

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 628

Short Title: Amend On-Site Wastewater/Environment Statutes. (Public)

Sponsors: Representatives Brody, Dahle, N. Jackson, and Cairns (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government - Land Use, Planning and Development, if favorable, Rules, Calendar, and Operations of the House

April 18, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING ON-SITE WASTEWATER SYSTEMS, TO MAKE CERTAIN NC ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD CHANGES, TO CREATE AN ADVISORY WASTEWATER CODE COUNCIL, TO MAKE CERTAIN WASTEWATER PLUMBING AND ELECTRICAL CHANGES, TO CLARIFY FEE CALCULATION FOR EROSION AND SEDIMENTATION CONTROL PLAN REVIEWS, TO DIRECT DEQ TO SEEK APPROVAL FROM USEPA TO STREAMLINE IMPLEMENTATION OF REQUIREMENTS OF THE SEDIMENTATION POLLUTION CONTROL ACT AND FEDERAL REQUIREMENTS FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES, TO PROHIBIT FORCED SEWER CONNECTIONS IN CERTAIN SITUATIONS, TO PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING PAYMENTS FROM OWNERS OF STORMWATER CONTROL SYSTEMS FOR FUTURE MAINTENANCE OR REPLACEMENT COSTS OF A SYSTEM, AND TO DIRECT THE BUILDING CODE COUNCIL TO CREATE AN ON-SITE WASTEWATER EXISTING SYSTEM AFFIDAVIT.

The General Assembly of North Carolina enacts:

ON-SITE WASTEWATER CHANGES

SECTION 1. G.S. 130A-335 reads as rewritten:

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

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

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed or repair is necessary for compliance may be evaluated for soil conditions and site features by a person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles. A person licensed pursuant to Chapter 89E of the General Statutes as a licensed



1 geologist may evaluate the proposed site or repair area, as applicable, for geologic and
2 hydrogeologic conditions.

3 (a2) Evaluations conducted by a licensed soil scientist or a licensed geologist pursuant to
4 subsection (a1) of this section shall be used in developing design and construction features for a
5 new proposed wastewater system or a proposed repair project for an existing wastewater system,
6 including the addressing of any special hydrologic conditions that may be required under the
7 applicable rules for an ~~improvement permit~~ Improvement Permit or a ~~construction authorization~~,
8 Construction Authorization, shall be approved by the applicable permitting authorities under
9 G.S. 130A-336 provided both of the following conditions are met:

10 (1) ~~The evaluation of soil conditions, site features, or geologic and hydrogeologic~~
11 ~~conditions satisfies all requirements of this Article.~~ The evaluation shall not
12 cover areas outside the scope of the applicable license.

13 (2) The licensed soil scientist or licensed geologist conducting the evaluation
14 maintains an errors and omissions liability insurance policy issued by an
15 insurer licensed under Chapter 58 of the General Statutes in an amount
16 commensurate with the risk.

17 (a3) When an applicant for an ~~improvement permit~~ Improvement Permit submits to a local
18 health department an ~~application~~ Improvement Permit application, the permit fee charged by the
19 local health department, the common form developed by the Department, and a soil evaluation
20 pursuant to subsection (a2) of this section, the local health department shall, within ~~10~~ five
21 business days of receiving the ~~application~~, take one of the following actions: application, conduct
22 a completeness review of the submittal. A determination of completeness means that the
23 Improvement Permit includes all of the required components. If the local health department
24 determines that the Improvement Permit is incomplete, the local health department shall notify
25 the applicant of the components needed to complete the Improvement Permit. The applicant may
26 submit additional information to the local health department to cure the deficiencies in the
27 Improvement Permit. The local health department shall make a final determination as to whether
28 the Improvement Permit is complete within five business days after the local health department
29 receives the additional information from the applicant. If the local health department fails to act
30 within any period set out in this subsection, the applicant may treat the failure to act as a
31 determination of completeness. The Department shall develop a common form for use as the
32 Improvement Permit.

33 (1) ~~Issue the improvement permit.~~

34 (2) ~~Deny the permit application and provide a signed, written report to the~~
35 ~~applicant citing the applicable rule(s) for permit denial.~~

36 (3) ~~Notify the applicant that additional information is needed if the application is~~
37 ~~incomplete.~~

38 (a4) ~~If a local health department fails to act on an application for an improvement permit~~
39 ~~submitted pursuant to subsection (a3) of this section within 10 business days of receipt of a~~
40 ~~complete application, the local health department shall issue the improvement permit.~~ The
41 licensed soil scientist or licensed geologist submitting the evaluation pursuant to subsection (a2)
42 of this section shall have the right to request that the local health department revoke or suspend
43 the Improvement Permit for cause. Upon written request by the licensed soil scientist or licensed
44 geologist, the local health department shall suspend or revoke the Improvement Permit pursuant
45 to G.S. 130A-23.

46 (a5) When an applicant for a ~~construction authorization~~ Construction Authorization, or an
47 Improvement Permit and Construction Authorization together, submits an ~~application along with~~
48 a Construction Authorization, or an Improvement Permit and Construction Authorization
49 application together, the permit fee charged by the local health department, the common form
50 developed by the Department, and any necessary signed and sealed plans or evaluations, as
51 required by the local health department, evaluations conducted by a person licensed pursuant to

Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator, the local health department shall, within ~~10~~ five business days of receiving the application, ~~take one of the following actions:~~ conduct a completeness review of the submittal. A determination of completeness means that the Construction Authorization or Improvement Permit and Construction Authorization includes all of the required components. If the local health department determines that the Construction Authorization or Improvement Permit and Construction Authorization is incomplete, the local health department shall notify the applicant of the components needed to complete the Construction Authorization or Improvement Permit and Construction Authorization. The applicant may submit additional information to the local health department to cure the deficiencies in the Construction Authorization or Improvement Permit and Construction Authorization. The local health department shall make a final determination as to whether the Construction Authorization or Improvement Permit and Construction Authorization is complete within five business days after the local health department receives the additional information from the applicant. If the local health department fails to act within any period set out in this subsection, the applicant may treat the failure to act as a determination of completeness. The applicant may apply for the building permit for the project upon the decision of completeness of the Construction Authorization or Improvement Permit and Construction Authorization by the local health department or if the local health department fails to act within five business days. The Authorized On-Site Wastewater Evaluator or licensed engineer submitting the evaluation pursuant to subsection (a5) of this section may request that the local health department revoke or suspend the Construction Authorization or Improvement Permit and Construction Authorization for cause. Upon written request of the Authorized On-Site Wastewater Evaluator or licensed engineer, the local health department shall suspend or revoke the Construction Authorization or Improvement Permit and Construction Authorization pursuant to G.S. 130A-23. The Department shall develop a common form for use as the Construction Authorization.

~~(1) Approve the permit application.~~

~~(2) Deny the permit application and provide a signed, written report to the applicant citing the applicable rule(s) for permit denial.~~

~~(3) Notify the applicant that additional information is needed if the application is incomplete.~~

~~(a6) If a local health department fails to act on an application for a construction authorization submitted pursuant to subsection (a5) of this section within 10 business days of receipt of a complete application, the local health department shall issue the construction authorization. The local health department may assess a fee for the Construction Authorization or the Improvement Permit/Construction Authorization combination permit of up to forty percent (40%) of the fee established for similar systems permitted by the local health department.~~

(a7) The wastewater system contractor shall notify the local health department, or professional engineer or Authorized On-Site Wastewater Evaluator, as applicable, prior to the start of construction of the proposed wastewater system by telephone or other electronic means. The local health department, professional engineer, or Authorized On-Site Wastewater Evaluator conducting the evaluation pursuant to subsection (a5) of this section shall retain the ability to delay construction until determination of site conditions. The applicant or the wastewater system contractor certified under rules established by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall notify the local health department of completion of the wastewater system for the inspection and issuance of the operation permit pursuant to G.S. 130A-337 after determination of compliance with the construction authorization.

(a8) The Department, the Department's authorized agents, and the local health departments shall be discharged and released from any liabilities, duties, and responsibilities imposed by

1 statute or in common law from any claim arising out of or attributed to evaluations, submittals,
2 or actions from a licensed soil scientist or licensed geologist pursuant to subsection (a2) of this
3 section. The Department, the Department's authorized agents, and the local health departments
4 shall be discharged and released from any liabilities, duties, and responsibilities imposed by
5 statute or in common law from any claim arising out of or attributed to plans, evaluations,
6 preconstruction conference findings, submittals, or actions from a person licensed pursuant to
7 Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to
8 Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator
9 in subsections (a2), (a5), and (a7) of this section. The Department, the Department's authorized
10 agents, and the local health departments shall be responsible and bear liability for their actions
11 and evaluations and other obligations under State law or rule, including the issuance of the
12 operations permit pursuant to G.S. 130A-337.

13 (a9) Proposed wastewater systems submitted to the local health department pursuant to
14 this section shall not be required to meet the requirements of 15A NCAC 18A .1938(e) or 15A
15 NCAC 18A .1938(f). Any proposals sent to the Department for review shall not be required to
16 meet the time constraints set forth in this section.

17 (b) All wastewater systems shall either (i) be regulated by the Department under rules
18 adopted by the ~~Commission~~ or Commission, (ii) conform with the engineered option permit
19 criteria set forth in G.S. 130A-336.1 and under rules adopted by the ~~Commission~~ Commission,
20 or (iii) conform with the Authorized On-Site Wastewater Evaluator permit criteria pursuant to
21 G.S. 130A-336.2 and rules adopted by the North Carolina On-Site Wastewater Contractors and
22 Inspectors Certification Board except for the following wastewater systems that shall be
23 regulated by the Department of Environmental Quality under rules adopted by the Environmental
24 Management Commission:

- 25 (1) Wastewater collection, treatment, and disposal systems designed to discharge
26 effluent to the land surface or surface waters.
- 27 (2) Wastewater systems designed for groundwater remediation, groundwater
28 injection, or landfill leachate collection and disposal.
- 29 (3) Wastewater systems designed for the complete recycle or reuse of industrial
30 process wastewater.
- 31 (4) Gray water systems as defined in G.S. 143-350.

32 ...

33 (d1) The Department or owner of a wastewater system may file a written complaint with
34 the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules
35 and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing
36 failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to
37 this Article. The Department or owner of a wastewater system may file a written complaint with
38 the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures
39 adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed
40 soil scientist to adhere to the rules adopted by the Commission pursuant to this Article. The
41 Department or owner of a wastewater system may file a written complaint with the North
42 Carolina Board for Licensing of Geologists in accordance with rules and procedures adopted by
43 the Board pursuant to Chapter 89E of the General Statutes citing failure of a licensed geologist
44 to adhere to the rules adopted by the Commission pursuant to this Article. The Department or
45 owner of a wastewater system may file a written complaint with the North Carolina On-Site
46 Wastewater Contractors and Inspectors Certification Board in accordance with rules and
47 procedures adopted by the Board pursuant to Article 5 of Chapter 90A of the General Statutes
48 citing failure of a contractor to adhere to the rules adopted by the Commission pursuant to this
49 ~~Article~~ Article or for failure of an Authorized On-Site Wastewater Evaluator to adhere to rules
50 adopted by the Commission or the Board pursuant to this Article.

51 ...

1 (f) The rules of the Commission and the rules of the local board of health shall classify
 2 systems of wastewater collection, treatment and disposal according to size, type of treatment and
 3 any other appropriate factors. The rules shall provide construction requirements, including
 4 pretreatment and system control requirements, standards for operation, maintenance, monitoring,
 5 reporting, and ownership requirements for each classification of systems of wastewater
 6 collection, treatment and disposal in order to prevent, as far as reasonably possible, any
 7 contamination of the land, groundwater and surface waters. The Department and local health
 8 departments may impose conditions on the issuance of permits and may revoke the permits for
 9 failure of the system to satisfy the conditions, the rules, or this Article. Permits other than
 10 improvement permits shall be valid for a period prescribed by rule. Improvement permits shall
 11 be valid upon a showing satisfactory to the Department or the local health department that the
 12 site and soil conditions are unaltered, that the facility, design wastewater flow, and wastewater
 13 characteristics are not increased, and that a wastewater system can be installed that meets the
 14 permitting requirements in effect on the date the ~~improvement permit~~ Improvement Permit was
 15 issued. Improvement permits for which a plat is provided shall be valid without expiration.
 16 Improvement permits for which a site plan is provided shall be valid for five years. The period
 17 of time for which the permit is valid and a statement that the permit is subject to revocation if the
 18 site plan or plat, whichever is applicable, or the intended use changes shall be displayed
 19 prominently on both the application form for the permit and the permit.

20 (f1) A preconstruction conference with the owner or developer, or an agent of the owner
 21 or developer, and a representative of the local health department shall be required for any
 22 ~~construction authorization~~ Construction Authorization issued with an ~~improvement permit~~
 23 Improvement Permit under G.S. 130A-336 when the authorization is greater than five years old.
 24 Following the conference, the local health department shall advise the owner or developer of any
 25 rule changes for wastewater system construction incorporating current technology that can
 26 reasonably be expected to improve the performance of the system. The local health department
 27 shall issue a revised ~~construction authorization~~ Construction Authorization incorporating the rule
 28 changes upon the written request of the owner or developer.

29 ...

30 (g) Prior to denial of an ~~improvement permit~~, Improvement Permit, the local health
 31 department shall advise the applicant of possible site modifications or alternative systems, and
 32 shall provide a brief description of those systems. When an ~~improvement permit~~ Improvement
 33 Permit is denied, the local health department shall issue the site evaluation in writing stating the
 34 reasons for the unsuitable classification. The evaluation shall also inform the applicant of the
 35 right to an informal review by the Department, the right to appeal under G.S. 130A-24, and to
 36 have the appeal held in the county in which the site for which the ~~improvement permit~~
 37 Improvement Permit was requested is located.

38"

39 **SECTION 2.** G.S. 130A-335.1 reads as rewritten:

40 **"§ 130A-335.1. Effluent filters and access devices for certain septic tank systems.**

41 ...

42 (b) The access device required by G.S. 130A-335(f) shall provide access to each
 43 compartment of a septic tank for inspection and maintenance either by means of an opening in
 44 the top of the septic tank or by a riser assembly and shall include an appropriate cover. The access
 45 device shall:

- 46 (1) Be of sufficient size to facilitate inspection and service.
- 47 (2) Be designed and constructed to equal or exceed the minimum loading
 48 specifications applicable to the septic tank.
- 49 (3) Prevent water entry.
- 50 (4) Come to within six inches of the finished grade.
- 51 (5) ~~Be visibly marked so that the access device can be readily located."~~

1 **SECTION 3.** G.S. 130A-336.1 reads as rewritten:

2 "**§ 130A-336.1. Alternative process for wastewater system approvals.**

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

8 (b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction,
9 siting, repair, or relocation of a wastewater system, the owner of a proposed wastewater system
10 who wishes to utilize the engineered option permit, or a professional engineer authorized as the
11 legal representative of the owner, shall submit to the local health department with jurisdiction
12 over the location of the proposed wastewater system a ~~notice of intent to construct~~ Notice of
13 Intent to Construct a wastewater system utilizing the engineered permit option. The owner may
14 apply for a building permit for the project upon receipt of the Notice of Intent to Construct by
15 the local health department. The owner shall notify the local health department upon completing
16 installation of the wastewater system, adherence to the submitted Notice of Intent to Construct,
17 and the submittal of the Authorization to Operate to the local health department. The Department
18 shall develop a common form for use as the ~~notice of intent to construct~~ Notice of Intent to
19 Construct that includes all of the following:

- 20 (1) The owner's name, address, e-mail address, and telephone number.
- 21 (2) The professional engineer's name, license number, address, e-mail address,
22 and telephone number.
- 23 (3) For the professional engineer, the licensed soil scientist, the licensed
24 geologist, and any on-site wastewater contractors, proof of errors and
25 omissions insurance coverage or other appropriate liability insurance.
- 26 (4) A description of the facility the proposed site is to serve and any factors that
27 would affect the wastewater load.
- 28 (5) The type of proposed wastewater system and its location.
- 29 (6) The design wastewater flow and characteristics.
- 30 (7) Any proposed landscape, site, drainage, or soil modifications.
- 31 (8) A soil evaluation that is conducted and signed and sealed by a either a licensed
32 soil scientist or licensed geologist.
- 33 (9) A plat, as defined in G.S. 130A-334(7a), or a site plan, as defined in
34 G.S. 130A-334(13a).

35 (c) ~~Completeness Review for Notice of Intent to Construct. — The local health department~~
36 ~~shall determine whether a notice of intent to construct, as required pursuant subsection (b) of this~~
37 ~~section, is complete within 15 business days after the local health department receives the notice~~
38 ~~of intent to construct. A determination of completeness means that the notice of intent to construct~~
39 ~~includes all of the required components. If the local health department determines that the notice~~
40 ~~of intent to construct is incomplete, the department shall notify the owner or the professional~~
41 ~~engineer of the components needed to complete the notice. The owner or professional engineer~~
42 ~~may submit additional information to the department to cure the deficiencies in the notice. The~~
43 ~~local health department shall make a final determination as to whether the notice of intent to~~
44 ~~construct is complete within 10 business days after the department receives the additional~~
45 ~~information from the owner or professional engineer. If the department fails to act within any~~
46 ~~time period set out in this subsection, the owner or professional engineer may treat the failure to~~
47 ~~act as a determination of completeness.~~

48 (d) Submission of Notice of Intent to Construct to Department for Certain Systems. –
49 Prior to commencing in the construction, siting, repair, or relocation of a wastewater system
50 designed (i) for the collection, treatment, and disposal of industrial process wastewater or (ii) to
51 treat greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes

1 to utilize the ~~engineered option permit~~, Engineered Option Permit, or a professional engineer
2 authorized as the legal representative of the owner, shall provide to the Department a duplicate
3 copy of the ~~notice of intent to construct~~ Notice of Intent to Construct submitted to the local health
4 department required pursuant to subsection (b) of this section.

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

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

14 (2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater
15 system shall employ a person licensed pursuant to Chapter 89F of the General
16 Statutes as a licensed soil scientist to conduct soil and site evaluations and, as
17 applicable, a person licensed pursuant to Chapter 89E of the General Statutes
18 as a licensed geologist to evaluate geologic and hydrogeologic conditions.

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

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

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

25 1. The materials, systems, components, and work subject to
26 special inspection or testing.

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

28 3. The frequency of each type of special inspection. For purposes
29 of this sub-sub-subdivision, frequency of special inspections
30 shall be required on either a continuous or periodic basis.
31 Continuous special inspections mean the full-time observation
32 of work requiring special inspection by an approved special
33 inspector who is present in the area where the work is
34 performed. Periodic special inspections mean the part-time or
35 intermittent observation of work requiring a special inspection
36 by an approved special inspector who is present in the area
37 where the work is or has been performed and at the completion
38 of the work.

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

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

45 a. Be responsible for all aspects of the construction and installation of the
46 wastewater system or components of the wastewater system, including
47 adherence to the design, specifications, and any special inspections
48 that are prepared, signed, and sealed by the professional engineer in
49 accordance with all the applicable provisions of this section.

50 b. Submit a signed and dated statement of responsibility to the owner of
51 the wastewater system, prior to the commencement of work, that

- 1 contains acknowledgement and awareness of the requirements in the
2 professional engineer's statement of special inspections.
- 3 ~~(5) Where the professional engineer's designs, plans, and specifications call for~~
4 ~~the installation of a conventional wastewater system, such designs, plans, and~~
5 ~~specifications shall allow for the installation of an accepted system in lieu of~~
6 ~~a conventional system in accordance with the accepted system approval.~~
- 7 (6) In addition to the requirements of this section, the owner, the professional
8 engineer designing the proposed wastewater system, and any on-site
9 wastewater system contractors employed to construct or install the wastewater
10 system shall comply with applicable federal, State, and local laws, regulations,
11 rules, and ordinances.
- 12 (f) No Public Liability. – The Department, the Department's authorized agents, or local
13 health departments shall have no liability for wastewater systems designed, constructed, and
14 installed pursuant to ~~a engineered option permit.~~ an Engineered Option Permit.
- 15 (g) Inspections, Construction Observations, and Reports. –
- 16 ~~(1) Site visits. – The local health department may, at any time, conduct a site visit~~
17 ~~of the wastewater system.~~
- 18 (2) Construction observations. – The professional engineer who designed the
19 wastewater system shall make periodic visits to the site, at intervals
20 appropriate to the stage of construction, to observe the progress and quality of
21 the construction and to determine, generally, if the construction is proceeding
22 in accordance with the engineer's plans and specifications.
- 23 (3) Special inspections. – The owner of the proposed wastewater system shall
24 employ one or more approved special inspectors to conduct special
25 inspections during the construction of the wastewater system. The
26 professional engineer who designed the wastewater system, or the engineer's
27 personnel, may function as an approved agency to conduct special inspections
28 required by this subdivision. The professional engineer's personnel shall only
29 operate as an approved agency for special inspections if the personnel can
30 demonstrate competence and relevant experience or training. For purposes of
31 this subdivision, experience or training shall be considered relevant when the
32 documented experience or training is related in complexity to the same type
33 of special inspection activities for projects of similar complexity and material
34 qualities.
- 35 (4) Inspection reports. – Approved special inspectors shall maintain and furnish
36 all inspection records to the professional engineer who designed the
37 wastewater system. The records shall indicate whether the work inspected was
38 completed in conformance with the engineer's design and specifications. Any
39 discrepancies identified between the completed work and the engineer's
40 design shall be brought to the immediate attention of the on-site wastewater
41 system contractor for correction. If discrepancies are not corrected, they shall
42 be brought to the attention of the professional engineer who designed the
43 wastewater system prior to completion of work. A final inspection report
44 documenting the required special inspections and the correction of any
45 identified discrepancies shall be provided to the professional engineer and the
46 owner of the wastewater system for review at the post-construction conference
47 required pursuant to subsection (j) of this section.
- 48 (h) Local Authority. – This section shall not relieve the owner or operator of a wastewater
49 system from complying with any and all modifications or additions to rules adopted by a local
50 health department to protect public health pursuant to G.S. 130A-335(c) that are required at the
51 time the owner or operator submits the ~~notice of intent to construct.~~ Notice of Intent to Construct

1 pursuant to G.S. 130A-336.1(b). The local health department shall notify the owner or operator
2 of the wastewater system of any issues of compliance related to such modifications or additions.

3 ...

4 (j) Post-Construction Conference. – The professional engineer designing the wastewater
5 system shall hold a post-construction conference with the owner of the wastewater system; the
6 licensed soil scientist or licensed geologist who performed the soils evaluation for the wastewater
7 system; the on-site wastewater system contractor, certified pursuant to Article 5 of Chapter 90A
8 of the General Statutes, who installed the wastewater system; and the certified operator of the
9 wastewater system, if any; ~~and representatives from the local health department and, as
10 applicable, the Department, any.~~ The post-construction conference shall include start-up of the
11 wastewater system and any required verification of system design or system components. The
12 post-construction conference required by this subsection may be waived for Type I, II, and III
13 wastewater systems, as listed in 15A NCAC 18A.1961 Table V(a), upon written request by the
14 professional engineer and written approval by the owner of the wastewater system.

15 (k) Required Documentation. –

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

- 21 a. The evaluation of soil conditions and site features as prepared by either
22 the licensed soil scientist or licensed geologist.
- 23 b. The drawings, specifications, plans, and reports of the wastewater
24 system, including the statement of special inspections required
25 pursuant to G.S. 130A-336.1(e)(3); the on-site wastewater system
26 contractor's signed statement of responsibility required pursuant to
27 G.S. 130A-336.1(e)(4); records of all special inspections; and the final
28 inspection report documenting the correction of any identified
29 discrepancies required pursuant to subsection (g) of this section.
- 30 c. The operator's management program manual that includes a copy of
31 the contract with the certified water pollution control system operator
32 required pursuant to subsection (i) of this section.
- 33 d. Any reports and findings related to the design and installation of the
34 wastewater system.
- 35 e. A copy of the authorization to operate that can be used for the
36 certificate of occupancy for the facility.

37 (2) Upon reviewing the professional engineer's report, the owner of the
38 wastewater system shall sign ~~and notarize the report as having been~~
39 ~~received.~~ the report confirming acceptance and receipt of the report.

40 (l) Reporting Requirements. –

- 41 (1) The owner of the wastewater system shall submit the following to the local
42 health department:
 - 43 a. A copy of the professional engineer's report required pursuant to
44 G.S. 130A-336.1(k)(1).
 - 45 b. A copy of the operations and management program.
 - 46 c. The fee required pursuant to subsection (n) of this section.
 - 47 d. ~~A notarized~~ letter that documents the owner's acceptance of the system
48 from the professional engineer.
 - 49 e. A copy of the Authorization to Operate.

1 (2) The owner of any wastewater system that is subject to subsection (d) of this
2 section shall deliver to the Department copies of the engineer's report, as
3 described G.S. 130A-336.1(k)(1).

4 ~~(m) Authorization to Operate.—Within 15 business days of receipt of the documents and~~
5 ~~fees required pursuant to G.S. 130A-336.1(l)(1), the local health department shall issue the owner~~
6 ~~a letter of confirmation that states the documents and information contained therein have been~~
7 ~~received and that the wastewater system may operate in accordance with rules adopted by the~~
8 ~~Commission.~~

9 (n) Fees. – The local health department may assess ~~a~~ an administrative fee for the
10 ~~engineered option permit of up to thirty percent (30%) of the cumulative total of the fees the~~
11 ~~department has established to obtain an improvement permit, an authorization to construct, and~~
12 ~~an operations permit for wastewater systems under its jurisdiction. The fee shall only be used by~~
13 ~~the department in support of its work pursuant to this section to conduct site inspections; support~~
14 ~~the department's staff participation at post construction conference meetings; and archive the~~
15 ~~engineered permit with the county register of deeds or other recordation of the wastewater system~~
16 ~~as required of no more than thirty-five dollars (\$35.00) for filing costs.~~

17 (o) Change in System Ownership. – A wastewater system authorized pursuant to this
18 section shall ~~not be affected by change in ownership of the site for the wastewater system,~~
19 ~~provided both the site for the wastewater system and the facility the system serves are unchanged~~
20 ~~and remain under the ownership or control of the person owning the facility.~~ be transferrable to a
21 new owner with the consent of the professional engineer. The new owner and the professional
22 engineer shall enter a contract for the wastewater system.

23 (o1) Revocation. – A Notice of Intent to Construct or an Authorization to Operate issued
24 by an engineer under this section may be revoked by the engineer that issued the Notice of Intent
25 to Construct or the Authorization to Operate. The professional engineer shall send written
26 notification of the revocation to the owner, the licensed soil scientist, the licensed geologist, if
27 any, the certified contractor, the local health department, and the certified water pollution control
28 system operator, if any. The professional engineer shall cite the specific reason for the revocation
29 in the written notification.

30 (o2) Repair of Malfunctioning Systems. – The owner may apply for an Improvement
31 Permit or a Construction Authorization from the local health department or obtain a Notice of
32 Intent to Construct to repair a malfunctioning wastewater system initially established under this
33 section.

34 (p) Remedies. – Notwithstanding any other provision of this section or any other
35 provision of law, owners; operators; professional engineers who utilize the engineered option
36 permit, who prepare drawings, specifications, plans, and reports; licensed soil scientists; licensed
37 geologists; and on-site wastewater system contractors employed for the construction or
38 installation of the wastewater system shall be subject to the provisions and remedies provided to
39 the Department and local health departments pursuant to Article 1 of this Chapter.

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

42 ~~(r) Reports.—The Department shall report to the Environmental Review Commission~~
43 ~~and the Joint Legislative Oversight Committee on Health and Human Services on or before~~
44 ~~January 1, 2017, and annually thereafter, on the implementation and effectiveness of this section.~~
45 ~~For the report due on or before January 1, 2017, the Department shall specifically study (i)~~
46 ~~whether the engineered option permit resulted in a reduction in the length of time improvement~~
47 ~~permits or authorizations to construct are pending; (ii) whether the engineered option permit~~
48 ~~resulted in increased system failures or other adverse impacts; (iii) if the engineered option permit~~
49 ~~resulted in new or increased environmental or public health impacts; (iv) an amount of errors and~~
50 ~~omissions insurance or other liability sufficient for covering professional engineers, licensed soil~~
51 ~~scientists, licensed geologists, and contractors who employ the engineered option permit; and (v)~~

1 the fees charged by local health departments to administer the engineered option permit pursuant
2 to subsection (n) of this section. The Department may include recommendations, including any
3 legislative proposals, in its reports to the Commission and Committee."

4 **SECTION 4.** G.S. 130A-336.2 reads as rewritten:

5 "**§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.**

6 (a) Authorized On-Site Wastewater Evaluator. – An individual licensed as a soil scientist
7 pursuant to Chapter 89F of the General Statutes and further certified under conditions developed
8 and administered by the North Carolina On-Site Wastewater Contractors and Inspectors
9 Certification Board may, at the direction of the owner of a proposed wastewater system, prepare
10 signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout,
11 construction, operation, and maintenance of a wastewater system in accordance with this section
12 and rules adopted pursuant to this section. An Authorized On-Site Wastewater Evaluator shall
13 not perform any of the functions performed by a professional engineer for engineered wastewater
14 systems described in G.S. 130A-336.1.

15 (b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction,
16 siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system
17 who wishes to use an Authorized On-Site Wastewater Evaluator shall submit a ~~notice of intent~~
18 ~~to construct~~ complete Notice of Intent to Construct a wastewater system using an Authorized
19 On-Site Wastewater Evaluator to the local health department with jurisdiction over the location
20 of the proposed wastewater system. The owner may apply for a building permit for the project
21 upon submitting a complete Notice of Intent to Construct to the local health department. The
22 Department of Health and Human Services North Carolina On-Site Wastewater Contractors and
23 Inspectors Certification Board shall develop a common form for use as a ~~notice of intent to~~
24 ~~construct that includes all of the following:~~ Notice of Intent to Construct.

25 (1) ~~The owner's name, e-mail address, mailing address, and phone number.~~

26 (2) ~~The Authorized On-Site Wastewater Evaluator's name, certification number,~~
27 ~~mailing address, e-mail address, and telephone number.~~

28 (3) ~~The physical location of proposed site.~~

29 (4) ~~Proof of errors and omissions, liability, or other insurance adequate for the~~
30 ~~proposed wastewater system.~~

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

33 (6) ~~The type of wastewater system proposed.~~

34 (7) ~~The estimated wastewater flow and wastewater characteristics.~~

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

36 (9) ~~An evaluation of soil conditions and site features that is conducted and signed~~
37 ~~and sealed by a licensed soil scientist or for geologic or hydrogeologic~~
38 ~~conditions by a licensed geologist.~~

39 (10) ~~A plat, as defined in G.S. 130A-334(7a), or a site plan, as defined in~~
40 ~~G.S. 130A-334(13a).~~

41 (c) ~~Completeness Review for Notice of Intent to Construct.~~ ~~The local health department~~
42 ~~shall determine whether the notice of intent to construct required pursuant to subsection (b) of~~
43 ~~this section is complete within five business days after receiving the notice of intent to construct.~~
44 ~~A determination of completeness means that the notice of intent to construct includes all of the~~
45 ~~required components. If the local health department determines that the notice of intent to~~
46 ~~construct is incomplete, the local health department shall notify the owner and list the information~~
47 ~~needed to complete the notice. The owner may then submit additional information to the local~~
48 ~~health department to cure the deficiencies in the initial notice. The local health department shall~~
49 ~~make a final determination as to whether the notice of intent to construct is complete within five~~
50 ~~business days after the department receives the additional information. If the local health~~
51 ~~department fails to act within any time period set out in this subsection, the owner may treat the~~

1 failure to act as a determination of completeness. The owner shall be able to apply for the building
2 permit for the project upon the decision of completeness of the notice of intent by the local health
3 department or if the local health department fails to act within the five business day time period.

4 (d) Soil and Site Evaluation, Construction, and Activities. –

5 (1) The Authorized On-Site Wastewater Evaluator shall use standards
6 incorporated in recognized soil and siting practices in North Carolina. The
7 evaluation and findings shall include, at a minimum, the information required
8 in rules adopted by the Commission pursuant to G.S. 130A-335(e). An
9 Authorized On-Site Wastewater Evaluator shall not form a direct business
10 relationship with any technology that may result in a conflict of interest.

11 (2) The Authorized On-Site Wastewater Evaluator shall prepare a signed and
12 sealed statement of special inspections that includes the following items:

13 a. The materials, systems, components, and work subject to special
14 inspections and testing.

15 b. The type, frequency, and extent of each special inspection and each
16 test. For the purposes of this subdivision, "special inspection" means
17 any continuous or intermittent inspection or visitation performed by
18 the Authorized On-Site Wastewater Evaluator at the construction site
19 on behalf of the owner.

20 (3) The Authorized On-Site Wastewater Evaluator shall assist the owner in the
21 selection of an on-site wastewater system contractor who shall be under
22 contractual obligation to the owner of the system and have sufficient errors
23 and omissions, liability, or other insurance for the system constructed.

24 (4) The Authorized On-Site Wastewater Evaluator may assist in the construction,
25 siting, relocation, or repair of any wastewater system described in
26 G.S. 130A-343.

27 ~~(5) Where the Authorized On-Site Wastewater Evaluator's designs, plans, and
28 specifications call for the installation of a conventional wastewater system,
29 those designs, plans, and specifications shall allow for the installation of an
30 Accepted system in lieu of a conventional system in accordance with the
31 Accepted system approval.~~

32 ...

33 (g) Inspections, Construction Observations, and Reports. –

34 ~~(1) A local health department may, at any time, conduct a site visit of the
35 wastewater system.~~

36 (2) An Authorized On-Site Wastewater Evaluator shall make periodic visits to the
37 site to observe the progress and quality of the construction.

38 (3) An Authorized On-Site Wastewater Evaluator may employ independent
39 inspectors to observe and direct the construction of the wastewater system.
40 Authorized On-Site Wastewater Evaluators shall be liable for any errors or
41 omissions made by independent inspectors they employ or contract with.

42 (4) All construction and inspection reports shall be signed by the authorized
43 inspector or Authorized On-Site Wastewater Evaluator. Copies shall be
44 furnished to the owner and the certified contractor and shall be included in the
45 submittal package to the local health department.

46 (h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater
47 system from complying with all rules adopted by a local health department pursuant to
48 G.S. 130A-335(c) that are in effect at the time the owner submits the ~~notice of intent to construct~~
49 Notice of Intent to Construct described in subsection (b) of this section. The local health
50 department shall notify the owner of the wastewater system of any issues of compliance related
51 to such modifications or additions.

1 (i) Operation and Management. –

2 (1) An Authorized On-Site Wastewater Evaluator shall establish a written
3 operation and management program based on the rules established for similar
4 wastewater systems and shall provide this information to the owner of the
5 system.

6 (2) If necessary to comply with rules adopted by the ~~Commission, North Carolina~~
7 On-Site Wastewater Contractors and Inspectors Certification Board, the
8 owner shall enter into a contract with a water pollution control system operator
9 certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.

10 (3) The owner shall be responsible for the continued adherence to the operations
11 and management program established by the Authorized On-Site Wastewater
12 Evaluator pursuant to subdivision (1) of this subsection.

13 (j) Post-Construction Conference. – The Authorized On-Site Wastewater Evaluator shall
14 hold a post-construction conference with the owner, the certified contractor, and the certified
15 water pollution control system operator, if any. The post-construction conference shall include
16 start-up and any required verification of system components.

17 (k) Required Documents. – At the post-construction conference, the Authorized On-Site
18 Wastewater Evaluator shall provide the owner with the following documents:

19 (1) A signed and sealed copy of reports on soil conditions and site features,
20 layouts, drawings, specifications, justification on any proposed design daily
21 flow reductions, and any special inspection reports or corrections made during
22 the construction of the system.

23 (2) The owner's operation and management program established for the specific
24 wastewater system under subdivision (1) of subsection (i) of this section.

25 (3) Any reports and findings related to the evaluation, siting, and construction of
26 the wastewater system.

27 (4) The Authorization to Operate to be used for the certificate of occupancy for
28 the facility.

29 (l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner
30 shall sign ~~and notarize a document~~ confirming acceptance and receipt of the report. The owner
31 shall then submit the following to the local health department:

32 (1) A copy of the Authorized On-Site Wastewater Evaluator's ~~report~~report,
33 including the Authorization to Operate.

34 (2) A copy of the operations and management program established for the system
35 by the Authorized On-Site Wastewater Evaluator.

36 (3) The fee established pursuant to subsection (n) of this section.

37 (4) ~~A notarized letter that documents the owner's acceptance of the system.~~A copy
38 of the document confirming acceptance and receipt of the report by the owner.

39 ~~(m) Authorization to Operate. — Within five business days of receipt of the required~~
40 ~~documents and fees described in subsection (l) of this section, the local health department shall~~
41 ~~issue the owner an authorization to operate confirming all the requirements of this section have~~
42 ~~been met and all rules adopted by the Commission pertaining to nonengineered on-site~~
43 ~~wastewater systems have been complied with.~~

44 (n) Fees. – The local health department may assess ~~a~~an administrative fee for the system
45 ~~developed by the Authorized On-Site Wastewater Evaluator of up to thirty percent (30%) of the~~
46 ~~cumulative total of the fees established for similar systems permitted by the local health~~
47 ~~department. The fee shall only be used by the local health department in support of its work~~
48 ~~pursuant to duties established by this section.~~of no more than thirty-five dollars (\$35.00) for filing
49 costs.

50 (o) Change in System Ownership. – A wastewater system authorized pursuant to this
51 section shall ~~not be affected by change of ownership of the site for the wastewater system,~~

1 provided both the site for the wastewater system and the type of facility the system serves are
2 unchanged; be transferrable to a new owner with the consent of the Authorized On-Site
3 Wastewater Evaluator. The new owner and the Authorized On-Site Wastewater Evaluator shall
4 enter a contract for the wastewater system.

5 (o1) Revocation. – A Notice of Intent to Construct or an Authorization to Operate issued
6 by an Authorized On-Site Wastewater Evaluator under this section may be revoked by the
7 Authorized On-Site Wastewater Evaluator that issued the Notice of Intent to Construct or the
8 Authorization to Operate. The Authorized On-Site Wastewater Evaluator shall send written
9 notification of the revocation to the owner, the licensed soil scientist, if applicable, the licensed
10 geologist, if any, the certified contractor, the local health department, and the certified water
11 pollution control system operator, if any. The Authorized On-Site Wastewater Evaluator shall
12 cite the specific reason for the revocation in the written notification.

13 (o2) Repair of Malfunctioning Systems. – The owner may apply for an Improvement
14 Permit or a Construction Authorization from the local health department or obtain a Notice of
15 Intent to Construct to repair a malfunctioning wastewater system initially established under this
16 section.

17 (p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized
18 On-Site Wastewater Evaluators, certified contractors described in subsection (e) of this section,
19 and certified water pollution control systems operators described in subdivision (2) of subsection
20 (i) of this section shall be subject only to the disciplinary authority of their individual certifying
21 boards.

22 (q) Rule Making. –

23 (1) The Commission—North Carolina On-Site Wastewater Contractors and
24 Inspectors Certification Board shall have the power to adopt rules to
25 implement the provisions of this section.

26 (2) Notwithstanding any provision of law to the contrary, the North Carolina
27 On-Site Wastewater Contractors and Inspectors Certification Board shall have
28 the exclusive authority to promulgate rules regarding certification of
29 Authorized On-Site Wastewater Evaluators where review and seal of a
30 professional engineer is not necessary pursuant to this section.

31 (3) The rules adopted by the Board for wastewater systems approved under the
32 alternative wastewater system approvals for nonengineered system criteria
33 pursuant to G.S. 130A-336.2 shall be, at a minimum, as stringent as the rules
34 for wastewater systems established by the Commission.

35 (r) Reports.— ~~The Department shall report to the Environmental Review Commission~~
36 ~~and the Joint Legislative Oversight Committee on Health and Human Services by January 1,~~
37 ~~2020, and annually thereafter, on the program established under this section. The Department~~
38 ~~shall specifically include the efficiency and effectiveness of the program developed under this~~
39 ~~section and whether the program aided in reducing the length of time in issuing permits. The~~
40 ~~Department shall obtain activity reports from the local health departments showing the~~
41 ~~wastewater systems developed under this section. The annual report shall include any suggestions~~
42 ~~for the improvement of this section, including adequate and appropriate insurance coverage,~~
43 ~~operator reporting requirements, or fee allowance."~~

44 **SECTION 5.** G.S. 130A-337 reads as rewritten:

45 "**§ 130A-337. Inspection; operation permit required.**

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

50 (a1) Notwithstanding subsection (a) of this section, an applicant may contract with an
51 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of Chapter 90A of the

1 General Statutes to conduct any required verifications or inspections. The evaluator shall provide
2 the applicant with written verification that all conditions of the Improvement Permit and
3 Construction Authorization have been met, including a sketch of the wastewater system as
4 verified by the evaluator. The applicant may cover the system and place it into operation upon
5 receipt of the evaluator's written verification and shall submit the verification to the local health
6 department within two business days of receipt of the verification. The Department, the
7 Department's authorized agents, and the local health department shall be discharged and released
8 from any liabilities, duties, and responsibilities imposed by statute or common law from any
9 claim arising out of or attributed to the on-site wastewater system installation.

10 (b) Upon determining that the system is properly installed or repaired and that the system
11 is capable of being operated in accordance with the conditions of the ~~improvement permit,~~
12 Improvement Permit, the rules, this Article and any conditions to be imposed in the operation
13 permit, as applicable, the local health department shall issue an operation permit authorizing the
14 residence, place of business or place of public assembly to be occupied and for the system to be
15 placed into use or reuse.

16 (c) Upon determination that an existing wastewater system has a valid operation permit
17 and is operating properly in a manufactured home park, the local health department shall issue
18 authorization in writing for a manufactured home to be connected to the existing system and to
19 be occupied. Notwithstanding G.S. 130A-336, an ~~improvement permit~~ Improvement Permit is
20 not required for the connection of a manufactured home to an existing system with a valid
21 operation permit in a manufactured home park.

22 (d) No person shall occupy a residence, place of business or place of public assembly, or
23 place a wastewater system into use or reuse for a residence, place of business or place of public
24 assembly until an operation permit has been issued or authorization has been obtained pursuant
25 to G.S. 130A-337(c)."

26 **SECTION 6.(a)** G.S. 130A-343 reads as rewritten:

27 "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

28 ...

29 (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an Innovative
30 wastewater dispersal system or other approved trench dispersal system specifically identified in
31 a rule adopted by the Commission that has been in general use in this State for a minimum of
32 five years may petition the Commission to have the system designated as an Accepted wastewater
33 system as provided in this subsection. The manufacturer shall provide the Commission with the
34 data and findings of all prior evaluations of the performance of the system in this State and other
35 states referenced in the petition, including disclosure of any conditions found to result in
36 unacceptable structural integrity, treatment, or hydraulic performance. In addition, the
37 manufacturer shall provide the Commission with information sufficient to enable the
38 Commission to fully evaluate the performance of the system in this State for at least the five-year
39 period immediately preceding the petition. The Commission shall designate a wastewater
40 dispersal system as an Accepted wastewater system only if it finds that there is clear, convincing,
41 and cogent evidence based on actual field surveys and county activity reports (i) to confirm the
42 findings made by the Department at the time the Department approved the system as a wastewater
43 dispersal system and (ii) that the system performs in a manner that is equal or superior to a
44 conventional or Accepted wastewater system under actual field conditions in this State. The
45 Commission shall specify the circumstances in which use of the system is appropriate and any
46 conditions and limitations related to the use of the system. However, the Commission shall not
47 include more restrictive conditions and limitations established in the approval of a wastewater
48 system as Accepted that are not included in the approval of the wastewater system as Innovative.
49 If the Commission designates a wastewater dispersal system as an Accepted wastewater system
50 pursuant to this section, the following shall apply:

- 1 (1) The approval shall be limited to the manufacturer who submitted the petition
2 and received the Accepted status from the Commission.
3 (2) Neither the Commission, the Department, or any local health department shall
4 condition, delay, or deny the substitution of any Accepted wastewater system
5 based on location of nitrification lines when all parts of the dispersal field can
6 be installed within the approved initial dispersal field area while complying
7 with all Commission rules.

8 (i) Nonproprietary Wastewater Systems. – The Department may initiate a review of a
9 nonproprietary wastewater system and approve the system for use as a provisional wastewater
10 system or an innovative wastewater system without having received an application from a
11 manufacturer. ~~The Department may recommend that the Commission designate a nonproprietary~~
12 ~~wastewater system as an accepted wastewater system without having received a petition from a~~
13 ~~manufacturer.~~

14 (j) Repealed by Session Laws 2015-286, s. 4.15(a), effective October 22, 2015.

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

25 "

26 **SECTION 6.(b)** This section is effective when it becomes law and applies
27 retroactively to any wastewater system approvals issued by the Commission for Public Health or
28 the Department of Health and Human Services.

30 **NC ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS** 31 **CERTIFICATION BOARD CHANGES**

32 **SECTION 7.(a)** G.S. 90A-73 reads as rewritten:

33 **"§ 90A-73. Creation and membership of the Board.**

34 (a) Creation and Appointments. – There is created the North Carolina On-Site
35 Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine
36 members appointed to three-year terms as follows:

- 37 (1) One member appointed by the Governor who, at the time of appointment, is
38 engaged in the construction, installation, repair, or inspection of on-site
39 wastewater systems, to a term that expires on 1 July of years that precede by
40 one year those years that are evenly divisible by three.
41 (2) One member appointed by the Governor who, at the time of appointment, is a
42 certified water pollution control system operator pursuant to Article 3 of this
43 Chapter, to a term that expires on 1 July of years evenly divisible by three.
44 (3) One member appointed by the Governor who is a registered professional
45 engineer licensed under Chapter 89C of the General Statutes and whose work
46 experience includes the design of on-site wastewater systems to a term that
47 expires on 1 July of years that follow by one year those years that are evenly
48 divisible by three.
49 (4) One member appointed by the General Assembly upon recommendation of
50 the President Pro Tempore of the Senate who, at the time of appointment, is
51 engaged in the construction, installation, repair, or inspection of on-site

1 wastewater systems, to a term that expires on 1 July of years that follow by
2 one year those years that are evenly divisible by three.

3 (5) One member appointed by the General Assembly upon recommendation of
4 the President Pro Tempore of the Senate who, at the time of appointment, is
5 engaged in the business of inspecting on-site wastewater systems, to a term
6 that expires on 1 July of years that precede by one year those years that are
7 evenly divisible by three.

8 (6) One member appointed by the General Assembly upon recommendation of
9 the President Pro Tempore of the Senate upon the recommendation of the
10 North Carolina Home Builders Association, to a term that expires on 1 July of
11 years evenly divisible by three.

12 (7) One member appointed by the General Assembly upon recommendation of
13 the Speaker of the House of Representatives who, at the time of appointment,
14 is engaged in the construction, installation, repair, or inspection of on-site
15 wastewater systems, to a term that expires on 1 July of years evenly divisible
16 by three.

17 (8) One member appointed by the General Assembly upon recommendation of
18 the Speaker of the House of Representatives who, at the time of appointment,
19 is (i) ~~employed as an a registered~~ environmental health specialist, and (ii)
20 engaged primarily in the inspection ~~and permitting~~ of on-site wastewater
21 ~~systems, systems pursuant to Article 5 of this Chapter, and the operation of~~
22 on-site wastewater systems, to a term that expires on 1 July of years that
23 follow by one year those years that are evenly divisible by three.

24 (9) One member appointed by the General Assembly upon recommendation of
25 the Speaker of the House of Representatives who, at the time of appointment,
26 is ~~a soil scientist licensed under Chapter 89F of the General Statutes with~~
27 ~~experience in soil and site evaluation for on site wastewater systems, an~~
28 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of
29 this Chapter, to a term that expires on 1 July of years that precede by one year
30 those years that are evenly divisible by three.

31 (b) Vacancies. – An appointment to fill a vacancy on the Commission created by the
32 resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired
33 term. Vacancies in appointments made by the General Assembly shall be filled as provided in
34 G.S. 120-122.

35 (c), (d) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010.

36 (e) Officers. – The Board shall elect a Chair from among its members. The Chair shall
37 serve from the time of election until 30 June of the following year, or until a successor is elected.

38 (f) Compensation. – Board members who are State employees shall receive no per diem
39 compensation for serving on the Board but shall be reimbursed for their expenses in accordance
40 with G.S. 138-6. All other Board members shall receive per diem compensation and
41 reimbursement in accordance with the compensation rate established in G.S. 93B-5.

42 (g) Quorum. – A majority of the members of the Board constitutes a quorum for the
43 transaction of business.

44 (h) Meetings. – The Board shall meet at least twice each year and may hold special
45 meetings at the call of the Chair or a majority of the members of the Board.

46 (i) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010."

47 **SECTION 7.(b)** This section is effective when it becomes law and applies to terms
48 beginning on or after that date.

49 **SECTION 8.** G.S. 90A-74 reads as rewritten:

50 **"§ 90A-74. Powers and duties of the Board.**

51 The Board shall have the following general powers and duties:

- 1 (1) To adopt rules in the manner prescribed by Chapter 150B of the General
 2 Statutes to govern its actions and to implement the provisions of this
 3 ~~Article~~ Article, as well as the provisions of G.S. 130A-336.2.
- 4 (2) To determine the eligibility requirements for persons seeking certification
 5 pursuant to this Article.
- 6 (3) To establish grade levels of certifications based on design capacity,
 7 complexity, projected costs, and other features of approved on-site wastewater
 8 systems.
- 9 (4) To develop and administer examinations for specific grade levels of
 10 certification as approved by the Board. The Board may approve applications
 11 by recognized associations for certification of its members after a review of
 12 the requirements of the association to ensure that they are equivalent to the
 13 requirements of the Board.
- 14 (5) To issue, renew, deny, restrict, suspend, or revoke certifications and to carry
 15 out any of the other actions authorized by this Article.
- 16 (6) To establish, publish, and enforce rules of professional conduct of persons
 17 who are certified pursuant to this Article.
- 18 (7) To maintain a record of all proceedings and make available to persons
 19 certified under this Article, and to other concerned parties, an annual report of
 20 all Board action.
- 21 (8) To establish reasonable fees for application, certification, and renewal, and
 22 other services provided by the Board.
- 23 (9) To conduct investigations to determine whether violations of this Article or
 24 grounds for disciplining persons certified under this Article exist.
- 25 (10) To adopt a common seal containing the name of the Board for use on all
 26 certificates and official reports issued by the Board.
- 27 (10a) To employ staff necessary to carry out the provisions of this Article and to
 28 determine the compensation, duties, and other terms and conditions of
 29 employment of its staff.
- 30 (10b) To employ professional, clerical, investigative, or special personnel necessary
 31 to carry out the provisions of this Article.
- 32 (10c) To acquire, hold, convey, rent, encumber, alienate, and otherwise deal with
 33 real property in the same manner as a private person or corporation, subject
 34 only to the approval of the Governor and Council of State. The rents, proceeds,
 35 and other revenues and benefits of the ownership of real property shall inure
 36 to the Board. Collateral pledged by the Board for any encumbrance of real
 37 property shall be limited to the assets, income, and revenues of the Board.
- 38 (11) To conduct other services necessary to carry out the purposes of this Article."
 39

40 **CREATE ADVISORY ON-SITE WASTEWATER CODE COUNCIL**

41 **SECTION 9.** Chapter 90A of the General Statutes is amended by adding a new
 42 Article to read:

43 "Article 6.

44 "On-Site Wastewater Code Council.

45 **"§ 90A-90. Creation and membership of Code Council.**

46 (a) Creation and Appointments. – There is created the North Carolina On-Site
 47 Wastewater Code Council. The Council shall consist of nine members as follows:

- 48 (1) One member appointed by the Governor who, at the time of appointment, is a
 49 representative of the On-Site Wastewater Protection Branch of the Division
 50 of Public Health, within the Department of Health and Human Services, to a

- 1 term that expires on July 1 of years that precede by one year those years that
2 are evenly divisible by three.
- 3 (2) One member appointed by the Governor who, at the time of appointment, is a
4 certified water pollution control system operator pursuant to Article 3 of this
5 Chapter that actively operates an on-site wastewater system, to a term that
6 expires on July 1 of years evenly divisible by three.
- 7 (3) One member appointed by the Governor who, at the time of appointment, is a
8 representative of the North Carolina Environmental Health Supervisors
9 Association, to a term that expires on July 1 of years that follow by one year
10 those years that are evenly divisible by three.
- 11 (4) One member appointed by the General Assembly upon recommendation of
12 the President Pro Tempore of the Senate who, at the time of appointment, is a
13 representative of the North Carolina Home Builders Association, to a term
14 that expires on July 1 of years that follow by one year those years that are
15 evenly divisible by three.
- 16 (5) One member appointed by the General Assembly upon recommendation of
17 the President Pro Tempore of the Senate who, at the time of appointment, is a
18 representative of the North Carolina On-Site Wastewater Contractors and
19 Inspection Certification Board, to a term that expires on July 1 of years that
20 precede by one year those years that are evenly divisible by three.
- 21 (6) One member appointed by the General Assembly upon recommendation of
22 the President Pro Tempore of the Senate who, at the time of appointment, is a
23 representative of the North Carolina Licensing Board for General Contractors,
24 to a term that expires on July 1 of years evenly divisible by three.
- 25 (7) One member appointed by the General Assembly upon recommendation of
26 the Speaker of the House of Representatives who, at the time of appointment,
27 is a representative of the North Carolina Septic Tank Association, to a term
28 that expires on July 1 of years evenly divisible by three.
- 29 (8) One member appointed by the General Assembly upon recommendation of
30 the Speaker of the House of Representatives who, at the time of appointment,
31 is a professional engineer licensed under Chapter 89C of the General Statutes
32 experienced in designing on-site wastewater systems, to a term that expires on
33 July 1 of years that follow by one year those years that are evenly divisible by
34 three.
- 35 (9) One member appointed by the General Assembly upon recommendation of
36 the Speaker of the House of Representatives who, at the time of appointment,
37 is an Authorized On-Site Wastewater Evaluator certified pursuant to Article 5
38 of Chapter 90A of the General Statutes, to a term that expires on July 1 of
39 years that precede by one year those years that are evenly divisible by three.
- 40 (b) Terms of Members. – Members of the Council shall serve terms of three years.
- 41 (c) Vacancies. – An appointment to fill a vacancy on the Council created by the
42 resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired
43 term. Vacancies in appointments made by the General Assembly shall be filled as provided in
44 G.S. 120-122.
- 45 (d) Removal. – The appointing authority shall have the power to remove any member of
46 the Council appointed by the authority from office for misfeasance, malfeasance, or nonfeasance.
- 47 (e) Officers. – The representative of the North Carolina Home Builders Association shall
48 chair the first meeting. The Board shall elect a chair from among its members at its first meeting.
49 The chair shall serve from the time of election until June 30 of the following year, or until a
50 successor is elected.

1 (f) Compensation. – Board members who are State employees shall receive no per diem
2 compensation for serving on the Board but shall be reimbursed for their expenses in accordance
3 with G.S. 138-6. All other Board members shall receive per diem compensation and
4 reimbursement in accordance with the compensation rate established in G.S. 93B-5.

5 (g) Quorum. – A majority of the members of the Board constitutes a quorum for the
6 transaction of business.

7 (h) Meetings. – The Board shall meet at least twice each year and may hold special
8 meetings at the call of the chair or a majority of the members of the Board.

9 **"§ 90A-91. Powers and duties of the Council.**

10 The Council shall have the following general powers and duties:

11 (1) To develop and amend on-site wastewater system rule proposals for
12 submission to the Commission for Public Health for consideration and
13 adoption.

14 (2) To confer with any relevant stakeholders at the discretion of the Council in
15 developing proposed rules."

16
17 **WASTEWATER PLUMBING AND ELECTRICAL CHANGES**

18 **SECTION 10.(a)** G.S. 87-21 is amended by adding a new subsection to read:

19 "(c3) Exemption. – The provisions of this Article shall not apply to a person who is an
20 on-site wastewater contractor certified pursuant to Article 5 of Chapter 90A of the General
21 Statutes when the contractor is connecting waste plumbing from the facility stub-out into the inlet
22 opening of a septic tank to make a watertight connection."

23 **SECTION 10.(b)** G.S. 87-43.1 reads as rewritten:

24 **"§ 87-43.1. Exceptions.**

25 The provisions of this Article shall not apply:

26 ...
27 (11) To the installation, construction, maintenance, or repair of electrical wiring or
28 devices, appliances, or equipment by a person who is an on-site wastewater
29 contractor certified pursuant to Article 5 of Chapter 90A of the General
30 Statutes when the contractor is wiring the wastewater pump to the control
31 panel for the wastewater system."

32
33 **CLARIFY FEE CALCULATION FOR EROSION AND SEDIMENTATION CONTROL**
34 **PLAN REVIEW**

35 **SECTION 11.** G.S. 113A-60(a) reads as rewritten:

36 **"§ 113A-60. Local erosion and sedimentation control programs.**

37 (a) A local government may submit to the Commission for its approval an erosion and
38 sedimentation control program for its jurisdiction and may adopt ordinances and regulations
39 necessary to establish and enforce erosion and sedimentation control programs. An ordinance
40 adopted by a local government may establish a fee for the review of an erosion and sedimentation
41 control plan and related activities. ~~The fee shall be calculated on the basis of either be, on the~~
42 option of the applicant, either: (i) calculated on the basis of the number of acres ~~disturbed or~~
43 disturbed or (ii) no more than one hundred dollars (\$100.00) per lot developed, in the case of a
44 single-family lot ~~in a residential development or that is less than one acre, including such a lot~~
45 that is part of a larger common plan of development that is less than one acre set at no more than
46 one hundred dollars (\$100.00) per lot developed. development. Local governments are
47 authorized to create or designate agencies or subdivisions of local government to administer and
48 enforce the programs. Except as otherwise provided in this Article, an ordinance adopted by a
49 local government shall at least meet and may exceed the minimum requirements of this Article
50 and the rules adopted pursuant to this Article."
51

1 **DIRECT DEQ TO SEEK APPROVAL FROM USEPA TO STREAMLINE**
2 **IMPLEMENTATION OF REQUIREMENTS OF THE SEDIMENTATION**
3 **POLLUTION CONTROL ACT AND FEDERAL REQUIREMENTS FOR**
4 **STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES**

5 **SECTION 12.** No later than September 1, 2023, the Department of Environmental
6 Quality shall develop a plan for submittal to USEPA that eliminates any program redundancies
7 between the State's Sedimentation Pollution Control Act of 1973 (Act) and its implementation of
8 requirements for stormwater discharges from construction activities set forth under the 2022
9 Clean Water Act National Pollution Discharge Elimination System (NPDES) general permit for
10 stormwater discharges from construction activities (Construction Permit), 87 Federal Register
11 3522, through NPDES General Permit NCG010000 (NCG01). Specifically, the plan shall include
12 measures to streamline permitting requirements to ensure persons conducting land-disturbing
13 activity are required to apply for one permit addressing all federal, State, and local requirements,
14 and, if applicable, that permit may be issued by a local government with delegated authority to
15 operate a local program, in order to eliminate (i) unnecessary costs to, and duplication of efforts
16 by, persons initiating land-disturbing activities, (ii) unnecessary delays in project development,
17 and (iii) inefficient use of Department personnel and staff of local governments that administer
18 delegated erosion and sedimentation control programs. The Department shall report to the
19 Environmental Review Commission on the status of their activities pursuant to this section
20 quarterly, beginning August 1, 2024, until such time as the General Assembly repeals this
21 reporting requirement.
22

23 **PROHIBIT FORCED SEWER CONNECTIONS IN CERTAIN SITUATIONS**

24 **SECTION 13.(a)** G.S. 160A-317(a) reads as rewritten:

25 **"§ 160A-317. Power to require connections to water or sewer service and the use of solid**
26 **waste collection services.**

27 (a) Connections. – A-Except as provided in subdivisions (1) and (2) of this subsection, a
28 city may require an owner of developed property on which there are situated one or more
29 residential dwelling units or commercial establishments located within the city limits and within
30 a reasonable distance of any water line or sewer collection line owned, leased as lessee, or
31 operated by the city or on behalf of the city to connect the owner's premises with the water or
32 sewer line or both, and may fix charges for the connections. In lieu of requiring connection under
33 this subsection and in order to avoid hardship, the city may require payment of a periodic
34 availability charge, not to exceed the minimum periodic service charge for properties that are
35 connected. The following provisions apply to a city's authority to require connection of an
36 owner's premises to a water or sewer line:

37 (1) A property owner shall be exempt from mandatory connection to a city's sewer
38 if:

39 a. The city has inadequate capacity to transport and treat the proposed
40 new wastewater from the premises at the time of connection.

41 b. The costs of connection, including the costs of underground piping and
42 connections to the dwelling or building, exceed the costs of installing
43 an on-site wastewater system authorized pursuant to Article 11 of
44 Chapter 130A of the General Statutes. Determination of the
45 comparative costs of connection shall be assessed by (i) a licensed soil
46 scientist, as defined in G.S. 89F-3, (ii) an on-site wastewater
47 contractor certified under Article 5 of Chapter 90A of the General
48 Statutes, or (iii) a plumbing contractor licensed under Article 2 of
49 Chapter 87 of the General Statutes. If a property owner elects to install
50 an on-site wastewater system in lieu of connection to the city's sewer
51 system pursuant to this subdivision, (i) the on-site wastewater system

shall comply with all applicable requirements of Article 11 of Chapter 130A of the General Statutes, and rules adopted thereunder, and (ii) the owner shall have sole responsibility for the system and its use and performance.

(2) A property owner shall be exempt from a mandatory connection to a city's water supply if adequate water pressure cannot be achieved using the same piping size as the meter provides to the owner's premises. A city is prohibited from requiring a property owner to install a larger meter and corresponding larger piping connection, or imposing an increased fee, to achieve adequate water pressure. For purposes of this subdivision, the term "adequate water pressure" shall mean the average water pressure delivered to all connected customers within a one-quarter mile radius in either direction of the owner's point of connection. In order to establish the adequacy or inadequacy of water pressure for purposes of this subdivision, a property owner shall submit to the city a determination of same prepared by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes. In the event water pressure is determined to be inadequate, a property owner may elect, in lieu of connection to the city's water supply, to install a private drinking water well, as that term is defined under G.S. 87-85, which well shall be approved by the city if the well meets the requirements of Chapter 87 of the General Statutes and rules adopted thereunder. A city, however, shall have no liability for the quality or quantity of water, or water pressure, from a private drinking water well installed pursuant to this subdivision."

SECTION 13.(b) G.S. 153A-284 reads as rewritten:

"§ 153A-284. Power to require connections.

(a) A county may require the owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located so as to be served by a water line or sewer collection line owned, leased as lessee, or operated by the county or on behalf of the county to connect the owner's premises with the water or sewer line and may fix charges for these connections. A county may only require connection of an owner's premises to a sewer line, however, if the county has adequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection.

...."

PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING PAYMENTS FROM OWNERS OF STORMWATER CONTROL SYSTEMS FOR FUTURE MAINTENANCE OR REPLACEMENT COSTS OF A SYSTEM

SECTION 14.(a) G.S. 160D-925 reads as rewritten:

"§ 160D-925. Stormwater control.

...

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that requires deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project quantity.

(d1) A local government is prohibited from adopting any regulation that requires an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of (i) the owner's stormwater control project or (ii) other stormwater control projects within the local government's jurisdiction. A local government may, however, require an owner of a privately owned and maintained stormwater control project to establish and retain funds for maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project, which shall not exceed ten percent (10%) of the stormwater control project's original cost of construction and shall be retained by the owner of the system.

...."

SECTION 14.(b) If, prior to the effective date of G.S. 160D-925(d1), as enacted by subsection (a) of this section, a local government has required an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of the owner's stormwater control project or other stormwater control projects within the local government's jurisdiction, in accordance with G.S. 160D-925(d1), as enacted by subsection (a) of this section, the local government shall make such funds accessible to the owner to cover necessary maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project. For stormwater control projects in residential communities, in the event maintenance, repair, replacement, or reconstruction of a project is needed, such funds shall be exhausted before the local government may assess costs of the necessary work on individual homeowners within the community or any applicable owner's association.

DIRECT THE BUILDING CODE COUNCIL TO CREATE AN ON-SITE WASTEWATER EXISTING SYSTEM AFFIDAVIT

SECTION 15.(a) G.S. 160D-1110 is amended by adding a new subsection to read:

"(h1) No local government may withhold a building permit under this section where the project does not propose to increase the design daily flow or wastewater strength of the existing system, and the property owner submits an on-site wastewater existing system inspection exemption affidavit. The property owner shall affirm that any modifications will meet local and State on-site wastewater system setback requirements pursuant to G.S. 130A-335."

SECTION 15.(b) The North Carolina Building Code Council, with assistance from the North Carolina Department of Insurance, shall create an on-site wastewater existing system inspection exemption affidavit for distribution to all building inspection departments through the State. The on-site wastewater existing system inspection exemption affidavit shall inform the property owner of their ability to consult with an authorized on-site wastewater evaluator certified by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board or an inspector, as defined in G.S. 90A-71(5), to locate the on-site wastewater existing system and verify system setback requirements prior to executing the affidavit at the option of the property owner. The property owner shall not be required to consult with an authorized on-site wastewater evaluator or an inspector to submit an on-site wastewater existing system inspection exemption affidavit to a local health department.

SECTION 15.(c) The Building Code Council shall create and distribute the affidavit required by subsection (b) of this section no later than October 1, 2023.

SEVERABILITY CLAUSE

SECTION 16. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

EFFECTIVE DATE

1 **SECTION 17.** Except as otherwise provided, this act is effective when it becomes
2 law.