

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

3

SENATE BILL 687

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/95

House Committee Substitute Favorable 6/1/95

Short Title: Amend Wastewater Systems Law.

(Public)

Sponsors:

Referred to:

April 13, 1995

1 AN ACT TO AMEND ARTICLE 11 OF CHAPTER 130A OF THE GENERAL
2 STATUTES REGARDING WASTEWATER SYSTEMS.

3 The General Assembly of North Carolina enacts:

4 Section 1. Article 11 of Chapter 130A of the General Statutes reads as
5 rewritten:

6 **"ARTICLE 11.**

7 **"WASTEWATER SYSTEMS.**

8 **"§ 130A-333. Purpose.**

9 The General Assembly finds and declares that continued installation, at a rapidly and
10 constantly accelerating rate, of septic tank systems and other types of wastewater systems
11 in a faulty or improper manner and in areas where unsuitable soil and population density
12 adversely affect the efficiency and functioning of these systems, has a detrimental effect
13 on the public health and environment through contamination of land, groundwater and
14 surface waters. Recognizing, however, that wastewater can be rendered ecologically safe
15 and the public health protected if methods of wastewater collection, treatment and
16 disposal are properly regulated and recognizing that wastewater collection, treatment and
17 disposal will continue to be necessary to meet the needs of an expanding population, the
18 General Assembly intends to ensure the regulation of wastewater collection, treatment

1 and disposal systems so that these systems may continue to be used, where appropriate,
2 without jeopardizing the public health.

3 **"§ 130A-334. Definitions.**

4 The following definitions shall apply throughout this Article:

5 (1) 'Construction' means any work at the site of placement done for the
6 purpose of preparing a residence, place of business or place of public
7 assembly for initial occupancy, or subsequent additions or modifications
8 which increase sewage flow.

9 (2) Repealed by Session Laws 1985, c. 462, s. 18.

10 (2a) 'Industrial process wastewater' means any water-carried waste resulting
11 from any process of industry, manufacture, trade, or business.

12 (3) 'Location' means the initial placement for occupancy of a residence,
13 place of business or place of public assembly.

14 (3a) 'Maintenance' means normal or routine maintenance including
15 replacement of broken pipes, cleaning, or adjustment to an existing
16 wastewater system.

17 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

18 (6) 'Place of business' means a store, warehouse, manufacturing
19 establishment, place of amusement or recreation, service station, office
20 building or any other place where people work.

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

23 (7a) 'Pretreatment' means any biological, chemical, or physical process or
24 system for improving wastewater quality and reducing wastewater
25 constituents prior to final treatment and disposal in a subsurface
26 wastewater system and includes, but is not limited to, aeration,
27 clarification, digestion, disinfection, filtration, separation, and settling.

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

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

34 (9a) 'Repair' means the extension, alteration, replacement, or relocation of
35 existing components of a wastewater system.

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

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

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

42 (13) 'Sewage' means the liquid and solid human body waste and liquid waste
43 generated by water-using fixtures and appliances, including those

1 associated with foodhandling. The term does not include industrial
2 process wastewater or sewage that is combined with industrial process
3 wastewater.

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

7 (15) 'Wastewater system' means a system of wastewater collection,
8 treatment, and ~~disposal~~, disposal in single or multiple components,
9 including a privy, septic tank system, public or community wastewater
10 system, wastewater reuse or recycle system, mechanical or biological
11 wastewater treatment system, any other similar system, and any
12 chemical toilet used only for human waste.

13 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

14 (a) A person owning or controlling a residence, place of business or a place of
15 public assembly shall provide a-an approved wastewater system. A wastewater system
16 may include components for collection, treatment and disposal of wastewater.

17 (b) All wastewater systems shall be regulated by the Department under rules
18 adopted by the Commission except for the following wastewater systems that shall be
19 regulated by the Department under rules adopted by the Environmental Management
20 Commission:

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

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

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

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

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

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

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

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

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

8 (e) The rules of the Commission and the rules of the local board of health shall
9 address at least the following: Wastewater characteristics; Design unit; Design capacity;
10 Design volume; Criteria for the design, installation, operation, maintenance and
11 performance of wastewater collection, treatment and disposal systems; Soil morphology
12 and drainage; Topography and landscape position; Depth to seasonally high water table,
13 rock and water impeding formations; Proximity to water supply wells, shellfish waters,
14 estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps
15 and other bodies of surface or groundwaters; Density of wastewater collection, treatment
16 and disposal systems in a geographical area; Requirements for issuance, suspension and
17 revocation of permits; and Other factors which affect the effective operation and
18 performance of wastewater collection, treatment and disposal systems. The rules
19 regarding required design capacity and required design volume for wastewater systems
20 shall provide that exceptions may be granted upon a showing that a system is adequate to
21 meet actual daily water consumption.

22 (f) The rules of the Commission and the rules of the local board of health shall
23 classify systems of wastewater collection, treatment and disposal according to size, type
24 of treatment and any other appropriate factors. The rules shall provide construction
25 requirements, including pretreatment and system control requirements, standards for
26 ~~operation~~ operation, maintenance, monitoring, reporting, and ownership requirements for
27 each classification of systems of wastewater collection, treatment and disposal in order to
28 prevent, as far as reasonably possible, any contamination of the land, groundwater and
29 surface waters. The Department and local health departments may impose conditions on
30 the issuance of permits and may revoke the permits for failure of the system to satisfy the
31 conditions, the rules or this Article. The permits shall be valid for a period prescribed by
32 the rules, except that improvement permits shall be valid ~~for a period of five years, and may~~
33 ~~be renewed without expiration~~ upon a showing satisfactory to the Department or the local
34 health department that the system is in compliance with the current rules and this Article: site
35 and soil conditions are unaltered, that the facility, design wastewater flow, and
36 wastewater characteristics are not increased, and that a wastewater system can be
37 installed that meets the permitting requirements in effect on the date the improvement
38 permit was issued. The period of time for which the permit is valid and a A statement shall
39 be displayed prominently on both the application form for the permit and the permit that
40 states that the permit is subject to revocation if site plans or the intended use change
41 change. shall be displayed prominently on both the application form for the permit and the
42 permit.

1 (f1) A preconstruction conference with the owner or developer, or an agent of the
2 owner or developer, and a representative of the local health department shall be required
3 for any authorization for wastewater system construction issued with an improvement
4 permit under G.S. 130-336 when the authorization is greater than five years old.
5 Following the conference, the local health department shall issue a revised authorization
6 for wastewater system construction that includes current technology that can reasonably
7 be expected to improve the performance of the system.

8 (g) Prior to denial of an improvement permit, the local health department shall
9 advise the applicant of possible site modifications or alternative systems, and shall
10 provide a brief description of those systems. When an improvement permit is denied, the
11 local health department shall issue the site evaluation in writing stating the reasons for the
12 unsuitable classification. The evaluation shall also inform the applicant of the right to an
13 informal review by the Department, the right to appeal under G.S. 130A-24, and to have
14 the appeal held in the county in which the site for which the improvement permit was
15 requested is located.

16 (h) Except as provided in this subsection, a chemical or portable toilet may be
17 placed at any location where the chemical or portable toilet can be operated and
18 maintained under sanitary conditions. A chemical or portable toilet shall not be used as a
19 replacement or substitute for a water closet or urinal where a water closet or urinal
20 connected to a permanent wastewater treatment system is required by the North Carolina
21 State Building Code, except that a chemical or portable toilet may be used to supplement
22 a water closet or urinal during periods of peak use. A chemical or portable toilet shall not
23 be used as an alternative to the repair of a water closet, urinal, or wastewater treatment
24 system. It shall be unlawful to discharge sewage or other waste from a chemical or
25 portable toilet used for human waste except into a wastewater system that has been
26 approved by the Department under rules adopted by the Commission or by the
27 Environmental Management Commission or at a site that is permitted by the Department
28 under G.S. 130A-291.1.

29 **§ 130A-336. Improvement permit and authorization for wastewater system**
30 **construction required.**

31 (a) Any proposed site for a residence, place of business, or place of public
32 assembly in an area not served by an approved wastewater system shall be evaluated by
33 the local health department in accordance with rules adopted pursuant to this Article. An
34 improvement permit issued in compliance with the rules adopted pursuant to this Article
35 shall include: a description of the facility the proposed site is to serve; the proposed
36 wastewater system; the design wastewater flow and characteristics; a plat of the property
37 showing the specific location of the facility, the site for the proposed wastewater system,
38 property lines, water supplies, surface waters; the conditions for any site modifications;
39 and any other information required by the rules of the Commission. The improvement
40 permit shall not be affected by change in ownership of the site for the wastewater system
41 provided both the site for the wastewater system and the facility the system serves are
42 unchanged and remain under the ownership or control of the person owning the facility.
43 No person shall commence or assist in the construction, location, or relocation of a

1 residence, place of business, or place of public assembly in an area not served by an
2 approved wastewater system unless an improvement permit and an authorization for
3 wastewater system construction are ~~is~~ obtained from the local health department. This
4 requirement shall not apply to a manufactured residence exhibited for sale or stored for
5 later sale and intended to be located at another site after sale.

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

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

24 **"§ 130A-337. Inspection; operation permit ~~or certificate of completion~~ required.**

25 (a) No system of wastewater collection, treatment and disposal shall be covered or
26 placed into use by any person until an inspection by the local health department has
27 determined that the system has been installed or repaired in accordance with any
28 conditions of the improvement permit, the ~~rules~~ rules, and this Article.

29 (b) Upon determining that the system is properly installed or repaired and that the
30 system is capable of being operated in accordance with the conditions of the
31 improvement permit, the rules, this Article and any conditions to be imposed in the
32 operation permit, as applicable, the local health department shall issue an operation
33 permit authorizing the residence, place of business or place of public assembly to be
34 occupied and for the system to be placed into ~~use~~ use or reuse. ~~However, if the system is~~
35 ~~limited to a single septic tank system without a pump or other appurtenances serving a single~~
36 ~~one-family dwelling, then a certificate of completion shall be issued instead of an operation~~
37 ~~permit; also, if the system is limited to a single septic tank system without a pump or other~~
38 ~~appurtenances serving a single residence other than a one-family dwelling, or serving a place of~~
39 ~~business or a place of public assembly and having a design daily flow of not more than 480~~
40 ~~gallons, then a certificate of completion shall be issued instead of an operation permit. A~~
41 ~~certificate of completion shall be issued when the septic tank system is properly installed or~~
42 ~~repaired and is capable of being operated in accordance with the conditions of the improvement~~
43 ~~permit, the rules and this Article.~~

1 (c) Upon determination that an existing wastewater system has a valid operation
2 permit ~~or a valid certificate of completion~~ and is operating properly in a manufactured home
3 park, the local health department shall issue authorization in writing for a manufactured
4 home to be connected to the existing system and to be occupied. Notwithstanding G.S.
5 130A-336, an improvement permit is not required for the connection of a manufactured
6 home to an existing system with a valid operation permit ~~or a valid certificate of completion~~
7 in a manufactured home park.

8 (d) No person shall occupy a residence, place of business or place of public
9 assembly, or place a wastewater system into use or reuse for a residence, place of
10 business or place of public assembly until an operation permit ~~or a certificate of completion~~
11 has been issued or authorization has been obtained pursuant to G.S. 130A-337(c).

12 **"§ 130A-338. ~~Improvement permit or authorization~~ Authorization for wastewater**
13 **system construction required before other permits to be issued.**

14 Where construction, location or relocation is proposed to be done upon a residence,
15 place of business or place of public assembly, no permit required for electrical, plumbing,
16 heating, air conditioning or other construction, location or relocation activity under any
17 provision of general or special law shall be issued until an ~~improvement permit~~
18 authorization for wastewater system construction has been issued under G.S. 130A-336
19 or authorization has been obtained under G.S. 130A-337(c).

20 **"§ 130A-339. Limitation on electrical service.**

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

29 **"§ 130A-340. Review procedures and appeals.**

30 The Department, upon request by an applicant for an improvement permit, shall
31 provide a technical review of any scientific data and system design submitted by the
32 applicant. The data and system design shall be evaluated by professional peers of those
33 who prepared the data and system design. The results of the technical review shall be
34 available prior to a decision by the local health department and shall not affect an
35 applicant's right to a contested hearing under Chapter 150B of the General Statutes.

36 **"§ 130A-341. Consideration of a site with existing fill.**

37 Upon application to the local health department, a site that has existing fill, including
38 one on which fill material was placed prior to July 1, 1977, and that has sand or loamy
39 sand for a depth of at least 36 inches below the existing ground surface, shall be
40 evaluated for an on-site wastewater system. The Commission shall adopt rules to
41 implement this section.

42 **"§ 130A-342. Aerobic systems.**

1 (a) Individual aerobic sewage treatment plants that are approved and listed in
2 accordance with the standards adopted by the National Sanitation Foundation, Inc. for
3 Class I sewage treatment plants as set out in Standard 40, as amended, shall be permitted
4 under rules promulgated by the Commission. The Commission may establish standards in
5 addition to those set by the National Sanitation Foundation, Inc.

6 (b) A permitted plant shall be operated and maintained by a certified wastewater
7 treatment facility ~~operator employed by or under contract to the county in which the plant is~~
8 ~~located.~~ operator.

9 (c) The performance of individual aerobic treatment plants is to be documented by
10 the counties and sent to the Department of Environment, Health, and Natural Resources.
11 Resources annually.

12 **"§ 130A-343. Experimental and innovative systems permitted.**

13 (a) The Commission shall adopt rules for the approval and permitting of
14 experimental and innovative wastewater systems. The rules shall address the criteria to be
15 considered prior to issuing a permit for such a system, requirements for preliminary
16 design plans and specifications that must be submitted, methodology to be used,
17 standards for monitoring and evaluating the system, research evaluation of the system,
18 the plan of work for monitoring system performance and maintenance, and any additional
19 matters the Commission deems appropriate.

20 (b) The Commission shall adopt rules governing the operation and maintenance of
21 experimental and innovative wastewater systems approved and permitted under
22 subsection (a) of this section.

23 (c) The Department shall provide a listing of all approved experimental and
24 innovative wastewater systems to the local health departments annually, and more
25 frequently, when the Department makes a final agency decision on a new system."

26 Sec. 2. G.S. 130A-344 is repealed.

27 Sec. 3. This act becomes effective 1 October 1995 and applies to all
28 improvement permits and authorizations to construct issued on or after that date.