  
3                   including adherence to the design, specifications, and any special  
4                   inspections that are prepared, signed, and sealed by the professional  
5                   engineer in accordance with all the applicable provisions of this  
6                   section.
- 7                   b.     Submit a signed and dated statement of responsibility to the owner of  
8                   the wastewater system, prior to the commencement of work, that  
9                   contains acknowledgement and awareness of the requirements in the  
10                  professional engineer's statement of special inspections.
- 11               (5)    Where the professional engineer's designs, plans, and specifications call for  
12               the installation of a conventional wastewater system, such designs, plans,  
13               and specifications shall allow for the installation of an accepted system in  
14               lieu of a conventional system in accordance with the accepted system  
15               approval.
- 16               (6)    In addition to the requirements of this section, the owner, the professional  
17               engineer designing the proposed wastewater system, and any on-site  
18               wastewater system contractors employed to construct or install the  
19               wastewater system shall comply with applicable federal, State, and local  
20               laws, regulations, rules, and ordinances.
- 21               (f)    No Public Liability. – The Department, the Department's authorized agents, or local  
22               health departments shall have no liability for wastewater systems designed, constructed, and  
23               installed pursuant to a engineered option permit.
- 24               (g)    Inspections, Construction Observations, and Reports. –
- 25               (1)    Site visits. – The local health department may, at any time, conduct a site  
26               visit of the wastewater system.
- 27               (2)    Construction observations. – The professional engineer who designed the  
28               wastewater system shall make periodic visits to the site, at intervals  
29               appropriate to the stage of construction, to observe the progress and quality  
30               of the construction and to determine, generally, if the construction is  
31               proceeding in accordance with the engineer's plans and specifications.
- 32               (3)    Special inspections. – The owner of the proposed wastewater system shall  
33               employ one or more approved special inspectors to conduct special  
34               inspections during the construction of the wastewater system. The  
35               professional engineer who designed the wastewater system, or the engineer's  
36               personnel, may function as an approved agency to conduct special  
37               inspections required by this subdivision. The professional engineer's  
38               personnel shall only operate as an approved agency for special inspections if  
39               the personnel can demonstrate competence and relevant experience or  
40               training. For purposes of this subdivision, experience or training shall be  
41               considered relevant when the documented experience or training is related in  
42               complexity to the same type of special inspection activities for projects of  
43               similar complexity and material qualities.
- 44               (4)    Inspection reports. – Approved special inspectors shall maintain and furnish  
45               all inspection records to the professional engineer who designed the  
46               wastewater system. The records shall indicate whether the work inspected  
47               was completed in conformance with the engineer's design and specifications.  
48               Any discrepancies identified between the completed work and the engineer's  
49               design shall be brought to the immediate attention of the on-site wastewater  
50               system contractor for correction. If discrepancies are not corrected, they  
51               shall be brought to the attention of the professional engineer who designed

1 the wastewater system prior to completion of work. A final inspection report  
2 documenting the required special inspections and the correction of any  
3 identified discrepancies shall be provided to the professional engineer and  
4 the owner of the wastewater system for review at the post-construction  
5 conference required pursuant to subsection (j) of this section.

6 (h) Local Authority. – This section shall not relieve the owner or operator of a  
7 wastewater system from complying with any and all modifications or additions to rules adopted  
8 by a local health department to protect public health pursuant to G.S. 130A-335(c) that are  
9 required at the time the owner or operator submits the notice of intent to construct pursuant to  
10 G.S. 130A-336.1(b). The local health department shall notify the owner or operator of the  
11 wastewater system of any issues of compliance related to such modifications or additions.

12 (i) Operations and Management. –

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

17 (2) The owner shall enter into a contract with a water pollution control system  
18 operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the  
19 General Statutes and who is selected from the list of certified operators  
20 maintained by the Division of Water Resources in the Department of  
21 Environment and Natural Resources for operation and maintenance of the  
22 wastewater system in accordance with rules adopted by the Commission.

23 (3) The owner of the wastewater system shall be responsible for the continued  
24 adherence to the operations and management program established by the  
25 professional engineer pursuant to subdivision (1) of this subsection.

26 (j) Post-Construction Conference. – The professional engineer designing the  
27 wastewater system shall hold a post-construction conference with the owner of the wastewater  
28 system; the licensed soil scientist or licensed geologist who performed the soils evaluation for  
29 the wastewater system; the on-site wastewater system contractor, certified pursuant to Article 5  
30 of Chapter 90A of the General Statutes, who installed the wastewater system; the certified  
31 operator of the wastewater system, if any; and representatives from the local health department  
32 and, as applicable, the Department. The post-construction conference shall include start-up of  
33 the wastewater system and any required verification of system design or system components.

34 (k) Required Documentation. –

35 (1) At the completion of the post-construction conference conducted pursuant to  
36 subsection (j) of this section, the professional engineer who designed the  
37 wastewater system shall deliver to the owner signed, sealed, and dated  
38 copies of the engineer's report, which, for purposes of this subsection, shall  
39 include the following:

40 a. The evaluation of soil conditions and site features as prepared by  
41 either the licensed soil scientist or licensed geologist.

42 b. The drawings, specifications, plans, and reports of the wastewater  
43 system, including the statement of special inspections required  
44 pursuant to G.S. 130A-336.1(e)(3); the on-site wastewater system  
45 contractor's signed statement of responsibility required pursuant to  
46 G.S. 130A-336.1(e)(4); records of all special inspections; and the  
47 final inspection report documenting the correction of any identified  
48 discrepancies required pursuant to subsection (g) of this section.

49 c. The operator's management program manual that includes a copy of  
50 the contract with the certified water pollution control system operator  
51 required pursuant to subsection (i) of this section.

- 1                    d. Any reports and findings related to the design and installation of the  
2                    wastewater system.
- 3                    (2) Upon reviewing the professional engineer's report, the owner of the  
4                    wastewater system shall sign and notarize the report as having been  
5                    received.
- 6                    (l) Reporting Requirements. –
- 7                    (1) The owner of the wastewater system shall submit the following to the local  
8                    health department:
- 9                    a. A copy of the professional engineer's report required pursuant to  
10                    G.S. 130A-336.1(k)(1).
- 11                    b. A copy of the operations and management program.
- 12                    c. The fee required pursuant to subsection (n) of this section.
- 13                    d. A notarized letter that documents the owner's acceptance of the  
14                    system from the professional engineer.
- 15                    (2) The owner of any wastewater system that is subject to subsection (d) of this  
16                    section shall deliver to the Department copies of the engineer's report, as  
17                    described G.S. 130A-336.1(k)(1).
- 18                    (m) Authorization to Operate. – Within 15 business days of receipt of the documents and  
19                    fees required pursuant to G.S. 130A-336.1(l)(1), the local health department shall issue the  
20                    owner a letter of confirmation that states the documents and information contained therein have  
21                    been received and that the wastewater system may operate in accordance with rules adopted by  
22                    the Commission.
- 23                    (n) Fees. – The local health department may assess a fee for the engineered option  
24                    permit of up to thirty percent (30%) of the cumulative total of the fees the department has  
25                    established to obtain an improvement permit, an authorization to construct, and an operations  
26                    permit for wastewater systems under its jurisdiction. The fee shall only be used by the  
27                    department in support of its work pursuant to this section to conduct site inspections; support  
28                    the department's staff participation at post-construction conference meetings; and archive the  
29                    engineered permit with the county register of deeds or other recordation of the wastewater  
30                    system as required.
- 31                    (o) Change in System Ownership. – A wastewater system authorized pursuant to this  
32                    section shall not be affected by change in ownership of the site for the wastewater system,  
33                    provided both the site for the wastewater system and the facility the system serves are  
34                    unchanged and remain under the ownership or control of the person owning the facility.
- 35                    (p) Remedies. – Notwithstanding any other provision of this section or any other  
36                    provision of law, owners; operators; professional engineers who utilize the engineered option  
37                    permit, who prepare drawings, specifications, plans, and reports; licensed soil scientists;  
38                    licensed geologists; and on-site wastewater system contractors employed for the construction or  
39                    installation of the wastewater system shall be subject to the provisions and remedies provided  
40                    to the Department and local health departments pursuant to Article 1 of this Chapter.
- 41                    (q) Rule Making. – The Commission shall adopt rules to implement the provisions of  
42                    this section.
- 43                    (r) Reports. – The Department shall report to the Environmental Review Commission  
44                    and the Joint Legislative Oversight Committee on Health and Human Services on or before  
45                    January 1, 2017, and annually thereafter, on the implementation and effectiveness of this  
46                    section. For the report due on or before January 1, 2017, the Department shall specifically study  
47                    (i) whether the engineered option permit resulted in a reduction in the length of time  
48                    improvement permits or authorizations to construct are pending; (ii) whether the engineered  
49                    option permit resulted in increased system failures or other adverse impacts; (iii) if the  
50                    engineered option permit resulted in new or increased environmental or public health impacts;  
51                    (iv) an amount of errors and omissions insurance or other liability sufficient for covering

1 professional engineers, licensed soil scientists, licensed geologists, and contractors who employ  
2 the engineered option permit; and (v) the fees charged by local health departments to  
3 administer the engineered option permit pursuant to subsection (n) of this section. The  
4 Department may include recommendations, including any legislative proposals, in its reports to  
5 the Commission and Committee."

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

7 "**§ 130A-338. Authorization for wastewater system construction required before other**  
8 **permits to be issued.**

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

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

17 "**§ 130A-339. Limitation on electrical service.**

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

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

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

46 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**  
47 **required.**

48 (a) Any proposed site for a residence, place of business, or place of public assembly in  
49 an area not served by an approved wastewater system shall be evaluated by either (i) the local  
50 health department in accordance with rules adopted pursuant to this Article. ~~Article~~ or (ii) by a  
51 professional engineer, licensed soil scientist, or licensed geologist acting within the engineer's,

1 soil scientist's, or geologist's scope of work, as applicable, and pursuant to the conditions of the  
2 engineered option permit in G.S. 130A-336.1. An improvement permit shall be issued in  
3 compliance with the rules adopted pursuant to this Article. An improvement permit issued by a  
4 local health department shall include:

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

12 ~~The~~ Neither the improvement permit nor the authorization for wastewater system construction  
13 shall not be affected by change in ownership of the site for the wastewater system provided  
14 both the site for the wastewater system and the facility the system serves are unchanged and  
15 remain under the ownership or control of the person owning the facility. No person shall  
16 commence or assist in the construction, location, or relocation of a residence, place of business,  
17 or place of public assembly in an area not served by an approved wastewater system unless an  
18 improvement permit and an authorization for wastewater system construction are obtained from  
19 the local health department unless that person is acting in accordance with the  
20 conditions and criteria of an engineered option permit pursuant to G.S. 130A-336.1. This  
21 requirement shall not apply to a manufactured residence exhibited for sale or stored for later  
22 sale and intended to be located at another site after sale.

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

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

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

46 **SECTION 4.14.(h)** The Commission for Public Health, in consultation with the  
47 Department of Health and Human Services, local health departments, stakeholders who  
48 represent the wastewater system industry, and other interested parties shall study the period of  
49 validity for improvement permits and authorizations for wastewater system construction and  
50 evaluate the costs and benefits of a range of periods of validity. In the conduct of this study, the  
51 Commission shall also evaluate the feasibility and desirability of conducting an abbreviated

1 review and possible extension of a permit or authorization that is due to expire at a lower cost  
2 to the applicant. The Commission shall report its findings and recommendations, including any  
3 legislative proposals, to the Environmental Review Commission and the Joint Legislative  
4 Oversight Committee on Health and Human Services on or before April 1, 2016.

5 **SECTION 4.14.(i)** Any improvement permit or authorization for wastewater  
6 system construction that is in effect on the effective date of this act which is scheduled to  
7 expire on or before July 1, 2016, shall remain in effect until July 1, 2016.

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

9 **"§ 130A-342. Residential wastewater treatment systems.**

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

16 (b) A permitted system with a design flow of less than 1,500 gallons per day shall be  
17 operated and maintained by a certified wastewater treatment facility operator by a person who  
18 is a Subsurface Water Pollution Control System Operator as certified by the Water Pollution  
19 Control System Operators Certification Commission and authorized by the manufacturer of the  
20 individual residential wastewater treatment system. The Commission may, in addition to the  
21 requirement for a certified Subsurface Water Pollution Control System Operator, establish  
22 additional standards for wastewater systems with a design flow of 1,500 gallons or greater per  
23 day.

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

27 **SECTION 4.14.(k)** This section is effective when this act becomes law. The  
28 Commission for Public Health shall adopt temporary rules pursuant to Sections 4.14(a) through  
29 4.14(e), Section 4.14(g), and Section 4.14(j) of this act no later than June 1, 2016, and shall  
30 adopt permanent rules pursuant to Sections 4.14(a) through 4.14(e), Section 4.14(g), and  
31 Section 4.14(j) of this act no later than January 1, 2017. No person shall utilize the engineered  
32 permit option authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act,  
33 however, until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of  
34 this act become effective.

## 35 36 **CLARIFY CERTIFICATION REQUIREMENTS FOR PLUMBING CONTRACTORS** 37 **WHO INSTALL OR REPAIR GREASE TRAPS**

38 **SECTION 4.14A.** G.S. 90A-72 reads as rewritten:

39 **"§ 90A-72. Certification required; applicability.**

40 (a) Certification Required. – No person shall construct, install, or repair or offer to  
41 construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter  
42 130A of the General Statutes without being certified as a contractor at the required level of  
43 certification for the specified system. No person shall conduct an inspection or offer to conduct  
44 an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of  
45 the General Statutes without being certified in accordance with the provisions of this Article.

46 (b) Applicability. – This Article does not apply to the following:

- 47 (1) A person who is employed by a certified contractor or inspector in  
48 connection with the construction, installation, repair, or inspection of an  
49 on-site wastewater system performed under the direct and personal  
50 supervision of the certified contractor or inspector in charge.

- 1 (2) A person who constructs, installs, or repairs an on-site wastewater system  
2 described as a single septic tank with a gravity-fed gravel trench dispersal  
3 media when located on land owned by that person and that is intended solely  
4 for use by that person and members of that person's immediate family who  
5 reside in the same dwelling.
- 6 (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who  
7 constructs or installs an on-site wastewater system ancillary to the building  
8 being constructed or who provides corrective services and labor for an  
9 on-site wastewater system ancillary to the building being constructed.
- 10 (4) A person who is certified by the Water Pollution Control System Operators  
11 Certification Commission and contracted to provide necessary operation and  
12 maintenance on the permitted on-site wastewater system.
- 13 (5) A person permitted under Article 21 of Chapter 143 of the General Statutes  
14 who is constructing a water pollution control facility necessary to comply  
15 with the terms and conditions of a National Pollutant Discharge Elimination  
16 System (NPDES) permit.
- 17 (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a  
18 licensed public utilities contractor who is installing or expanding a  
19 wastewater treatment facility, including a collection system, designed by a  
20 registered professional engineer.
- 21 (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General  
22 Statutes, so long as the plumber is not performing plumbing work that  
23 includes the installation or repair of a septic tank or similar depository, such  
24 as a treatment or pretreatment tank or system, or lines—lines, tanks, or  
25 appurtenances downstream from the point where the house or building sewer  
26 lines from the plumbing system meet the septic tank or similar depository.  
27 This subdivision shall not be construed to require a plumbing contractor to  
28 become certified as a contractor pursuant to this section to install or repair a  
29 grease trap, interceptor, or separator upstream from a septic tank or similar  
30 depository that complies with the requirements of the local health  
31 department.
- 32 (8) A person employed by the Department, a local health department, or a local  
33 health district, when conducting a regulatory inspection of an on-site  
34 wastewater system for purposes of determining compliance."  
35

## 36 AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

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

### 38 "§ 130A-343. Approval of on-site subsurface wastewater systems.

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

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



- 1 (2) "~~Controlled demonstration~~Provisional wastewater system" means any  
2 wastewater system or any technology, device, or component of a wastewater  
3 system that, on the basis of (i) research acceptable research, is approved by  
4 to the Department or (ii) approval of the wastewater system by a nationally  
5 recognized certification body for a period that exceeds one year for research,  
6 testing, or trial use under actual field conditions in this State pursuant to a  
7 protocol that has been approved by the Department.
- 8 (3) "Conventional wastewater system", "conventional sewage system", or  
9 "conventional septic tank system" means a subsurface wastewater system  
10 that consists of a traditional septic or settling tank and a gravity-fed  
11 subsurface ~~disposal dispersal~~ field that uses washed natural stone or gravel  
12 ~~or crushed stone~~ of approved size and grade and piping to distribute effluent  
13 to soil in one or more nitrification trenches and that does not include any  
14 other appurtenance.
- 15 (4) "~~Experimental wastewater system~~" means ~~any wastewater system or any~~  
16 ~~technology, device, or component of a wastewater system that is approved~~  
17 ~~by the Department for research, testing, or limited trial use under actual field~~  
18 ~~conditions in this State pursuant to a protocol that has been approved by the~~  
19 ~~Department.~~
- 20 (5) "Innovative wastewater system" means any wastewater system, other than a  
21 conventional wastewater system or a provisional wastewater system, or any  
22 technology, device, or component of a wastewater system that: (i) has been  
23 demonstrated to perform in a manner equal or superior to a conventional  
24 wastewater system; (ii) is constructed of materials whose physical and  
25 chemical properties provide the strength, durability, and chemical resistance  
26 to allow the system to withstand loads and conditions as required by rules  
27 adopted by the Commission; and (iii) has been approved by the Department  
28 for general use or for one or more specific applications. An innovative  
29 wastewater system may be approved for use in applications for which a  
30 conventional wastewater system is unsuitable. The Department may impose  
31 any design, operation, maintenance, monitoring, and management  
32 requirements on the use of an innovative wastewater system that it  
33 determines to be appropriate. A wastewater system approved by a nationally  
34 recognized certification body and in compliance with the ongoing  
35 verification program of such body may submit a sampling protocol for  
36 innovative system approval that reduces the data sets required for such  
37 approval by fifty percent (50%). Such an application shall include all of the  
38 data associated with the nationally recognized certification body's  
39 verification of the system's performance.
- 40 (6) "Nationally recognized certification body" means a third-party certification  
41 body for wastewater systems or system components that is accredited by an  
42 entity widely recognized in the United States such as the American National  
43 Standards Institute, the Standards Council of Canada, or the International  
44 Accreditation Service, Inc.

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

1 Commission deems appropriate, determines are necessary for verification of the performance of  
2 a wastewater system or system component.

3 ~~(c) Approved Systems. — Procedure for Modifications or Revocations. —~~ The  
4 Department may modify, suspend, or revoke the approval of a wastewater system if the  
5 Department determines that the approval is based on false, incomplete, or misleading  
6 information or if the Department finds that modification, suspension, or revocation is necessary  
7 to protect public health, safety, or welfare. The Department shall provide a listing of all  
8 approved ~~experimental, controlled demonstration, innovative, provisional, and accepted~~  
9 wastewater systems to the local health departments annually, and ~~more frequently, when the~~  
10 ~~Department makes a final agency decision related to the approval of a wastewater system or the~~  
11 ~~Commission adopts rules related to the~~ notify the local health departments within 30 days of  
12 any modification or revocation of an approval of a wastewater system, system or system  
13 component.

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

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

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

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

27 (g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface  
28 use ~~that has been evaluated as an experimental wastewater system as provided in subsection (e)~~  
29 ~~of this section or that has been evaluated as a controlled demonstration wastewater system as~~  
30 ~~provided in subsection (f) of this section may apply to the Department to have the system~~  
31 ~~approved as an innovative wastewater system as provided in this subsection.~~ may apply for and  
32 be considered for innovative system status by the Department in one of the following ways:

33 (1) If the wastewater system has been approved as a provisional wastewater  
34 system pursuant to subsection (f) of this section, the manufacturer may apply  
35 to have the system approved as an innovative wastewater system based on  
36 successful completion of the evaluation protocols established pursuant to  
37 subsection (d) of this section.

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

50 (3) If the wastewater system has not been evaluated or approved as a provisional  
51 system pursuant to subsection (f) of this section, but has been evaluated

1           under protocol established by a nationally recognized certification body for  
2           at least two consecutive years, has been found to perform acceptably based  
3           on the criteria of the protocol, and is designed and will be installed in a  
4           manner consistent with the system evaluated and approved by the nationally  
5           recognized certification body, the manufacturer may apply to have the  
6           system approved as an innovative wastewater system.

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

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

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

- 43                 a. The physical properties and chemical durability of the materials from  
44                 which the wastewater trench system is constructed are equal to or  
45                 superior to the physical properties and chemical durability of the  
46                 materials from which the accepted wastewater trench system is  
47                 constructed.
- 48                 b. The permeable sidewall area and bottom infiltrative area of the  
49                 wastewater trench system are equal to or greater than the permeable  
50                 sidewall area and bottom infiltrative area of the accepted wastewater  
51                 trench system at a field-installed size.

- 1 c. The wastewater trench system utilizes a similar method and manner  
2 of function for the conveyance and application of effluent as the  
3 accepted wastewater trench system.
- 4 d. The structural integrity of the wastewater trench system is equal to or  
5 superior to the structural integrity of the accepted wastewater trench  
6 system.
- 7 e. The wastewater trench system shall provide a field installed system  
8 storage volume equal to or greater than the field installed system  
9 storage volume of the accepted wastewater trench system.
- 10 (2) As part of its petition, the manufacturer shall provide to the Commission all  
11 of the following information:
- 12 a. Specifications of the wastewater trench system.
- 13 b. Data necessary to demonstrate that the wastewater trench system is  
14 functionally equivalent to a wastewater trench system that is  
15 approved as an accepted wastewater system.
- 16 c. A certified statement from an independent, third-party professional  
17 engineer or testing laboratory that, based on verified documentation,  
18 the wastewater trench system is functionally equivalent to an  
19 accepted wastewater system.
- 20 (3) Approval of a wastewater trench system as an innovative wastewater system  
21 shall not be conditioned on the manufacturer of the wastewater trench  
22 system having operational systems installed in the State.
- 23 (4) The Commission shall authorize the use of a wastewater trench system as an  
24 innovative wastewater system in the same applications as the accepted  
25 wastewater trench system.
- 26 (5) The Commission shall not include conditions and limitations in the approval  
27 of a wastewater trench system as an innovative wastewater system that are  
28 not included in the approval of the accepted wastewater trench system.
- 29 (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative  
30 wastewater dispersal system that has been in general use in this State for ~~more than a~~ minimum  
31 of five years may petition the Commission to have the system designated as an accepted  
32 wastewater system as provided in this subsection. The manufacturer shall provide the  
33 Commission with the data and findings of all prior evaluations of the performance of the  
34 ~~system.~~ system in this State and other states referenced in the petition, including disclosure of  
35 any conditions found to result in unacceptable structural integrity, treatment, or hydraulic  
36 performance. In addition, the manufacturer shall provide the Commission with information  
37 sufficient to enable the Commission to fully evaluate the performance of the system in this  
38 State for at least the five-year period immediately preceding the petition. The Commission shall  
39 designate a wastewater system as an accepted wastewater system only if it finds that there is  
40 clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at  
41 the time the Department approved the system as an innovative wastewater system and (ii) that  
42 the system performs in a manner that is equal or superior to a conventional wastewater system  
43 under actual field conditions in this State. The Commission shall specify the circumstances in  
44 which use of the system is appropriate and any conditions and limitations related to the use of  
45 the system.
- 46 (i) ~~Miscellaneous Provisions.~~ Nonproprietary Wastewater Systems. –
- 47 (1) ~~In evaluating applications for approval under this section, the Department~~  
48 ~~may consult with persons who have special training and experience related~~  
49 ~~to on-site subsurface wastewater systems and may form a technical advisory~~  
50 ~~committee for this purpose. However, the Department is responsible for~~  
51 ~~making timely and appropriate determinations under this section.~~

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

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

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

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

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

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

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

1           **SECTION 4.15.(c)** Beginning January 1, 2016, and every quarter thereafter until  
2 all rules required pursuant to Sections 4.14 and 4.15 of this act are adopted or amended, the  
3 Commission for Public Health shall submit written reports as to its progress on adopting or  
4 amending rules as required by Sections 4.14 and 4.15 of this act to the Environmental Review  
5 Commission and the Joint Legislative Oversight Committee on Health and Human Services.  
6 The Commission shall supplement the written reports required by this subsection with  
7 additional written and oral reports as may be requested by the Environmental Review  
8 Commission and the Joint Legislative Oversight Committee on Health and Human Services.  
9 The Commission shall submit the written reports required by this subsection whether or not the  
10 General Assembly is in session at the time the report is due.

11           **SECTION 4.15.(d)** The Commission for Public Health, in consultation with the  
12 Department of Health and Human Services, local health departments, and stakeholders  
13 representing the wastewater system industry, shall study the costs and benefits of requiring  
14 treatment standards greater than those listed by nationally recognized standards, including the  
15 recorded advantage of such higher treatment standards for the protection of the public health  
16 and the environment. The Commission shall report its findings and recommendations,  
17 including any legislative proposals, to the Environmental Review Commission and the Joint  
18 Legislative Oversight Committee on Health and Human Services on or before March 1, 2016.

#### 19 20 **CONTESTED CASES FOR AIR PERMITS**

21           **SECTION 4.17.(a)** G.S. 143-215.108 reads as rewritten:  
22 "**§ 143-215.108. Control of sources of air pollution; permits required.**

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

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

38           ...."

39           **SECTION 4.17.(b)** The Department of Environment and Natural Resources shall  
40 study whether the amendments to G.S. 143-215.108, as enacted by Section 4.17(a) of this act,  
41 should be expanded into other programs administered by the Department. The Department shall  
42 specifically consider whether these changes should be made to the water and solid waste  
43 permitting programs. No later than March 1, 2016, the Department shall report the results of  
44 this study, including any recommendations, to the Environmental Review Commission.

#### 45 46 **AMEND ISOLATED WETLANDS LAW**

47           **SECTION 4.18.(a)** For the purposes of implementing Section .1300 of Subchapter  
48 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to  
49 Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall  
50 apply only to Basin Wetlands and Bogs and no other wetland types as described in the North  
51 Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland

1 Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands  
2 under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not  
3 apply to an isolated man-made ditch or pond constructed for stormwater management purposes  
4 or any other man-made isolated pond.

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

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

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

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

16 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H  
17 .1305(d)(2) shall be less than or equal to one acre of isolated wetlands east  
18 of I-95 for the entire project and less than or equal to 1/3 acre of isolated  
19 wetlands west of I-95 for the entire project.

20 (2) Mitigation requirements for impacts to isolated wetlands shall only apply to  
21 the amount of impact that exceeds the threshold set out in subdivision (1) of  
22 this section. The mitigation ratio for impacts of ~~greater than one acre~~  
23 ~~exceeding the threshold~~ for the entire project under 15A NCAC 02H  
24 .1305(g)(6) shall be 1:1 and may be located on the same parcel.

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

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

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

43 **"SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i)  
44 how the term "isolated wetland" has been previously defined in State law and whether the term  
45 should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the  
46 surface area thresholds for the regulation of mountain bog isolated wetlands, including whether  
47 mountain bog isolated wetlands should have surface area regulatory thresholds different from  
48 other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be  
49 combined with the project impacts to jurisdictional wetlands or streams for the purpose of  
50 determining when impact thresholds that trigger a mitigation requirement are met. The



1 Department shall report its findings and recommendations to the Environmental Review  
2 Commission on or before November 1, 2014.

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

5 **SECTION 4.18.(d)** No later than March 1, 2016, the Environmental Management  
6 Commission shall amend 15A NCAC 02H .1305 (Review of Applications) to establish a  
7 coastal region, piedmont region, and mountain region for purposes of regulating impacts to  
8 isolated wetlands. The amount of impacts of isolated wetlands under 15A NCAC 02H  
9 .1305(d)(2) shall be the following:

- 10 (1) Less than or equal to one acre of isolated wetlands for the entire project in  
11 the coastal region.
- 12 (2) Less than or equal to one-half acre of isolated wetlands for the entire project  
13 for the piedmont region.
- 14 (3) Less than or equal to one-third acre of isolated wetlands for the entire project  
15 for the mountain region.

16 In no event shall the regulatory requirements for impacts to isolated wetlands be more stringent  
17 than required under current law. When the rules required by this section become effective,  
18 subdivision (1) of Section 54(b) of S.L. 2014-120 is repealed.

## 19 20 **STUDY COASTAL WATER QUALITY AND COASTAL STORMWATER** 21 **REQUIREMENTS**

22 **SECTION 4.19.** The Department of Environment and Natural Resources shall  
23 evaluate the water quality of surface waters in the Coastal Counties and the impact of  
24 stormwater on this water quality. The Department shall study and determine the maximum  
25 allowable built-upon area for the low density state stormwater option as directly related to the  
26 length of grassed swale treatment length; therefore providing data for a property to achieve  
27 increased built-upon area above current limits by providing a longer length of grassed swale  
28 through which the stormwater must pass. If it is determined that increases in the percentage of  
29 built-upon area can be allowed in this way without detriment to the water quality, the  
30 Department shall submit recommendations to the General Assembly for the levels of increases  
31 in built-upon area that can be supported with corresponding increases in the length of grassed  
32 swale through which the stormwater shall pass. No later than April 1, 2016, the Department  
33 shall report the results of its study, including recommendations, to the Environmental Review  
34 Commission.

## 35 36 **AMEND STORMWATER MANAGEMENT LAW**

37 **SECTION 4.20.(a)** Section 3 of S.L. 2013-82 reads as rewritten:

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

40 **SECTION 4.20.(b)** G.S. 143-214.7, as amended by S.L. 2015-149, reads as  
41 rewritten:

42 **"§ 143-214.7. Stormwater runoff rules and programs.**

43 ...

44 (b2) For purposes of implementing stormwater programs, "built-upon area" means  
45 impervious surface and partially impervious surface to the extent that the partially impervious  
46 surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon  
47 area" does not include a slatted deck; the water area of a swimming pool; a surface of number  
48 57 stone, as designated by the American Society for Testing and Materials, laid at least four  
49 inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved  
50 or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001  
51 centimeters per second (1.41 inches per hour). For State stormwater programs and local

1 stormwater programs approved pursuant to subsection (d) of this section, all of the following  
2 shall apply:

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

8 (2) Development may occur within the area that would otherwise be required to  
9 be placed within a vegetative buffer required by the Commission pursuant to  
10 G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters,  
11 outstanding resource waters, and high-quality waters provided the  
12 stormwater runoff from the development is collected and treated from the  
13 entire impervious area and discharged so that it passes through the  
14 vegetative buffer and is managed so that it otherwise complies with all  
15 applicable State and federal stormwater management requirements.

16 (3) The requirements that apply to development activities within one-half mile  
17 of and draining to Class SA waters or within one-half mile of Class SA  
18 waters and draining to unnamed freshwater tributaries shall not apply to  
19 development activities and associated stormwater discharges that do not  
20 occur within one-half mile of and draining to Class SA waters or are not  
21 within one-half mile of Class SA waters and draining to unnamed freshwater  
22 tributaries.

23 ...  
24 (d) The Commission shall review each stormwater management program submitted by  
25 a State agency or unit of local government and shall notify the State agency or unit of local  
26 government that submitted the program that the program has been approved, approved with  
27 modifications, or disapproved. The Commission shall approve a program only if it finds that  
28 the standards of the program equal ~~or exceed~~ those of the model program adopted by the  
29 Commission pursuant to this section.

30 ...."

31 **SECTION 4.20.(c)** No later than March 1, 2016, a State agency or local  
32 government that implements a stormwater management program approved pursuant to  
33 subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a  
34 revised stormwater management program to the Environmental Management Commission. No  
35 later than December 1, 2016, the Environmental Management Commission shall review and act  
36 on each of the submitted stormwater management programs in accordance with subsection (d)  
37 of G.S. 143-214.7, as amended by this section.

38 **SECTION 4.20.(d)** The Environmental Review Commission, with the assistance  
39 of the Department of Environment and Natural Resources, shall review the current status of  
40 State statutes, session laws, rules, and guidance documents related to the management of  
41 stormwater in the State. The Commission shall specifically examine whether State statutes,  
42 session laws, rules, and guidance documents related to the management of stormwater in the  
43 State should be recodified or reorganized in order to clarify State law for the management of  
44 stormwater. The Commission shall submit legislative recommendations, if any, to the 2016  
45 Regular Session of the 2015 General Assembly.

46 **SECTION 4.20A.** Section 46 of S.L. 2014-120 reads as rewritten:

47 **"SECTION 46.(a)** Notwithstanding the requirements of Article 21 of Chapter 143 of the  
48 General Statutes and rules adopted pursuant to that Article, the addition of a cluster box unit to  
49 a single-family or duplex development permitted by a local government shall not require a  
50 modification to any stormwater permit for that development. This section shall only apply to  
51 single-family or duplex developments in which individual curbside mailboxes are replaced with

1 cluster box units whereupon the associated built-upon area supporting the cluster box units  
2 shall be considered incidental and shall not be required in the calculation of built-upon area for  
3 the development for stormwater permitting purposes.

4 **"SECTION 46.(b)** This section is effective when this act becomes law and expires on  
5 December 31, ~~2015~~, 2017, or when regulations on cluster box design and placement by the  
6 United States Postal Service become effective and those regulations are adopted by local  
7 governments, whichever is earlier."  
8

## 9 **STUDY EXEMPTING LINEAR UTILITY PROJECTS FROM CERTAIN** 10 **ENVIRONMENTAL REGULATIONS**

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

- 19 (1) The Department of Environment and Natural Resources created pursuant to  
20 G.S. 143B-279.1.
- 21 (2) The Environmental Management Commission created pursuant to  
22 G.S. 143B-282.
- 23 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 24 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 25 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 26 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 27 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
- 28 (8) The North Carolina Mining and Energy Commission created pursuant to  
29 G.S. 143B-293.1.
- 30 (9) The North Carolina Oil and Gas Commission created pursuant to  
31 G.S. 143B-293.1.

32 No later than March 1, 2016, the Department shall report the results of this study, including any  
33 recommendations, to the Environmental Review Commission.  
34

## 35 **REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES** 36 **IDLING RULES**

37 **SECTION 4.24.** The Secretary of Environment and Natural Resources shall repeal  
38 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before March 1, 2016.  
39 Until the effective date of the repeal of the rule required pursuant to this section, the Secretary,  
40 the Department of Environment and Natural Resources, the Environmental Management  
41 Commission, or any other political subdivision of the State shall not implement or enforce 15A  
42 NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).  
43

## 44 **AMBIENT AIR MONITORING**

45 **SECTION 4.25.(a)** The Department of Environment and Natural Resources shall  
46 review its ambient air monitoring network and, in the next annual monitoring network plan  
47 submitted to the United States Environmental Protection Agency, shall request the removal of  
48 any ambient air monitors that are not required by applicable federal laws and regulations and  
49 that the Department has determined are not necessary to protect public health, safety, and  
50 welfare; the environment; and natural resources.

1           **SECTION 4.25.(b)** No later than September 1, 2016, the Department of  
2 Environment and Natural Resources shall discontinue all ambient air monitors not required by  
3 applicable federal laws and regulations if approval from the United States Environmental  
4 Protection Agency is not required for the discontinuance and the Department has determined  
5 that the monitors are not necessary to protect public health, safety, and welfare; the  
6 environment; and natural resources.

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

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

## 15 16 **DIVISION OF AIR QUALITY NOTICE REQUIREMENTS**

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

### 18 **"§ 143-215.110. Special orders.**

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

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

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

42           (2) Any person who desires a public meeting on any proposed consent order  
43 may request one in writing to the Commission within 30 days following date  
44 of the notice of the proposed consent order. The Commission shall consider  
45 all such requests for meetings. If the Commission determines that there is  
46 significant public interest in holding a meeting, the Commission shall  
47 schedule a meeting and shall give notice of such meeting at least 30 days in  
48 advance to all persons to whom notice of the proposed consent order was  
49 given and to any other person requesting notice. At least 30 days prior to the  
50 date of meeting, the Commission shall also have a copy of the notice of the  
51 meeting published ~~at least one time in a newspaper having general~~

1                   circulation within the county in which the pollution originates for 30 days on  
2                   the regulatory agency Web site. The Commission shall prescribe the form  
3                   and content of notices under this subsection.

4                   ...."

5  
6       **PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO**  
7       **INTERMITTENT STREAMS**

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

10       **"§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent**  
11       **streams.**

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

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

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

24  
25       **PIGEON HUNTING**

26                   **SECTION 4.32(a)** G.S. 14-360(c) reads as rewritten:

27                   "(c) As used in this section, the words "torture", "torment", and "cruelly" include or refer  
28       to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As  
29       used in this section, the word "intentionally" refers to an act committed knowingly and without  
30       justifiable excuse, while the word "maliciously" means an act committed intentionally and with  
31       malice or bad motive. As used in this section, the term "animal" includes every living  
32       vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.  
33       However, this section shall not apply to the following activities:

- 34                   (1)   The lawful taking of animals under the jurisdiction and regulation of the  
35                   Wildlife Resources Commission, except that this section shall apply to those  
36                   birds other than pigeons exempted by the Wildlife Resources Commission  
37                   from its definition of "wild birds" pursuant to G.S. 113-129(15a).  
38                   (2)   Lawful activities conducted for purposes of biomedical research or training  
39                   or for purposes of production of livestock, poultry, or aquatic species.  
40                   (2a) Lawful activities conducted for the primary purpose of providing food for  
41                   human or animal consumption.  
42                   (3)   Activities conducted for lawful veterinary purposes.  
43                   (4)   The lawful destruction of any animal for the purposes of protecting the  
44                   public, other animals, property, or the public health.  
45                   (5)   The physical alteration of livestock or poultry for the purpose of conforming  
46                   with breed or show standards."

47                   **SECTION 4.32.(b)** G.S. 19A-1.1 reads as rewritten:

48       **"§ 19A-1.1. Exemptions.**

49       This Article shall not apply to the following:

- 50                   (1)   The lawful taking of animals under the jurisdiction and regulation of the  
51                   Wildlife Resources Commission, except that this Article applies to those

1 birds other than pigeons exempted by the Wildlife Resources Commission  
2 from its definition of "wild birds" pursuant to G.S. 113-129(15a).

3 ...."  
4

#### 5 **WILDLIFE RESOURCES COMMISSION STUDIES**

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

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

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

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

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

26 **SECTION 4.35.(b)** The Wildlife Resources Commission shall submit an interim  
27 report on the progress of the pilot program to the Environmental Review Commission by  
28 March 1, 2016. The Wildlife Resources Commission shall submit a final report on the results of  
29 the pilot program, including any proposed legislation, to the Environmental Review  
30 Commission by January 1, 2017.

#### 31 32 **ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE** 33 **INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS**

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

#### 36 **"§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

37 (a) The Attorney General shall establish a hotline to receive reports of allegations of  
38 animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the  
39 General Statutes, against animals under private ownership, by means including telephone,  
40 electronic mail, and Internet Web site. The Attorney General shall periodically publicize the  
41 hotline telephone number, electronic mail address, Internet Web site address, and any other  
42 means by which the Attorney General may receive reports of allegations of animal cruelty or  
43 violations of the Animal Welfare Act. Any individual who makes a report under this section  
44 shall disclose his or her name and telephone number and any other information the Attorney  
45 General may require.

46 (b) When the Attorney General receives allegations involving activity that the Attorney  
47 General determines may involve cruelty to animals under private ownership in violation of  
48 Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the  
49 appropriate local animal control authority for the unit or units of local government within  
50 which the violations are alleged to have occurred. When the Attorney General receives  
51 allegations involving activity that the Attorney General determines may involve violations of

1 the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and  
2 Consumer Services. The Attorney General shall record the total number of reports received on  
3 the hotline and the number of reports received against any individual on the hotline.

4 (c) Notwithstanding other provisions of law, the Department of Justice is authorized to  
5 spend any federal, State, local, or private funds available for this purpose to administer the  
6 provisions of this section.

7 (d) Notwithstanding G.S. 147-33.72C and related provisions of law, in order to expedite  
8 the timely implementation of technology systems to record and manage public allegations and  
9 complaints received pursuant to this section, the Department of Justice is exempted from  
10 external agency project approval standards."

11 **SECTION 4.36.(b)** This section becomes effective March 1, 2016.

## 13 **STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS**

14 **SECTION 4.38.** The Department of Insurance, the Department of Public Safety,  
15 and the Building Code Council shall jointly study how flood elevations and building heights for  
16 structures are established and measured in the coastal region of the State. The Departments and  
17 the Council shall specifically consider how flood elevations and coastal building height  
18 requirements affect flood insurance rates and how height calculation methods might be made  
19 more consistent and uniform in order to provide flood insurance rate relief. In conducting this  
20 study, the Departments and the Council shall engage a broad group of stakeholders, including  
21 property owners, local governments, representatives of the surveying industry, and  
22 representatives of the development industry. No later than March 1, 2016, the Departments and  
23 the Council shall jointly submit the results of their study, including any legislative  
24 recommendations, to the 2015 General Assembly.

## 26 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

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

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