

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

H

9

HOUSE BILL 1019  
Committee Substitute Favorable 4/19/01  
Committee Substitute #2 Favorable 6/5/01  
Senate Agriculture/Environment/Natural Resources Committee Substitute  
Adopted 7/10/01  
Senate Agriculture/Environment/Natural Resources Committee Substitute #2  
Adopted 10/2/01  
Senate Judiciary I Committee Substitute Adopted 11/6/01  
Corrected Copy 11/20/01  
Corrected Copy 11/26/01  
Ninth Edition Engrossed 11/28/01

Short Title: Septage Mgt./On-Site Wastewater Systems/Liability. (Public)

Sponsors:

Referred to:

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING THE SEPTAGE MANAGEMENT PROGRAM AND TO INCREASE CERTAIN PERMIT FEES UNDER THAT PROGRAM, TO IMPROVE THE PROCESS BY WHICH ON-SITE SUBSURFACE WASTEWATER DISPOSAL SYSTEMS ARE APPROVED AND TO ESTABLISH A SCHEDULE OF FEES APPLICABLE TO APPROVAL OF THOSE SYSTEMS, AND TO REQUIRE THAT ENVIRONMENTAL HEALTH SPECIALIST BE COVERED UNDER THE STATE'S EXCESS LIABILITY INSURANCE POLICY.

The General Assembly of North Carolina enacts:

**SECTION 1.1.** G.S. 130A-291.1 reads as rewritten:

**"§ 130A-291.1. Septage management ~~program-program~~; permit fees.**

(a) The Department shall establish and administer a septage management program in accordance with the provisions of this section.

(b) For the protection of the public health, the Commission shall adopt rules governing the management of septage. The rules shall include, but are not be limited to, criteria for the sanitary management of septage, including standards for the transportation, storage, ~~treatment- treatment~~, and ~~disposal, disposal~~ of septage; operator registration and training; the issuance, ~~suspension-suspension~~, and revocation of permits; and procedures for the payment of annual fees.

1 (c) No septage management firm shall commence or continue operation that does  
2 not have a permit issued by the Department. The permit shall be issued only when the  
3 septage management firm satisfies all of the requirements of the rules adopted by the  
4 Commission. A septage management firm that commences operation without first  
5 having obtained a permit shall cease to operate until the firm obtains a permit under this  
6 section and shall pay an initial annual fee equal to twice the amount of the annual fee  
7 that would otherwise be applicable under subsection (e) of this section.

8 (d) Septage shall be treated and disposed only at a wastewater system that has  
9 been approved by the Department under rules adopted by the Commission or by the  
10 Environmental Management Commission or at a site that is permitted by the  
11 Department under this section. A permit shall be issued only if the site satisfies all of  
12 the requirements of the rules adopted by the Commission.

13 (e) A septage management firm that operates one pumper truck shall pay an  
14 annual fee of ~~three hundred dollars (\$300.00)~~ five hundred fifty dollars (\$550.00) to the  
15 Department. A septage management firm that operates two or more pumper trucks shall  
16 pay an annual fee of ~~four hundred dollars (\$400.00)~~ eight hundred dollars (\$800.00) to  
17 the Department.

18 (e1) An individual who operates a septage treatment or disposal facility but who  
19 does not engage in the business of pumping, transporting, or disposing of septage shall  
20 pay an annual fee of two hundred dollars (\$200.00).

21 (e2) The fee is A properly completed application for a permit and the annual fee  
22 under this section are due by 1 January 4 of each year. The Department shall mail a  
23 notice of the annual fees to each permitted septage management firm and each  
24 individual who operates a septage treatment or disposal facility prior to 1 November of  
25 each calendar year. A late fee in the amount equal to fifty percent (50%) of the annual  
26 permit fee under this section shall be submitted when a properly completed application  
27 and annual permit fee are not submitted by 1 January following the 1 November notice.

28 (e3) The Septage Management Account is established as a nonreverting account  
29 within the Department. Fees collected under this subsection-section shall be placed in  
30 the Septage Management Account and shall be applied only to the costs of the septage  
31 management program.

32 (e4) Permits for new septage management firm operators and permits for septage  
33 management firm operators that have not operated a septage management firm in the 24  
34 months immediately preceding the submittal of an application shall be considered  
35 probationary for 12 months. The Department may revoke any probationary permit of a  
36 firm or an individual that violates any provision of this section, G.S. 130A-291.2, G.S.  
37 130A-291.3, or any rule adopted under these sections. If the Department revokes a  
38 probationary permit issued to a firm or individual, the Department shall not issue  
39 another permit to that firm or individual, and the firm or individual may not engage in  
40 any septage management activity for a period of 12 months.

41 (e5) The Department shall provide technical and regulatory assistance to permit  
42 applicants and permit holders. Assistance may include, but is not limited to, taking soil

1 samples on proposed and permitted septage land application sites and providing  
2 required training to permit applicants and permit holders.

3 (f) All wastewater systems designed to discharge effluent to the surface waters  
4 may accept, treat-treat, and dispose septage from permitted septage management firms,  
5 unless acceptance of the septage would constitute a violation of the permit conditions of  
6 the wastewater system. The wastewater system may charge a reasonable fee for  
7 acceptance, treatment, and disposal of septage. septage based on a fee schedule that  
8 takes into account septage composition and quantity and that is consistent with other  
9 charges for use of that system.

10 (g) Production of a crop in accordance with an approved nutrient management  
11 plan on land that is permitted as a septage land application site is a bona fide farm  
12 purpose under G.S. 153A-340.

13 (h) The Department shall inspect each septage land application site at least twice  
14 a year and shall inspect the records associated with each septage land application site at  
15 least annually. The Department shall inspect each pump truck used for septage  
16 management at least once every two years.

17 (i) The Department shall approve innovative or alternative septage treatment or  
18 storage methods that are demonstrated to protect the public health and the  
19 environment."

20 **SECTION 1.2.** Part 2 of Article 9 of Chapter 130A of the General Statutes is  
21 amended by adding two new sections to read:

22 **"§ 130A-291.2. Temporary domestic wastewater holding tanks.**

23 When a permanent domestic wastewater collection and treatment system is not  
24 available at a construction site or a temporary special event, a temporary wastewater  
25 holding tank of adequate capacity to prevent overflow may be used under a mobile or  
26 modular office to accommodate domestic wastewater from a commode and sink. The  
27 wastewater shall be removed often enough to prevent the temporary domestic  
28 wastewater holding tank from overflowing. The owner or lessee of a temporary  
29 construction trailer shall contract with a registered septage management firm or  
30 registered portable toilet sanitation firm for the removal of domestic waste. The  
31 wastewater shall be removed from the temporary domestic wastewater holding tank by a  
32 septage management firm holding a current permit to operate a septage management  
33 firm.

34 **"§ 130A-291.3. Septage operator training required.**

35 (a) Each septage management firm operator shall attend a training course  
36 approved pursuant to subsection (d) of this section of no less than four hours of  
37 instruction per year. New septage management firm operators and those that have not  
38 operated a septage management firm in the 24 months preceding the submittal of an  
39 application shall complete the training before commencing operation.

40 (b) Each septage land application site operator shall attend a training course  
41 approved pursuant to subsection (d) of this section of no less than three hours of  
42 instruction per year. New septage land application site operators and those that have not

1 operated a septage land application site in the 24 months preceding the submittal of an  
2 application shall complete the training before commencing operation.

3 (c) Upon the completion of the permit requirements under G.S. 130A-291.1 and  
4 the training requirements under this section, the Department shall issue the septage  
5 management firm a certificate to operate as a registered portable sanitation firm or a  
6 registered septage management firm, or both.

7 (d) The Department shall establish educational committees to develop and  
8 approve a training curriculum to satisfy the training requirements under this section. A  
9 training committee shall be established to develop a training program for portable  
10 sanitation waste; a training committee shall be established to develop a training program  
11 for septic tank waste and grease septage; and a training committee shall be established  
12 to develop a training program for land application of septage. Each committee shall  
13 consist of four industry members, one public health member, two employees of the  
14 Department, and one representative of the North Carolina Cooperative Extension  
15 Service."

16 **SECTION 1.3.** The Commission for Health Services shall adopt temporary  
17 and permanent rules to implement Sections 1.1 and 1.2 of this act. The Commission for  
18 Health Services and the Department of Environment and Natural Resources shall  
19 initiate temporary rule-making proceedings within 30 days of the date this act becomes  
20 effective. Temporary rules to implement the provisions of Sections 1.1 and 1.2 of this  
21 act become effective 1 January 2002.

22 **SECTION 1.4.** The Department of Environment and Natural Resources shall  
23 mail annual notices of fees as required by G.S. 130A-291.1(e2), as amended by Section  
24 1.1 of this act, prior to 1 November 2001. Notices of fees shall state the amount of the  
25 fee due under subsections (e) and (e1) of G.S. 130A-291.1, as amended by Section 1.1  
26 of this act.

27 **SECTION 2.1.** G.S. 130A-342 reads as rewritten:

28 "**§ 130A-342. Aerobic systems. Residential wastewater treatment systems.**

29 (a) Individual aerobic sewage treatment plants residential wastewater treatment  
30 systems that are approved and listed in accordance with the standards adopted by the  
31 National Sanitation Foundation, Inc. for Class I sewage treatment plants residential  
32 wastewater treatment systems, as set out in Standard 40,40 of the National Sanitation  
33 Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under  
34 rules promulgated-adopted by the Commission. The Commission may establish  
35 standards in addition to those set by the National Sanitation Foundation, Inc.

36 (b) A permitted plant-system shall be operated and maintained by a certified  
37 wastewater treatment facility operator.

38 (c) The-Each county, in which one or more residential wastewater treatment  
39 systems permitted pursuant to this section are in use, shall document the performance of  
40 individual aerobic treatment plant each system is to be documented by the counties and  
41 sent and report the results to the Department annually."

42 **SECTION 2.2.** G.S. 130A-343 reads as rewritten:

1 **"§ 130A-343. ~~Experimental and innovative systems permitted.~~ Approval of on-site**  
2 **subsurface wastewater systems.**

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

- 4 (1) 'Accepted wastewater system' means any wastewater system, other  
5 than a conventional wastewater system, or any technology, device, or  
6 component of a wastewater system that: (i) has been previously  
7 approved as an innovative wastewater system by the Department; (ii)  
8 has been in general use in this State as an innovative wastewater  
9 system for more than five years; and (iii) has been approved by the  
10 Commission for general use or use in one or more specific  
11 applications. An accepted wastewater system may be approved for use  
12 in applications for which a conventional wastewater system is  
13 unsuitable. The Commission may impose any design, operation,  
14 maintenance, monitoring, and management requirements on the use of  
15 an accepted wastewater system that it determines to be appropriate.
- 16 (2) 'Controlled demonstration wastewater system' means any wastewater  
17 system or any technology, device, or component of a wastewater  
18 system that, on the basis of acceptable research, is approved by the  
19 Department for research, testing, or trial use under actual field  
20 conditions in this State pursuant to a protocol that has been approved  
21 by the Department.
- 22 (3) 'Conventional wastewater system', 'conventional sewage system', or  
23 'conventional septic tank system' means a wastewater system that  
24 consists of a traditional septic or settling tank and a gravity-fed  
25 subsurface disposal field that uses washed gravel or crushed stone to  
26 distribute effluent to soil in one or more nitrification trenches and that  
27 does not include any other appurtenance.
- 28 (4) 'Experimental wastewater system' means any wastewater system or  
29 any technology, device, or component of a wastewater system that is  
30 approved by the Department for research, testing, or limited trial use  
31 under actual field conditions in this State pursuant to a protocol that  
32 has been approved by the Department.
- 33 (5) 'Innovative wastewater system' means any wastewater system, or any  
34 technology, device, or component of a wastewater system that: (i) has  
35 been demonstrated to perform in a manner equal or superior to a  
36 conventional wastewater system; (ii) is constructed of materials whose  
37 physical and chemical properties provide the strength, durability, and  
38 chemical resistance to allow the system to withstand loads and  
39 conditions as required by rules adopted by the Commission; and (iii)  
40 has been approved by the Department for general use or for one or  
41 more specific applications. An innovative wastewater system may be  
42 approved for use in applications for which a conventional wastewater

1 system is unsuitable. The Department may impose any design,  
2 operation, maintenance, monitoring, and management requirements on  
3 the use of an innovative wastewater system that it determines to be  
4 appropriate.

5 ~~(a)~~(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules  
6 for the approval and permitting of ~~experimental and innovative~~ experimental, controlled  
7 demonstration, innovative, and accepted wastewater systems. The rules shall address the  
8 criteria to be considered prior to issuing a permit for ~~such~~ a system, requirements for  
9 preliminary design plans and specifications that must be submitted, methodology to be  
10 used, standards for monitoring and evaluating the system, research evaluation of the  
11 system, the plan of work for monitoring system performance and maintenance, and any  
12 additional matters the Commission deems appropriate.

13 ~~(b) The Commission shall adopt rules governing the operation and maintenance~~  
14 ~~of experimental and innovative wastewater systems approved and permitted under~~  
15 ~~subsection (a) of this section.~~

16 (c) Approved Systems. – The Department may modify, suspend, or revoke the  
17 approval of a wastewater system if the Department determines that the approval is based  
18 on false, incomplete, or misleading information or if the Department finds that  
19 modification, suspension, or revocation is necessary to protect public health, safety, or  
20 welfare. The Department shall provide a listing of all approved ~~experimental and~~  
21 ~~innovative~~ experimental, controlled demonstration, innovative, and accepted wastewater  
22 systems to the local health departments annually, and more frequently, when the  
23 Department makes a final agency decision ~~on a new system~~ related to the approval of a  
24 wastewater system or the Commission adopts rules related to the approval of a  
25 wastewater system.

26 (d) Evaluation Protocols. – The Department shall approve one or more nationally  
27 recognized protocols for the evaluation of on-site subsurface wastewater systems. Any  
28 protocol approved by the Department shall specify a minimum number of sites that  
29 must be evaluated and the duration of the evaluation period. At the request of a  
30 manufacturer of a wastewater system, the Department may approve an alternative  
31 protocol for use in the evaluation of the performance of the manufacturer's wastewater  
32 system. A protocol for the evaluation of an on-site subsurface wastewater system is a  
33 scientific standard within the meaning of G.S. 150B-2(8a)h.

34 (e) Experimental Systems. – A manufacturer of a wastewater system that is  
35 intended for on-site subsurface use may apply to the Department to have the system  
36 evaluated as an experimental wastewater system as provided in this subsection. The  
37 manufacturer shall submit a proposal for evaluation of the system to the Department.  
38 The proposal for evaluation shall include the design of the system, a description of any  
39 laboratory or field research or testing that will be used to evaluate the system, a  
40 description of the research or testing protocol, and the credentials of the independent  
41 laboratory, consultant, or other entity that will be conducting the research or testing on  
42 the system. The proposal may include an evaluation of research and testing conducted in

1 other states to the extent that the research and testing involves soil types, climate,  
2 hydrology, and other relevant conditions that are comparable to conditions in this State  
3 and if the research or testing was conducted pursuant to a protocol acceptable to the  
4 Department. The manufacturer shall enter into a contract for an evaluation of the  
5 performance of the experimental wastewater system with an independent laboratory,  
6 consultant, or other entity that has expertise in the evaluation of wastewater systems and  
7 that is approved by the Department. The manufacturer may install up to 50 experimental  
8 systems pursuant to a protocol approved by the Department on sites that are suitable for  
9 a conventional wastewater system and that have a repair area of sufficient size to allow  
10 installation of a conventional wastewater system, an approved innovative wastewater  
11 system, or an accepted wastewater system if the experimental wastewater system fails to  
12 perform properly.

13 (f) Controlled Demonstration Systems. – A manufacturer of a wastewater system  
14 intended for on-site subsurface use may apply to the Department to have the system  
15 evaluated as a controlled demonstration wastewater system as provided in this  
16 subsection. The manufacturer shall submit a proposal for evaluation of the system to the  
17 Department. The proposal for evaluation shall include the design of the system, a  
18 description of any laboratory or field research or testing that will be used to evaluate the  
19 system, a description of the research or testing protocol, and the credentials of the  
20 independent laboratory, consultant, or other entity that will be conducting the research  
21 or testing on the system. If the system was evaluated as an experimental system under  
22 subsection (e) of this section, the proposal shall include the results of the evaluation.  
23 The proposal may include an evaluation of research and testing conducted in other  
24 states to the extent that the research and testing involves soil types, climate, hydrology,  
25 and other relevant conditions that are comparable to conditions in this State and if the  
26 research or testing was conducted pursuant to a protocol acceptable to the Department.  
27 The manufacturer shall enter into a contract for an evaluation of the performance of the  
28 controlled demonstration wastewater system with an independent laboratory, consultant,  
29 or other entity that has expertise in the evaluation of wastewater systems and that is  
30 approved by the Department. The manufacturer may install up to 200 controlled  
31 demonstration wastewater systems pursuant to a protocol approved by the Department  
32 on sites that are suitable for a conventional wastewater system and that have a repair  
33 area of sufficient size to allow installation of a conventional wastewater system, an  
34 approved innovative wastewater system, or an accepted wastewater system if the  
35 controlled demonstration wastewater system fails to perform properly. If the controlled  
36 demonstration wastewater system is intended for use on sites that are not suitable, or  
37 that are provisionally suitable, for a conventional wastewater system, the Department  
38 may approve the installation of the controlled demonstration wastewater system if the  
39 Department determines that the manufacturer can provide an acceptable alternative  
40 method for collection, treatment, and disposal of the wastewater.

41 (g) Innovative Systems. – A manufacturer of a wastewater system for on-site  
42 subsurface use that has been evaluated as an experimental wastewater system as

1 provided in subsection (e) of this section or that has been evaluated as a controlled  
2 demonstration wastewater system as provided in subsection (f) of this section may apply  
3 to the Department to have the system approved as an innovative wastewater system as  
4 provided in this subsection. A manufacturer of a wastewater system for on-site  
5 subsurface use that has not been evaluated as an experimental wastewater system or as a  
6 controlled demonstration wastewater system may also apply to the Department to have  
7 the system approved as an innovative wastewater system on the basis of research and  
8 testing conducted in other states. The manufacturer shall provide the Department with  
9 the data and findings of all evaluations of the performance of the system that have been  
10 conducted in any state by or on behalf of the manufacturer. The manufacturer shall also  
11 provide the Department with a summary of the data and findings of all other evaluations  
12 of the performance of the system that are known to the manufacturer. The Department  
13 shall publish a notice that the manufacturer has submitted an application under this  
14 subsection in the North Carolina Register and may provide additional notice to the  
15 public via the Internet or by other means. The Department shall receive public comment  
16 on the application for at least 30 days after the date the notice is published in the North  
17 Carolina Register. In making a determination under this subsection, the Department  
18 shall consider the data, findings, and recommendations submitted by the manufacturer  
19 and all public comment. The Department may also consider any other information that  
20 the Department determines to be relevant. The Department shall determine: (i) whether  
21 the system performs in a manner equal or superior to a conventional wastewater system;  
22 (ii) whether the system is constructed of materials whose physical and chemical  
23 properties provide the strength, durability, and chemical resistance to allow the system  
24 to withstand loads and conditions as required by rules adopted by the Commission; (iii)  
25 the circumstances in which use of the system is appropriate; and (iv) any conditions and  
26 limitations related to the use of the system. The Department shall make the  
27 determinations required by this subsection and approve or deny the application within  
28 180 days after the Department receives a complete application from a manufacturer. If  
29 the Department fails to act on the application within 180 days, the manufacturer may  
30 treat the application as denied and challenge the denial by filing a contested case as  
31 provided in Article 3 of Chapter 150B of the General Statutes. If the Department  
32 approves an innovative wastewater system, the Department shall specify the  
33 circumstances in which use of the system is appropriate and any conditions and  
34 limitations related to the use of the system.

35 (h) Accepted Systems. – A manufacturer of an innovative wastewater system that  
36 has been in general use in this State for more than five years may petition the  
37 Commission to have the system designated as an accepted wastewater system as  
38 provided in this subsection. The manufacturer shall provide the Commission with the  
39 data and findings of all prior evaluations of the performance of the system. In addition,  
40 the manufacturer shall provide the Commission with information sufficient to enable the  
41 Commission to fully evaluate the performance of the system in this State for at least the  
42 five-year period immediately preceding the petition. The Commission shall designate a



1 wastewater system as an accepted wastewater system only if it finds that there is clear,  
2 convincing, and cogent evidence (i) to confirm the findings made by the Department at  
3 the time the Department approved the system as an innovative wastewater system and  
4 (ii) that the system performs in a manner that is equal or superior to a conventional  
5 wastewater system under actual field conditions in this State. The Commission shall  
6 specify the circumstances in which use of the system is appropriate and any conditions  
7 and limitations related to the use of the system.

8 (i) Miscellaneous Provisions. –

9 (1) In evaluating applications for approval under this section, the  
10 Department may consult with persons who have special training and  
11 experience related to on-site subsurface wastewater systems and may  
12 form a technical advisory committee for this purpose. However, the  
13 Department is responsible for making timely and appropriate  
14 determinations under this section.

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

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

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

39 <u>(1) Review of an alternative protocol under</u>	
40 <u>subsection (d) of this section</u>	<u>\$1,000.00</u>
41 <u>(2) Review of an experimental system</u>	<u>\$3,000.00</u>
42 <u>(3) Review of a controlled demonstration system</u>	<u>\$3,000.00</u>

1	(4)	<u>Review of an innovative system</u>	<u>\$3,000.00</u>
2	(5)	<u>Review of an accepted system</u>	<u>\$3,000.00</u>
3	(6)	<u>Review of a residential wastewater treatment</u>	
4		<u>system pursuant to G.S. 130A-342</u>	<u>\$1,500.00</u>
5	(7)	<u>Review of a component of a system</u>	<u>\$ 100.00</u>
6	(8)	<u>Modification to approved innovative system</u>	<u>\$1,000.00</u>

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

11 **SECTION 2.3.** Until the Department approves an evaluation protocol as  
12 provided in G.S. 130A-343(d), as amended by Section 2.2 of this act, the Department  
13 may accept for review the data and findings of evaluations of performance of  
14 experimental, controlled demonstration, and innovative wastewater systems that are  
15 conducted as provided in: (i) "Protocol for the Verification of Wastewater Treatment  
16 Technologies" prepared by NSF International for the United States Environmental  
17 Protection Agency (April 2001); (ii) "Protocol for the Verification of Residential  
18 Wastewater Treatment Technologies for Nutrient Reduction" prepared by NSF  
19 International for the United States Environmental Protection Agency (27 November  
20 2000); and (iii) "A Protocol for Testing, Assessing, and Approving Innovative or  
21 Alternative On-Site Wastewater Disposal Systems" prepared by New Jersey Department  
22 of Environmental Protection (24 July 2001).

23 **SECTION 2.4.** The Department of Environment and Natural Resources shall  
24 not accept an application for approval of an innovative wastewater system until it has  
25 acted on all applications for approval of innovative wastewater systems that were  
26 submitted to the Department prior to 1 October 2001. The Department shall act on all  
27 applications for approval of innovative wastewater systems that were submitted to the  
28 Department prior to 1 October 2001 within 120 days of the date on which this act  
29 becomes effective. The Department may act on an application for a reduction of the  
30 total nitrification trench length for an innovative wastewater system handling untreated  
31 septic tank effluent as compared to the total nitrification trench length required for a  
32 36-inch-wide conventional wastewater system that was submitted to the Department  
33 prior to 1 October 2001 only as provided in this section. The Department may approve  
34 a reduction of the total nitrification trench length for an innovative wastewater system  
35 handling untreated septic tank effluent of not more than thirty-five percent (35%) as  
36 compared to the total nitrification trench length required for a 36-inch-wide  
37 conventional wastewater system. The Department shall not approve a reduction of the  
38 total nitrification trench length for an innovative wastewater system handling untreated  
39 septic tank effluent of more than twenty-five percent (25%) as compared to the total  
40 nitrification trench length required for a 36-inch-wide conventional wastewater system  
41 unless the manufacturer of the innovative wastewater system provides a performance  
42 warranty for the nitrification trench system to each owner or purchaser of the innovative

1 wastewater system for a warranty period of at least five years from the date on which  
2 the innovative wastewater system is placed in operation. The warranty shall provide  
3 that the manufacturer shall provide all material and labor that may be necessary to  
4 provide a fully functional wastewater system. The Department shall approve the terms  
5 and conditions of the warranty. This section shall not be construed to require that a  
6 manufacturer warrant an innovative wastewater system that is not properly sized to meet  
7 the design load required for a particular use, that is improperly installed, or that is  
8 improperly operated and maintained.

9 **SECTION 2.5.** The Commission for Health Services shall adopt temporary  
10 and permanent rules to implement the provisions of Sections 2.1 and 2.2 of this act.  
11 The Commission may review its current rules to determine whether any wastewater  
12 system, as defined by G.S. 130A-334, that is described in its rules should be designated  
13 as an accepted wastewater system or approved as an innovative wastewater system, as  
14 those terms are defined in G.S. 130A-343, as amended by Section 2.2 of this act.  
15 Notwithstanding G.S. 130A-343, as amended by Section 2.2 of this act, the Commission  
16 may designate a wastewater system that, prior to 1 October 2001, is described in its  
17 rules as an accepted wastewater system whether or not the wastewater system was  
18 described or approved as an innovative wastewater system prior to 1 October 2001. If  
19 the Commission determines that a wastewater system that is described in its rules prior  
20 to 1 October 2001 should not be designated as an accepted wastewater system, the  
21 Commission may amend its rules to remove the description of the wastewater system.  
22 If the Commission amends its rules to remove a description of a wastewater system  
23 pursuant to this section, the wastewater system shall be deemed to be an approved  
24 innovative wastewater system without further action by the Department of Environment  
25 and Natural Resources. This section shall not be construed to require the Commission  
26 or the Department to change the current designation or approval status of any  
27 wastewater system.

28 **SECTION 3.** The Public Officers and Employees Liability Insurance  
29 Commission in the Department of Insurance shall effect and place professional liability  
30 insurance coverage for local health department sanitarians defened by the State under  
31 G.S. 143-300.8 under G.S. 58-32-15. For insurance purposes only under G.S. 58-32-15,  
32 local health department sanitarians are considered to be employees of the Department of  
33 Environment and Natural Resources.

34 **SECTION 4.** Sections 1.1, 1.2 and 3 of this act become effective 1 January  
35 2002. All other sections of this act become effective when this act becomes law.