

REGULATORY IMPACT ANALYSIS

REVISION TO 15A NCAC 02B .0202 DEFINITIONS

June 3, 2024

GENERAL INFORMATION

Agency:	Environmental Management Commission (EMC)
Department:	Department of Environmental Quality Division of Water Resources https://www.deq.nc.gov/about/divisions/water-resources
Contacts:	Sue Homewood Environmental Program Consultant 401 & Buffer Permitting Branch Sue.Homewood@deq.nc.gov 919-707-3679
Rule Citations:	15A NCAC 02B .0202 DEFINITIONS
Authority:	S.L. 2023-63
Impact Summary:	<ul style="list-style-type: none">- State Government Impact? None beyond the effect of S.L. 2023-63- Local Government Impact? None beyond the effect of S.L. 2023-63- Private Sector Impact? None beyond the effect of S.L. 2023-63- Substantial Economic Impact? No
Appendix 1	Session Law 2023-63
Appendix 2	Proposed Amended 15A NCAC 02B .0202

PROPOSED RULEMAKING SCHEDULE

<i>Date</i>	<i>Action</i>
03/13/2024	WQC Meeting: Approval of proposed rule text to go to EMC.
07/11/2024	EMC Meeting: Approval of proposed rule text and regulatory impact analysis for public comment.
08/01/2024	Comment Period Begins - Published in NC Register and on Department website
09/16/2024	Earliest date for public hearing.
09/30/2024	Comment Period Ends.
11/14/2024	EMC Meeting: Approval of Hearing Officer's Report and Adoption of Rules.
11/15/2024	Submittal to OAH (rule exempt from RRC Review per S.L. 2023-63)
	Effective Date is Pending Legislative Review per S.L. 2023-63.

PURPOSE AND SUMMARY OF RULE AMENDMENTS

15A NCAC 02B Rule .0202 is proposed for amendment to revise the definition of “wetlands.” Wetlands are defined in 02B .0202(64).

The proposed rule amendment complies with Session Law 2023-63 Section 15(d) which requires the Environmental Management Commission (EMC) to revise its definition of wetlands to be substantively identical to the implementation requirements set forth in S.L. 2023-63 Section 15(c). S.L. 2023-63 Section 15(c) narrowed the State's authority to regulate only those wetlands that meet the definition of “Waters of the United States” in accordance with 33 C.F.R. § 328.3 and 40 C.F.R. § 230.3. This narrowing of authority eliminated the State's existing requirements to obtain approval for impacts to non-jurisdictional wetlands. Non-jurisdictional wetlands include “isolated wetlands” such as wetland basins and bogs as recognized in NCAC 02B .1300 per S.L. 2015-286 Section 4.18. Session Law 2023-63 is attached as Appendix 1.

BASELINE

S.L. 2023-63 directly implemented the revision of the definition of “wetlands” when it became effective. It required that the definition in 15A NCAC 02B .0202 be amended to be substantively identical to the implementation requirements. It also stated that the implementation requirements in the Session Law would remain effective until permanent rules are adopted to include the changes. The Division of Water Resources has been operating in accordance with the Session Law since it became effective on June 27, 2023. Therefore, implementation of the Session Law is the baseline for the proposed amendments.

IMPACT ANALYSIS FOR THE PROPOSED AMENDMENTS

Any costs and/or benefits to local governments, state governments, or the regulated community are a result of S.L. 2023-63 and there are no impacts beyond the baseline. The proposed rule amendments do not cause a substantial economic impact to state or local governments, or the regulated community beyond the baseline established by S.L. 2023-63.

APPENDIX 1

Session Law 2023-63

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-63
SENATE BILL 582**

AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL AND
WASTEWATER LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

PART I. GENERAL AGRICULTURE PROVISIONS

**INCLUDE INCOME FROM THE SALE OF HONEY IN GROSS INCOME FOR
PURPOSES OF PRESENT USE VALUE TAXATION**

SECTION 1.(a) G.S. 105-277.3(a)(1) reads as rewritten:

"(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, the sale of bees or products derived from ~~beehives other than honey~~, beehives, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004."

SECTION 1.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2023.

**CLARIFY THAT TURKEY BROODER LITTER RECYCLING IS A BONA FIDE
FARM PURPOSE WITH RESPECT TO COUNTY ZONING**

SECTION 1.1. G.S. 160D-903(a) reads as rewritten:

"(a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential

building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. A building or structure that is used solely for storage of cotton, peanuts, or sweet potatoes, or any byproduct of those commodities, is a bona fide farm purpose, including a building or structure on a property that does not have the documentation listed in subdivisions (1) through (4) of this subsection. For purposes of this section, a facility that receives used turkey brooder litter from brooder farms and recycles the used litter by means of a drying process to reduce the moisture content of the litter sufficient to send the recycled litter to a turkey grow-out farm for reuse is a bona fide farm purpose. For purposes of this section, "when performed on the farm" in

G.S. 106-581.1(6) includes the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following is sufficient evidence that the property is being used for bona fide farm purposes, but other evidence may also be considered:

...."

CORRECT REFERENCES TO NORTH CAROLINA TOBACCO FOUNDATION, INC.

SECTION 1.2.(a) G.S. 106-568.3 reads as rewritten:

"§ 106-568.3. Action of Board of Agriculture on petition for referendum; creation of the Tobacco Research Commission.

(a) The State Board of Agriculture, upon a petition being filed with it so requesting and signed by the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall examine such petition and upon finding that it complies with the provisions of this Article shall authorize the holding of a referendum as hereinafter set out and the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall thereupon be fully authorized and empowered to hold and conduct on the part of the producers and growers of the commodities herein mentioned a referendum on the question of whether or not such growers and producers shall levy upon themselves an assessment under and subject to and for the purposes stated in this Article. Provided, that the petition for a tobacco referendum shall be signed by and, once approved, shall authorize the holding of a referendum by the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated.

(b) There is hereby created a North Carolina Tobacco Research Commission within the Department of Agriculture and Consumer Services. The Commission shall consist of the Commissioner of Agriculture, or ~~his~~ the Commissioner's designee; the President of the North Carolina Farm Bureau Federation, Inc., or ~~his~~ the President's designee; the President of the Tobacco Growers Association of North Carolina, Incorporated, or ~~his~~ the President's designee; the ~~Master~~ President of the North Carolina State Grange, or ~~his~~ the President's designee; and, the President of the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., or his designee."

SECTION 1.2.(b) G.S. 106-568.4 reads as rewritten:

"§ 106-568.4. By whom referendum to be managed; announcement.

The governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall arrange for and manage any referendum conducted under the provisions of this Article but shall, 60 days before the date

upon which it is to be held, fix, determine, and publicly announce in each county the date, hours, and polling places in that county for voting in such referendum, the amount and basis proposed to be collected, the means by which such assessment shall be collected as authorized by the growers and producers, and the general purposes for which said funds so collected shall be applied. Provided, that the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated, shall arrange for and manage any referendum for tobacco poundage assessments under the provisions of this Article."

SECTION 1.2.(c) G.S. 106-568.7 reads as rewritten:

"§ 106-568.7. Preparation and distribution of ballots; poll holders; canvass and announcement of results.

The governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall prepare and distribute in advance of such referendum all necessary ballots and shall under rules and regulations, adopted and promulgated by the organizations holding such referendum, arrange for the necessary poll holders and shall, within 10 days after the date of such referendum, canvass and publicly declare the results thereof. Provided, that for the tobacco poundage assessment referendum, the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and the Tobacco Growers Association of North Carolina, Incorporated, shall perform the functions set forth in this section."

SECTION 1.2.(d) G.S. 106-568.8 reads as rewritten:

"§ 106-568.8. Collection and disposition of assessment; report of receipts and disbursements; audit.

...

(b) Tobacco Poundage Assessments. In the event two-thirds or more of the eligible farmers and producers participating in the tobacco referendum vote in favor of the tobacco poundage assessment authorized under this Article, then said assessment shall be collected for a period of six years under rules, regulations, and methods adopted by the North Carolina Tobacco Research Commission. The North Carolina Tobacco Research Commission is exempt from the provisions of Chapter 150B of the General Statutes.

The assessments collected shall be remitted to the Department of Agriculture and Consumer Services to be expended under the direction of the Tobacco Research Commission for research and dissemination of research facts concerning tobacco. Any person that receives assessment funds from the Tobacco Research Commission shall file quarterly written reports with the Tobacco Research Commission on the receipt and expenditure of assessment funds. The Tobacco Research Commission may transfer assessments to the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., to be held and invested by the ~~Tobacco~~ Agricultural Foundation until such time as the Commission shall direct their expenditure for the purposes set forth in this section."

SECTION 1.2.(e) G.S. 106-568.10 reads as rewritten:

"§ 106-568.10. Subsequent referenda; continuation of assessment.

If the assessment is defeated in the referendum, the governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall have full power and authority to call another referendum for the purposes herein set out in the next succeeding year on the question of the annual assessment for six years. In the event the assessment carried in a referendum by two-thirds or more of the eligible farmers participating therein, such assessment shall be levied annually for the six years set forth in the call for such referendum and a new referendum may be called and conducted during the sixth year of such period on the question of whether or not such assessment shall be continued for the next ensuing six years. Provided, that if the tobacco poundage assessment is defeated in the referendum, the governing boards of the North Carolina Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina ~~Tobacco~~ Agricultural Foundation, Inc., and Tobacco

Growers Association of North Carolina, Incorporated, may call another referendum in the next succeeding year on the question of the annual assessment for six years. If the tobacco assessment carried in a referendum by two-thirds or more of the eligible farmers participating therein, the assessment shall be levied annually for the six years set forth in the call for the referendum and a new referendum may be called and conducted during the sixth year of the period on the question of whether or not the assessment shall be continued for the next ensuing six years."

ADD EQUINE INDUSTRY MEMBER TO THE BOARD OF AGRICULTURE

SECTION 1.3. G.S. 106-2 reads as rewritten:

"§ 106-2. Department of Agriculture and Consumer Services established; Board of Agriculture, membership, terms of office, etc.

...

(b) Membership; Qualifications. – The Board of Agriculture shall consist of the Commissioner of Agriculture, who shall be an ex officio member and chairman thereof and shall preside at all meetings, and of ~~4~~ 12 other members from the State, so distributed as to reasonably represent the different sections and agriculture of the State. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practicing farmers engaged in their profession. The members of the Board shall be appointed by the Governor by and with the consent of the Senate. In the appointment of the members of the Board the Governor shall also take into consideration the different agricultural interests of the State, and shall appoint members with the following qualifications:

- (1) One member who shall be a practicing tobacco farmer to represent the tobacco farming interest.
 - (2) One member who shall be a practicing cotton grower to represent the cotton interest.
 - (3) One member who shall be a practicing fruit or vegetable farmer to represent the fruit and vegetable farming interest.
 - (4) One member who shall be a practicing dairy farmer to represent the dairy and cattle interest of the State.
 - (5) One member who shall be a practicing poultryman to represent the poultry interest of the State.
 - (6) One member who shall be a practicing peanut grower to represent the peanut interests of the State.
 - (7) One member who shall be experienced in marketing to represent the marketing of products of the State.
 - (8) One member who shall be actively involved in forestry to represent the forestry interests of the State.
 - (9) One member who shall be actively involved in the nursery business to represent the nursery industry of the State.
 - (10) One member who shall be a practicing general farmer to represent the general farming interest.
 - (11) One member who shall be a practicing pork farmer to represent the swine interest of the State.
 - (12) One member who shall be actively involved in the equine industry to represent the equine industry of the State.
- (c) Terms. – The term of office of members of the Board shall be six years and until their successors are duly appointed and qualified.
- (d) Vacancies. – Vacancies in the Board shall be filled by the Governor for the unexpired term."

EXEMPT COMPOST FROM SALES TAX FOR QUALIFYING FARMERS

SECTION 1.4.(a) G.S. 105-164.13E(a) reads as rewritten:

"§ 105-164.13E. Exemption for farmers.

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ten thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, and a livestock farmer, a farmer of crops, a farmer of an aquatic species, as defined in G.S. 106-758, and a person who boards horses. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming operations, whichever comes first.

Except as otherwise provided in this section, the items exempt under this section must be purchased by a qualifying farmer or conditional farmer and used by the qualifying or conditional farmer primarily in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops, in the production of dairy products, eggs, or animals, or by a person who boards horses. The items that may be exempt from sales and use tax under this section are:

- (1) Fuel, piped natural gas, and electricity that are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
- (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, compost, and seeds.

...."

SECTION 1.4.(b) This section becomes effective October 1, 2023.

AMEND THE DEFINITION OF AGRICULTURE

SECTION 1.5. G.S. 106-581.1 reads as rewritten:

"§ 106-581.1. Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

...

- (2) The planting and production of trees and ~~timber~~timber, including pine orchards planted and maintained for the purpose of harvesting pine needles for sale, or the harvesting of pine needles for sale from land with a forest management plan.

...

- (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, biofuel production for commercial sale, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm

...."

AGRITOURISM ADVERTISING

SECTION 2. G.S. 136-32 reads as rewritten:

"§ 136-32. Regulation of signs.

(a) Commercial Signs. – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign,

marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political advertising, except as provided in subsections (b) through (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in ~~subsection (b)~~ subsections (b) and (b1) of this section.

(b) Compliant Political Signs Permitted. – During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection. Any political sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

(b1) Compliant Farm Signs Permitted. – During a farm's seasonal operation, persons may place farm signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the farm's season. Any farm sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of the farm sign without penalty.

(c) ~~Definition.~~ Definitions. – For purposes of this section, "~~political sign~~" ~~means any the following definitions apply:~~

- (1) Farm. – Any property that is used for a bona fide farm purpose as provided in G.S. 106-581.1.
- (2) Farm sign. – A sign that advertises a farm, products grown, raised, or produced on a farm, or services provided on a farm; or that provides customers with directions to a farm.
- (3) Political sign. – Any sign that advocates for political action. The term does not include a commercial sign.

(d) Sign Placement. – The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

- (1) No sign shall be permitted in the right-of-way of a fully controlled access highway.
- (2) No sign shall be closer than three feet from the edge of the pavement of the road.
- (3) No sign shall obscure motorist visibility at an intersection.
- (4) No sign shall be higher than 42 inches above the edge of the pavement of the road.
- (5) No sign shall be larger than 864 square inches.
- (6) No sign shall obscure or replace another sign.

(e) Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this section.

(f) Application Within Municipalities. – Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. Any such ordinance shall provide that any political sign that remains in a right-of-way of streets located within the corporate limits of a municipality and maintained by the municipality more than 30 days after the end of the period prescribed in the ordinance is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty. In the absence of an ordinance prohibiting or regulating the placement of political signs on the rights-of-way of streets located within a municipality and maintained by the municipality, the provisions of subsections (b) through (e) of this section shall apply."

AMEND REQUIREMENTS ON AGRITOURISM WARNING SIGNS

SECTION 2.1.(a) G.S. 99E-3 reads as rewritten:

"§ 99E-3. Warning required.

(a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (b) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of three quarters of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Part shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Part."

SECTION 2.1.(b) G.S. 99E-8 reads as rewritten:

"§ 99E-8. Warning required.

(a) Every farm animal activity sponsor and every farm animal professional shall post and maintain signs which contain the warning notices specified in subsection (b) or (c) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, arenas, or other farm animal facilities where the farm animal professional or the farm animal activity sponsor conducts animal activities. The warning notices specified in subsections (b) and (c) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of three quarters of one inch in height. Every written contract entered into by a farm animal professional or by a farm animal activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or a farm animal to a participant, whether or not the contract involves farm animal activities on or off the location or site of the farm animal professional's or farm animal activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) or (c) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"WARNING

Under North Carolina law, a farm animal activity sponsor or farm animal professional is not liable for an injury to or the death of a participant in farm animal activities resulting exclusively from the inherent risks of farm animal activities. Chapter 99E of the North Carolina General Statutes."

(c) If a farm animal activity sponsor or farm animal professional sponsors or engages in farm animal activities only involving equines, the signs and contracts described in subsection (a) of this section may contain the following warning notice:

"WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

(d) Failure to comply with the requirements concerning warning signs and notices provided in this Part shall prevent a farm animal activity sponsor or farm animal professional from invoking the privileges of immunity provided by this Part."

SECTION 2.1.(c) G.S. 99E-32 reads as rewritten:

"§ 99E-32. Warning required.

(a) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (b) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of three quarters of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section must contain the following notice of warning:

"WARNING

Under North Carolina law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this subsection will prevent an agritourism professional from invoking the privileges of immunity provided by this Article."

SECTION 2.1.(d) This section is effective when it becomes law and applies to actions arising from events occurring on or after that date.

CLARIFY DEFINITION OF PROPERTY-HAULING VEHICLES

SECTION 3. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

- ...
(31) Property-Hauling Vehicles. –
...

- g. A fifth-wheel trailer, recreational vehicle, semitrailer, or trailer used exclusively or primarily to transport vehicles in connection with motorsports competition events is not a property-hauling vehicle.

...."

FARM EQUIPMENT DEFENSE FOR STOP LIGHT INDUCTIVE LOOPS

SECTION 3.1. G.S. 20-158 reads as rewritten:

"§ 20-158. Vehicle control signs and signals.

...

(e) Defense. – It shall be a defense to a violation of sub-subdivision (b)(2)a. of this section if the operator of a motorcycle, as defined in G.S. 20-4.01(27)h., or the operator of farm equipment or machinery, shows all of the following:

- (1) The operator brought the motorcycle or farm equipment or machinery to a complete stop at the intersection or stop bar where a steady red light was being emitted in the direction of the operator.
- (2) The intersection is controlled by a vehicle actuated traffic signal using an inductive loop to activate the traffic signal.
- (3) No other vehicle that was entitled to have the right-of-way under applicable law was sitting at, traveling through, or approaching the intersection.
- (4) No pedestrians were attempting to cross at or near the intersection.
- (5) The motorcycle or farm equipment or machinery operator who received the citation waited a minimum of three minutes at the intersection or stop bar where the steady red light was being emitted in the direction of the operator before entering the intersection."

AMEND VETERINARY MEDICAL BOARD INSPECTION PROCESS AND GIVE VETERINARY MEDICAL BOARD RESPONSIBILITY FOR PERFORMING INSPECTIONS OF BOARDING KENNELS OPERATED BY VETERINARIANS

SECTION 4.(a) Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-187.17. Inspection process.

At least one week prior to conducting any inspection pursuant to G.S. 90-185(3) or G.S. 90-186(2), the Board shall provide written notice of the upcoming inspection to the veterinarian. The written notice may be provided via an electronic communication. The veterinarian may contact the Board to reschedule the inspection, but the inspection shall be rescheduled no later than one week after the originally scheduled date of the inspection. Along with the written notice of inspection, the Board shall provide the veterinarian with a checklist of all standards adopted by rule for which the inspector may issue a violation and, with as much specificity as possible, conditions that violate the standards."

SECTION 4.(b) G.S. 19A-37 reads as rewritten:

"§ 19A-37. Application of Article.

This Article shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary ~~medicine~~. medicine or a boarding kennel, as defined in G.S. 90-181.1. This Article shall not apply to any dealer, pet shop, public auction, commercial kennel or research facility during the period such dealer or research facility is in the possession of a valid license or registration granted by the Secretary of Agriculture pursuant to Title 7, Chapter 54, of the United States Code. This Article shall not apply to any individual who occasionally boards an animal on a noncommercial basis, although such individual may receive nominal sums to cover the cost of such boarding."

SECTION 4.(c) G.S. 90-181.1(b) reads as rewritten:

"(b) The following definitions are applicable to this section:

- (1) ~~"Animal health center" or "animal medical center"~~ means a Animal health center or animal medical center. – A veterinary practice facility in which consultative, clinical, and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs.
- (1a) Boarding kennel. – A facility operating under a veterinary facility permit and which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food, and water, offer grooming or other services for dogs and/or cats.
- (2) ~~"Emergency facility"~~ means a Emergency facility. – A veterinary medical facility whose primary function is the receiving, treatment, and monitoring of emergency patients during its specified hours of operation. At this veterinary practice facility a veterinarian is in attendance at all hours of operation and sufficient staff is available to provide timely and appropriate emergency care. An emergency facility may be an independent veterinary medical after-hours facility, an independent veterinary medical 24-hour facility, or part of a full-service hospital or large teaching institution.
- (3) ~~"Mobile facility"~~ means a Mobile facility. – A veterinary practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls; provided, the veterinary medical practice shall have a permanent base of operation with a published address and telephone facilities for making appointments or responding to emergency situations.
- (4) ~~"Office"~~ means a Office. – A veterinary practice facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients.
- (5) ~~"On-call emergency service"~~ means a On-call emergency service. – A veterinary medical service at a facility, including a mobile facility, where veterinarians and staff are not on the premises during all hours of operation or where veterinarians leave after a patient is treated. A veterinarian shall be available to be reached by telephone for after-hours emergencies.
- (6) ~~"Veterinary clinic" or "animal clinic"~~ means a Veterinary clinic or animal clinic. – A veterinary practice facility in which the practice conducted is essentially an out-patient practice.
- (7) ~~"Veterinary hospital" or "animal hospital"~~ means a Veterinary hospital or animal hospital. – A veterinary practice facility in which the practice conducted includes the confinement as well as the treatment of patients."

SECTION 4.(d) G.S. 90-186 reads as rewritten:

"§ 90-186. Special powers of the Board.

In addition to the powers set forth in G.S. 90-185 above, the Board may:

- ...
- (2) Inspect any boarding kennels, hospitals, clinics, mobile units or other facilities used by any practicing veterinarian, either by a member of the Board or its authorized representatives, for the purpose of reporting the results of the inspection to the Board on a form prescribed by the Board and seeking disciplinary action for violations of health, sanitary, and medical waste disposal rules of the Board affecting the practice of veterinary ~~medicine,~~ medicine or the operation of a boarding kennel, or violations of rules of any county, state, or federal department or agency having jurisdiction in these

areas of health, sanitation, and medical waste disposal that relate to or affect the practice of veterinary ~~medicine;~~ medicine or the operation of a boarding kennel;

...

- (6) Set and require fees pursuant to administrative rule. The Board may increase the following fees, provided (i) no fee shall be increased more than fifteen percent (15%) within a calendar year and (ii) the cumulative total increases of any fee shall not exceed one hundred percent (100%) of the fee amounts set in this subdivision:

...

- p. Issuance of a boarding kennel permit in the amount of seventy-five dollars (\$75.00), to be added to the veterinary facility permit fee.

The fees set under this subdivision for the renewal of a license, a limited license, a registration, a certificate, or a ~~veterinary facility~~ permit apply to each year of the renewal period.

...."

SECTION 4.(e) G.S. 90-187.10 reads as rewritten:

"§ 90-187.10. Necessity for license; certain practices exempted.

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

...

- (12) Any person licensed pursuant to G.S. 19A-28 from operating a boarding kennel."

SECTION 4.(f) The Veterinary Medical Board shall adopt rules to establish minimum standards for boarding kennels operating under a veterinary facility permit and kennel permit no later than July 1, 2024. The standards shall be at least as stringent as those adopted by the Board of Agriculture pursuant to Article 3 of Chapter 19A of the General Statutes.

SECTION 4.(g) Subsection (a) of this section becomes effective October 1, 2023. Subsections (b), (d), and (e) of this section become effective 60 days after the rules adopted pursuant to subsection (f) of this section become effective. The remainder of this section is effective when it becomes law.

CREATE CLASS 3 MISDEMEANOR FOR LEAVING THE SCENE OF AN ANIMAL WASTE SPILL

SECTION 4.1.(a) Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-399.3. Duty to stop in event of certain spills from vehicles.

The driver of any vehicle who knows or reasonably should know that (i) animal waste, as defined in G.S. 143-215.10B, except for livestock or poultry excreta generated by live animals being transported on the vehicle, (ii) dead animals or animal parts except for feathers from live birds being transported on the vehicle, or (iii) animal by-products have been blown, scattered, spilled, thrown, or placed from the vehicle shall immediately stop his or her vehicle at the scene of the incident. The driver shall remain with the vehicle at the scene of the incident until a law enforcement officer completes the investigation of the incident or authorizes the driver to leave

and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the incident by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer; to call for assistance in removing the materials that were blown, scattered, thrown, spilled, or placed from the vehicle; or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this section, then the driver must return with the vehicle to the scene of the incident within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this section shall be punished as a Class 3 misdemeanor, and the court may order restitution for the cost of removing the materials that were blown, scattered, thrown, spilled, or placed from the vehicle."

SECTION 4.1.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

ENCOURAGE PUBLIC SCHOOLS TO MAKE ONE HUNDRED PERCENT MUSCADINE GRAPE JUICE AVAILABLE TO STUDENTS

SECTION 5.(a) G.S. 115C-12 is amended by adding a new subdivision to read: "(49) Goal to Make Available Muscadine Grape Juice in Certain Schools. – The State Board of Education shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students in every school operated under Article 9C of this Chapter as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(b) Part 2 of Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-264.5. Muscadine grape juice.

Local boards of education shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students in every school in the local school administrative unit as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(c) G.S. 115C-218.75 is amended by adding a new subsection to read:

"(k) Muscadine Grape Juice. – A charter school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(19) Muscadine grape juice. – A regional school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities."

SECTION 5.(e) G.S. 116-239.8(b)(4)c. reads as rewritten:

"c. Food services. – The laboratory school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities. Upon request, the local school administrative unit in which the laboratory school is located shall administer the National School Lunch Program for the laboratory school in accordance with G.S. 115C-264."

SECTION 5.(f) G.S. 115D-20 reads as rewritten:

"§ 115D-20. Powers and duties of trustees.

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it

by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

...

(15) To strive to make available one hundred percent (100%) muscadine grape juice as a beverage option in the operation of the community college's vending facilities."

SECTION 5.(g) Part 5 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-43.25. Availability of muscadine grape juice on campuses.

Each constituent institution shall strive to make one hundred percent (100%) muscadine grape juice available as a beverage option in the operation of the institution's vending facilities."

SECTION 5.(h) This section is effective when it becomes law. Subsections (a), (b), (c), (d), and (e) of this section apply beginning with the 2023-2024 school year. Subsections (f) and (g) of this section apply beginning with the 2023-2024 academic year.

CONFORM PENALTIES FOR ASSAULT WITH A DEADLY WEAPON ON DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES INSPECTORS

SECTION 5.1.(a) G.S. 106-65.105D(e) reads as rewritten:

"(e) Any person who willfully resists, opposes, impedes, intimidates, or interferes with any duly authorized agent while engaged in or on account of the performance of the duly authorized agent's official duties under this Article shall be guilty of a Class 2 misdemeanor. Whoever, in the commission of any such acts, uses a deadly weapon shall be guilty of a ~~Class 4 misdemeanor~~ **Class A1 misdemeanor.**"

SECTION 5.1.(b) G.S. 106-549.34 reads as rewritten:

"§ 106-549.34. Interference with inspector.

Any person who willfully assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this or the previous Article shall be guilty of a Class 2 misdemeanor. For the purposes of this section, "impede," "oppose," and "intimidate," or "interfere" shall include, but not be limited to, the use of profane and indecent language, or any act or gesture, verbal or nonverbal, which tends to cast disrespect on an inspector or the Meat and Poultry Inspection Service. Whoever, in the commission of any such acts, uses a deadly weapon, shall be guilty of a ~~Class 4 misdemeanor~~ **Class A1 misdemeanor.**"

SECTION 5.1.(c) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AUTHORITY TO ADOPT RULES FOR DEPARTMENT-OPERATED MARKETS AND SET METROLOGY LABORATORY FEES

SECTION 5.2. G.S. 106-22 reads as rewritten:

"§ 106-22. Joint duties of Commissioner and Board.

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

...

(24) Markets Operated by the Department. – Adopt rules and make policies related to markets operated by the Department. All rules in Title 2, Chapter 43, Subchapter L of the North Carolina Administrative Code adopted under the authority of Article 47 of this Chapter, as repealed by S.L. 2021-90, shall remain in full force and effect unless repealed or amended by the Commissioner.

- (25) Metrology Fees. – Set reasonable fees for calibration services and adjustments performed by the Metrology Laboratory Section of the Standards Division."

CROSS-REFERENCE TECHNICAL CORRECTION

SECTION 5.3. G.S. 136-129(2a) reads as rewritten:

- "(2a) Outdoor advertising to promote a bona fide farm that is exempt from zoning regulations pursuant to ~~G.S. 153-340(b)~~, G.S. 160D-903, provided the sign is no more than three feet long on any side and the sign is located on any bona fide farm property owned or leased by the owner or lessee of the bona fide farm."

ESTABLISH A VOLUNTARY ASSESSMENT FOR GRADE "A" DAIRY PRODUCERS

SECTION 5.4.(a) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 68B.

"Grade "A" Dairy Assessment Act.

"§ 106-816. Title.

This Article shall be known as the "Grade "A" Dairy Assessment Act."

"§ 106-816.1. Purpose.

It is in the public interest for the State to enable dairy producers to assess themselves in order to raise funds to promote the interests of the dairy industry.

"§ 106-816.2. Definitions.

The following definitions apply in this Article:

- (1) Association. – The North Carolina Dairy Producers Association.
- (2) Dairy cooperative. – An association of dairy producers owned by its members and organized to provide services to its members, including finding markets for milk produced by its members.
- (3) Dairy producer. – A person who is a North Carolina resident, produces Grade "A" milk for commercial sale, and holds a Grade "A" milk permit from the Department.
- (4) Department. – The North Carolina Department of Agriculture and Consumer Services.
- (5) Grade "A" milk. – Fluid milk and milk products which have been produced, transported, handled, processed, and distributed in accordance with the provisions of the rules adopted by the Board of Agriculture.
- (6) Milk. – The lacteal secretion practically free from colostrum obtained by the milking of one or more cows.
- (7) Milk handler. – Any person, firm, corporation, or dairy cooperative engaged in the receiving, handling, distribution, or sale of fluid milk or milk products that are intended for bottling, manufacturing, processing, distribution, or sale in this State.

"§ 106-816.3. Referendum.

(a) The Association may conduct among dairy producers a referendum upon the question of whether an assessment shall be levied as provided for herein.

(b) The Association shall determine all of the following:

- (1) The amount of the proposed assessment.
- (2) The time and place of the referendum.
- (3) Procedures for conducting the referendum and counting of votes.
- (4) Any other matters pertaining to the referendum.

(c) The amount of the proposed referendum shall be stated on the referendum ballot. The amount may not exceed five cents (5¢) for each hundredweight of Grade "A" milk produced by

a dairy producer in this State. If the assessment is approved in the referendum, the Association may set the assessment at an amount equal to or less than the amount stated on the ballot. If the Association sets a lower amount than the amount approved by referendum, it may increase the amount annually without a referendum by no more than one cent (1¢) for each hundredweight of Grade "A" milk. The increased rate may not exceed the amount approved by referendum and may not exceed the maximum allowable rate of five cents (5¢) for each hundredweight of Grade "A" milk.

(d) All dairy producers may vote in the referendum. Any dispute over eligibility to vote or any other matter relating to the referendum shall be determined by the Association. The Association shall make reasonable efforts to provide dairy producers with notice of the referendum and an opportunity to vote.

"§ 106-816.4. Payment and collection of assessment.

(a) The assessment shall not be collected unless more than half of the votes cast in the referendum are in favor of the assessment. If more than half of the votes cast in the referendum are in favor of the assessment, then the Association shall notify the Department of the amount of the assessment and the effective date of the assessment. The Department shall notify all dairy producers of the assessment.

(b) Each dairy producer shall pay an assessment on each hundredweight of Grade "A" milk produced in this State and sold commercially.

(c) Each milk handler or dairy cooperative shall collect the assessment by deducting the amount of the assessment from the proceeds of the sale of Grade "A" milk. The milk handler or dairy cooperative shall remit to the Department no later than the twentieth day following the end of each calendar month the assessment on Grade "A" milk sold during that month. Any fluid milk producer-processor who markets Grade "A" milk of its own production directly to consumers, or any dairy producer who does not use the services of a milk handler or dairy cooperative located in this State, shall also pay the assessment under this section. Any dairy producer who fails to remit the assessment for the previous year's sales by January 20 shall pay a penalty of five percent (5%) of the unpaid assessment plus a penalty of one percent (1%) of the unpaid assessment for each month after January 20 that the assessment remains unpaid.

(d) The Association may conduct inspections or audits of the books of any dairy producer. If the inspection or audit reveals that a dairy producer has willfully failed to remit assessments when due, the dairy producer shall pay the Association the reasonable costs of the inspection or audit.

(e) The Association may bring an action to collect unpaid assessments, penalties, and reasonable costs of any inspection or audit as provided in subsection (c) of this section against any dairy producer who fails to pay the assessment, penalties, or costs. If successful, the Association shall also recover the cost of such action, including attorneys' fees.

"§ 106-816.5. Use of assessments; refunds.

(a) The Department shall remit all funds collected under this Article to the Association at least quarterly. The Association shall use the funds to promote the interests of the dairy industry. The Association shall use such funds for research and marketing related to dairy products and the dairy industry, including such administrative expenses as may be reasonably necessary to carry out this function.

(b) A dairy producer may request a refund of the assessment collected under this Article by requesting in writing a refund form from the Association. The Association shall determine the contents of the refund form. The Association shall provide the dairy producer with a refund form within one week of receiving the dairy producer's request. After receiving the refund form from the Association, the dairy producer shall complete the form and provide proof of payment of the assessment to the Association no earlier than December 15 and no later than December 31 of a calendar year. The Association shall mail a refund to the dairy producer within 120 days of receipt of a properly completed and documented refund form.

"§ 106-816.6. Termination of assessment.

Upon receipt of a petition signed by at least fifty percent (50%) of the dairy producers in North Carolina known to the Association, the Department shall notify the Association and the Association shall, within six months, conduct a referendum upon the question of continuing the assessment. The referendum shall be conducted in the same manner as the initial referendum upon the question of whether an assessment shall be levied. If a majority of the votes cast in the referendum are against continuing the assessment, or if the Association fails to conduct a referendum within the six-month period, the assessment expires at the end of the six-month period. If a majority of the votes cast in the referendum are in favor of continuing the assessment, then no subsequent referendum shall be held for at least three years."

SECTION 5.4.(b) G.S. 106-559.1 reads as rewritten:

"§ 106-559.1. Basis of vote on milk product assessment.

Notwithstanding any other provision of this Article, any milk product assessment referendum conducted pursuant to this Article shall be conducted on the basis of one vote per base holder."

SECTION 5.4.(c) G.S. 106-563.1 reads as rewritten:

"§ 106-563.1. Supervision of referendum on milk product assessment.

Notwithstanding any other provision of this Article, any milk product assessment referendum conducted pursuant to this Article shall be conducted under the supervision of the County Extension Chairman in each county in which the referendum is held."

SECTION 5.4.(d) G.S. 106-567.1 reads as rewritten:

"§ 106-567.1. Refund of milk product assessments.

Notwithstanding any other provision of this Article, on and after January 1, 1982, a milk producer shall be entitled to receive a monthly refund of assessments paid by ~~him~~ the milk producer pursuant to this Article by making written demand in the first month of each calendar quarter upon the association receiving such assessment."

PART II. STATE SYMBOLS

ESTABLISH EQUINE STATE TRAIL

SECTION 6.(a) The General Assembly makes the following findings:

- (1) The equine industry provides a three billion four hundred forty million dollar (\$3,440,000,000) overall economic impact to the State of North Carolina, and horses are a rich part of our State's historical and cultural heritage.
- (2) The inclusion of an Equine State Trail as a State trail in the State Parks System would be beneficial to the people of North Carolina and further the development of North Carolina as the "Great Trails State."

SECTION 6.(b) The General Assembly authorizes the Department of Natural and Cultural Resources to add the Equine State Trail in Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, and Richmond Counties to the State Parks System as a State trail, as provided in G.S. 143B-135.54(b).

SECTION 6.(c) The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Equine State Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 6.(d) The requirement of G.S. 143B-135.54(b) that additions be accompanied by adequate appropriations for land acquisition, development, and operations shall not apply to the authorization set forth in this act; provided, however, that the State may receive donations of appropriate land and may purchase other needed lands for the Equine State Trail with existing funds in the Land and Water Fund, the Parks and Recreation Trust Fund, the

Complete the Trails Fund, the federal Land and Water Conservation Fund, and other available sources of funding.

RENAME THE OFFICIAL STATE FRUIT TO THE MUSCADINE GRAPE

SECTION 7.(a) The General Assembly makes the following findings:

- (1) North Carolina is the home of our nation's first cultivated grape, the variety of native Muscadine grape known as Scuppernong.
- (2) French explorers in 1524 first discovered Muscadine grapes while exploring the Cape Fear River Valley, and later British explorers in 1584 and 1585 reported to Queen Elizabeth and Sir Walter Raleigh that the barrier islands were full of grapes and the soil of the land was "so abounding with sweet trees that bring rich and most pleasant gummies, grapes of such greatness, yet wild as France, Spain and Italy hath not greater..."
- (3) The thick skins, fruit seed, and sweet pulp and juice that characterize Muscadine grapes make the native fruit a state treasure.
- (4) In recent times, researchers have discovered that Muscadine grapes are rich in antioxidants and phytochemicals, including resveratrol, among many others.

SECTION 7.(b) G.S. 145-18(a) reads as rewritten:

"(a) The official fruit of the State of North Carolina is the ~~Scuppernong~~ Muscadine grape (Vitis genus)."

DESIGNATE THE LONGLEAF PINE AS THE EMBLEM REPRESENTING THE TREES OF NORTH CAROLINA

SECTION 8. G.S. 145-3 reads as rewritten:

"§ 145-3. State tree.

The pine is hereby adopted as the official State tree of the State of North ~~Carolina~~ Carolina, and the longleaf pine (Pinus palustris) is designated as the emblem representing the trees of North Carolina."

DESIGNATE THE SECOND WEDNESDAY IN NOVEMBER OF EACH YEAR AS NORTH CAROLINA FARMERS APPRECIATION DAY

SECTION 8.1.(a) Chapter 103 of the General Statutes is amended by adding a new section to read:

"§ 103-17. North Carolina Farmers Appreciation Day.

(a) The General Assembly makes the following findings:

- (1) The people of North Carolina should never forget that to remain a free nation we must maintain and improve our ability to feed and clothe ourselves.
- (2) The food and fiber we produce to feed and clothe ourselves must necessarily be safe, reliable, and economically affordable.
- (3) From the beginning of our nation, the agriculture sector has served the people of North Carolina well in these and many other areas.
- (4) The people of North Carolina must continue to use our land, water, and air to produce food and fiber in environmentally responsible and sustainable ways.
- (5) Many North Carolina citizens no longer reside near working farms and are therefore unfamiliar with how our food and fiber are produced.
- (6) North Carolina farmers are dedicated to producing the food and fiber to feed and clothe our population.
- (7) The farmers of North Carolina have set the pace and performed exceptionally well in many parts of the agriculture sector.
- (8) Countless people across the United States and in many other nations depend on food and fiber produced here in North Carolina.

(9) It is important to properly acknowledge and express gratitude for the efforts of North Carolina farmers.

(b) The second Wednesday in November of each year, beginning in 2024, is designated as North Carolina Farmers Appreciation Day."

SECTION 8.1.(b) The North Carolina Grange is designated as the lead organization for the recognition of North Carolina Farmers Appreciation Day and shall develop a plan to raise awareness of and promote the first annual North Carolina Farmers Appreciation Day. In developing the plan, the Grange shall consult with the North Carolina Department of Agriculture and Consumer Services; North Carolina Cooperative Extension, including representatives from NC State University Extension and NC A&T State University Extension; the University of Mt. Olive School of Agricultural and Biological Sciences; North Carolina Farm Bureau Federation, Inc.; commodity groups and associations, including the North Carolina Pork Council, the North Carolina Poultry Federation, and the North Carolina Cattlemen's Association; and any other organizations the Grange deems appropriate.

SECTION 8.1.(c) The North Carolina Grange shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than June 30, 2024, regarding its plan to raise awareness of and promote the first annual North Carolina Farmers Appreciation Day.

PART III. FORESTRY PROVISIONS

PRESCRIBED BURNING ACT AMENDMENTS

SECTION 9.(a) G.S. 106-966 reads as rewritten:

"§ 106-966. Definitions.

As used in this Article:

- (1) "Certified prescribed burner" means an individual who has successfully completed a certification program approved by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
- (2) "Prescribed burning" means the planned and controlled application of fire to ~~naturally occurring~~ vegetative fuels under ~~safe~~ specified weather and ~~safe~~ environmental and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.
- (3) "Prescription" means a written plan establishing the conditions and methods for conducting a prescribed burn prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning."

SECTION 9.(b) G.S. 106-967 reads as rewritten:

"§ 106-967. Immunity from liability.

(a) Any prescribed burning conducted in compliance with G.S. 106-968 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury caused by fire, including reignition of a smoldering, previously contained burn, or resulting from smoke.

(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from ~~a negligently or improperly conducted prescribed burning-gross negligence.~~

(d) Notwithstanding subsections (a), (b) and (c), this section shall not apply to claims by public utilities resulting from damage to their equipment or facilities, where a prescribed burn proximately causes such damage.

(e) For purposes of this section, the term "public utility" means an electric power supplier, as defined in G.S. 62-133.8(a)(3), a gas operator, as defined in G.S. 62-50(g), or a business providing telecommunications service taxed under G.S. 105-164.4(a)(4c)."

SECTION 9.(c) G.S. 106-968 reads as rewritten:

"§ 106-968. ~~Prescribed-Certified prescribed burning.~~

(a) Prior to conducting a prescribed burning, a certified prescribed burner shall prepare and provide to the landowner ~~shall obtain~~ a prescription for the prescribed ~~burning prepared by a certified prescribed burner and filed~~ burning. The certified prescribed burner shall also file the prescription with the North Carolina Forest Service of the Department of Agriculture and Consumer Services. ~~A copy of the prescription shall be provided to the landowner. A~~ Both the landowner and the certified prescribed burner on site shall retain a copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

- (1) The landowner's name and address.
- (2) A description of the area to be burned.
- (3) A map of the area to be burned.
- (4) An estimate of tons of the fuel located on the area.
- (5) The objectives of the prescribed burning.
- (6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
- (7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
- (8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed ~~burning-burning, including firebreaks and sufficient personnel and firefighting equipment to contain the fire within the burn area.~~
 - a. Fire spreading outside the authorized burn area on the day of the prescribed burn ignition shall not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment.
 - b. If the prescribed burn is contained within the authorized burn area during the authorized period, there shall be a rebuttable presumption that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.
 - c. Continued smoldering of a prescribed burn resulting in a subsequent wildfire does not in itself constitute evidence of gross negligence under G.S. 106-967.
- (9) Provision for reasonable notice of the prescribed burning to be provided to ~~nearby~~ homes and businesses located adjacent to the burn site to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning and be in compliance with this Article without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must

remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

- (1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.
 - (2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.
 - (3) Any applicable local ordinances relating to open burning.
 - (4) The smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
 - (5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.
- (d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article."

PROHIBIT USE OF AN UNMANNED AIRCRAFT SYSTEM NEAR A FOREST FIRE

SECTION 10.(a) Article 16B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

(a) Prohibition. – No person, entity, or State agency shall use an unmanned aircraft system within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet from any forest fire within the jurisdiction of the North Carolina Forest Service. For purposes of this section, the horizontal distance shall extend outward from the furthest exterior perimeter of the forest fire or forest fire control lines.

(b) Exceptions. – Unless the use of the unmanned aircraft system is otherwise prohibited under State or federal law, the prohibitions in subsection (a) of this section do not apply to any of the following:

- (1) A person operating an unmanned aircraft system with the consent of the official in responsible charge of management of the forest fire.
- (2) A law enforcement officer using an unmanned aircraft system in accordance with G.S. 15A-300.1(c).
- (3) A North Carolina Forest Service employee or a person acting under the direction of a North Carolina Forest Service employee.

(c) Penalties. – The following penalties apply for violations of this section:

- (1) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of the death of another person is guilty of a Class D felony and shall also be fined not less than one thousand dollars (\$1,000).
- (2) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of serious bodily injury to another person is guilty of a Class E felony and shall also be fined not less than one thousand dollars (\$1,000).
- (3) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of serious physical or mental injury to another person is guilty of a Class F felony and shall also be fined not less than one thousand dollars (\$1,000).
- (4) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use interferes with emergency operations and such interference proximately causes damage to any real or personal property or any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands, springs, or any other matter or thing growing or being on the land is guilty of

a Class G felony and shall also be fined not less than one thousand dollars (\$1,000).

- (5) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use interferes with emergency operations is guilty of a Class H felony and shall be fined not less than one thousand dollars (\$1,000).
- (6) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is the proximate cause of physical or mental injury to another person is guilty of a Class I felony and shall also be fined not less than one thousand dollars (\$1,000).
- (7) A person who uses an unmanned aircraft system in violation of subsection (a) of this section and such use is not covered under another provision of law providing greater punishment is guilty of a Class A1 misdemeanor and shall be fined not less than one thousand dollars (\$1,000).

(d) Seizure, Forfeiture, and Disposition of Seized Property. – A law enforcement agency may seize an unmanned aircraft system and any attached property used in violation of this section. An unmanned aircraft system used in violation of this section and seized by a law enforcement agency is subject to forfeiture and disposition pursuant to G.S. 18B-504. An innocent owner or holder of a security interest applying to the court for release of the unmanned aircraft system, in accordance with G.S. 18B-504(h), shall also provide proof of ownership or security interest and written certification that the unmanned aircraft system will not be returned to the person who was charged with the violation of subsection (a) of this section.

(e) Definitions. – For purposes of this section, the following definitions apply:

- (1) Physical or mental injury. – Cuts, scrapes, bruises, or other physical or mental injury that does not constitute serious bodily injury or serious physical or mental injury.
- (2) Serious bodily injury. – Bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.
- (3) Serious physical or mental injury. – Physical or mental injury that causes great pain and suffering."

SECTION 10.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

AMEND TIMBER LARCENY STATUTE

SECTION 11.(a) G.S. 14-135 reads as rewritten:

"§ 14-135. Larceny of timber.

(a) Offense. – Except as otherwise provided in subsection (b) of this section, a person commits the offense of larceny of timber if the person does any of the following:

- (1) Knowingly and willfully cuts down, injures, or removes any timber owned by another person, without the consent of the owner of the land or the owner of the timber, or without a lawful easement running with the land.
- (2) Buys timber directly from the owner of the timber and fails to make payment in full to the owner by (i) the date specified in the written timber sales agreement or (ii) if there is no such agreement, 60 days from the date that the buyer removes the timber from the property.
- (3) Knowingly and willfully aids, hires, or counsels an individual to cut down, injure, or remove any timber owned by another person without the consent of the owner of the land or the owner of the timber, or without a lawful easement running with the land.

- (4) Knowingly and willfully transports forest products that have been cut down, removed, obtained, or acquired from the property of a landowner without the consent of the owner of the land or the owner of the timber, or without a lawful easement running with the land.

(b) Exceptions. – The following are exceptions to the offense set forth in subsection (a) of this section:

- (1) A person is not guilty of an offense under subdivision (1) of subsection (a) of this section if the person is an employee or agent of an electric power supplier, as defined in G.S. 62-133.8, and either of the following conditions is met:
 - a. The person believed in good faith that consent of the owner had been obtained prior to cutting down, injuring, or removing the timber.
 - b. The person believed in good faith that the cutting down, injuring, or removing of the timber was permitted by a utility easement or was necessary to remove a tree hazard. For purposes of this ~~sub-~~subdivision, ~~subsection,~~ the term "tree hazard" includes a dead or dying tree, dead parts of a living tree, or an unstable living tree that is within striking distance of an electric transmission line, electric distribution line, or electric equipment and constitutes a hazard to the line or equipment in the event of a tree failure.
- (2) A person is not guilty of an offense under subdivision (2) of subsection (a) of this section if either of the following conditions is met:
 - a. The person remitted payment in full within the time period set in subdivision (2) of subsection (a) of this section to a person he or she believed in good faith to be the rightful owner of the timber.
 - b. The person remitted payment in full to the owner of the timber within the 10-day period set forth in subsection (c) of this section.
- (3) A person is not guilty of an offense under subdivision (3) of subsection (a) of this section if the person is an electric power supplier, as defined in G.S. 62-133.8, and either of the following conditions is met:
 - a. The person believed in good faith that consent of the owner had been obtained prior to aiding, hiring, or counseling the individual to cut down, injure, or remove the timber.
 - b. The person believed in good faith that the cutting down, injuring, or removing of the timber was permitted by a utility easement or was necessary to remove a tree hazard.

(c) Prima Facie Evidence. – An owner of timber who does not receive payment in full within the time period set in subdivision (2) of subsection (a) of this section may notify the timber buyer in writing of the owner's demand for payment at the timber buyer's last known address by certified mail or by personal delivery. The timber buyer's failure to make payment in full within 10 days after the mailing or personal delivery authorized under this subsection shall constitute prima facie evidence of the timber buyer's intent to commit an offense under subdivision (2) of subsection (a) of this section.

(d) Penalty; Restitution. – A person who commits an offense under subsection (a) of this section is guilty of a Class G felony. Additionally, a defendant convicted of an offense under subsection (a) of this section shall be ordered to make restitution to the timber owner in an amount equal to either of the following:

- (1) Three times the value of the timber cut down, injured, or removed in violation of subdivision (1) of subsection (a) of this section.
- (2) Three times the value of the timber bought but not paid for in violation of subdivision (2) of subsection (a) of this section.

Restitution shall also include the cost incurred by the owner to determine the value of the timber. For purposes of subdivisions (1) and (2) of this subsection, "value of the timber" shall be based on the stumpage rate of the timber.

(e) Civil Remedies. – Nothing in this section shall affect any civil remedies available for a violation of subsection (a) of this section.

(f) For purposes of this section, "person" means any individual, association, consortium, corporation, partnership, unit of State or local government, or other group, entity, or organization."

SECTION 11.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

LIMIT CIVIL PENALTIES FOR REMOVAL OF TIMBER IN A RIPARIAN BUFFER TO THE VALUE OF THE TIMBER

SECTION 11.1.(a) G.S. 143-215.6A is amended by adding a new subsection to read:

"(b2) A civil penalty issued by the Secretary pursuant to this section for removal of timber in a riparian buffer in violation of rules applicable to that riparian buffer shall not exceed the value of the timber removed from the riparian buffer."

SECTION 11.1.(b) This section becomes effective July 1, 2023, and applies to acts committed on or after that date.

ESTABLISH FORESTRY SERVICES AND ADVICE FUND

SECTION 12. G.S. 106-1003 reads as rewritten:

"§ 106-1003. ~~Deposit of receipts with State treasury.~~Forestry Services and Advice Fund.

(a) The Forestry Services and Advice Fund is established as a special fund within the Department of Agriculture and Consumer Services, North Carolina Forest Service. All moneys paid to the Commissioner for services rendered under the provisions of this Article shall be deposited into the State treasury to the credit of the Department Fund. The Fund may also consist of any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund.

(b) The Department shall use the Fund to develop, improve, repair, maintain, operate, and otherwise invest in providing forestry services and advice to owners and operators of forestland as authorized by this Article."

CLARIFY POWERS OF FOREST RANGERS

SECTION 12.1. G.S. 106-899(a) reads as rewritten:

"(a) Forest rangers or deputy rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the Commissioner or his designate may establish a fire patrol in any ~~district, and in~~ district. In case of fire in or threatening any forest or woodland, the forest ranger or deputy ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to assist or to allow the use of equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy ranger, or person summoned by a forest ranger for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy ranger."

PART IV. ENVIRONMENTAL PROVISIONS

WELL CONTRACTOR EXAMINATION EXEMPTION

SECTION 13. G.S. 87-98.6 reads as rewritten:

"§ 87-98.6. Well contractor qualifications and ~~examination~~-examination; exemption.

(a) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate so that prompt and fair consideration will be given to each applicant.

(b) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors for the installation, construction, maintenance, and repair of electrical wiring devices, appliances, and equipment related to the construction, operation, and repair of wells. Requirements developed pursuant to this subsection shall apply only to the initial certification of an applicant and shall not be required as part of continuing education or as a condition of certification renewal.

(c) A person who is 70 years of age or older who (i) has engaged in well contractor activity for more than 20 years; (ii) has no record of having violated any provision of this Article, Article 7 of this Chapter, or any order issued or rule adopted pursuant to this Article or Article 7 of this Chapter in the previous 10 years; and (iii) meets all other requirements for certification under this Article is exempt from examination requirements adopted pursuant to this section."

ALIGN ANIMAL WASTE MANAGEMENT SYSTEM OPERATOR FEES WITH WATER POLLUTION CONTROL SYSTEM OPERATOR FEES

SECTION 13.1.(a) G.S. 90A-47.4 reads as rewritten:

"§ 90A-47.4. Fees; certificate renewals.

(a) An applicant for certification under this Part shall pay a fee of ~~twenty-five dollars (\$25.00)~~ eighty-five dollars (\$85.00) for the examination and the certificate.

(b) The certificate shall be renewed annually upon payment of a renewal fee of ~~ten dollars (\$10.00)~~. A certificate holder who fails to renew the certificate and pay the renewal fee within 30 days of its expiration shall be required to take and pass the examination for certification in order to renew the certificate. twenty-five dollars (\$25.00) no later than December 31. Certificates that are not renewed when due shall be invalid. To renew a certificate that has been invalid for less than 12 months, the certificate holder shall pay the required renewal fee and a late application fee equivalent to twice the annual renewal fee in order to renew the certificate. All penalties that have been assessed since the certificate was last renewed shall be paid and all accrued continuing education requirements shall be met. To renew a certificate that has been invalid for more than 12 months, the operator shall be required to make a passing score on an examination for certification."

SECTION 13.1.(b) This section becomes effective July 1, 2023.

DIGESTER GENERAL PERMIT CLARIFICATION

SECTION 14. G.S. 143-213(12a) reads as rewritten:

"(12a) The term "farm digester system" means a system, including all ~~associated~~ animal waste management equipment and lagoon covers, by which gases are collected and processed from an animal waste management system for the digestion of animal biomass for use as a renewable energy resource. The collected gases shall be used as a renewable energy resource as quickly as feasible, but within six months of the collection of the gases, and during that period the gas shall be flared rather than vented. A farm digester system shall be considered an agricultural feedlot activity within the meaning of "animal

operation" and shall also be considered a part of an "animal waste management system" as those terms are defined in G.S. 143-215.10B."

DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO WITHDRAW THE 2021 NPDES GENERAL PERMIT FOR AQUACULTURE AND REVISE IT TO BE SUBSTANTIVELY IDENTICAL TO THE PREVIOUS GENERAL PERMIT

SECTION 14.1.(a) Definitions. – The following definitions apply in this section:

- (1) Aquaculture Permit. – The National Pollutant Discharge Elimination System (NPDES) General Permit NCG530000 for discharges from seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters that took effect on December 1, 2021.
- (2) Commission. – The Environmental Management Commission.
- (3) Department. – The Department of Environmental Quality.
- (4) Prior Aquaculture Permit. – The National Pollutant Discharge Elimination System (NPDES) General Permit NCG530000 for discharges from seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters that expired on March 30, 2021, and was subsequently replaced by the Aquaculture Permit.

SECTION 14.1.(b) Aquaculture Permit Reopener. – Pursuant to its authority under G.S. 143-215.1(b)(3), no later than 180 days after the effective date of this act the Commission and the Department shall reopen and modify the Aquaculture Permit as described in subsection (c) of this section.

SECTION 14.1.(c) Aquaculture Permit Modification. – The Commission and Department shall modify the Aquaculture Permit to be substantively identical to the Prior Aquaculture Permit. For purposes of this subsection, "substantively identical" includes, at a minimum, that species monitoring, discharge characteristic provisions, and best management practice (BMP) requirements are no more stringent than and impose no requirements in addition to those in the Prior Aquaculture Permit.

SECTION 14.1.(d) This section is effective when it becomes law and expires when the Commission revises the Aquaculture Permit as set forth in subsection (c) of this section and notifies the Revisor of Statutes that it has done so.

CLARIFY DEFINITION OF WETLANDS

SECTION 15.(a) Definitions. – For purposes of this section and its implementation, "Wetlands Definition" means 15A NCAC 02B .0202 (Definitions).

SECTION 15.(b) Wetlands Definition Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission (Commission) is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Wetlands Definition Rule as provided in subsection (c) of this section.

SECTION 15.(c) Implementation. – Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 C.F.R. § 328.3 and 40 C.F.R. § 230.3. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions.

SECTION 15.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Wetlands Definition Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in

G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 15.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

WASTEWATER AMENDMENTS

SECTION 16.(a) Definitions. – For purposes of this section and its implementation, "Prefabricated Permeable Block Panel Systems Rule" means 15A NCAC 18E .0905 (Prefabricated Permeable Block Panel Systems).

SECTION 16.(b) Prefabricated Permeable Block Panel Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Prefabricated Permeable Block Panel Systems Rule as provided in subsection (c) of this section.

SECTION 16.(c) Implementation. – Prefabricated permeable block panel system trenches shall be located a minimum of 8 feet on center or three times the trench width. When used in sand-lined trench systems, bed, or fill systems, prefabricated permeable block panel systems shall use the equivalent trench width of 6 feet to calculate the minimum trench length unless otherwise instructed by the manufacturer on a case-by-case basis.

SECTION 16.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Prefabricated Permeable Block Panel Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 16.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 17.(a) G.S. 130A-343 reads as rewritten:

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

...

(h) Accepted Wastewater Dispersal Systems. – A manufacturer of an Innovative wastewater dispersal system or other approved trench dispersal system specifically identified in a rule adopted by the Commission that has been in general use in this State for a minimum of five years may petition the Commission to have the system designated as an Accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the system in this State and other states referenced in the petition, including disclosure of any conditions found to result in unacceptable structural integrity, treatment, or hydraulic performance. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater dispersal system as an Accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence based on actual field surveys and county activity reports (i) to confirm the findings made by the Department at the time the Department approved the system as a wastewater dispersal system and (ii) that the system performs in a manner that is equal or superior to a conventional or Accepted wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system. If the Department designates a wastewater dispersal system as an Accepted wastewater system pursuant to this section, the following shall apply:

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

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

...

(j2) Clarification of Use of Native Backfill. – In considering the use of backfill material in subsurface trench dispersal products, neither the Commission nor the Department shall condition, delay, or deny the approval of a subsurface trench dispersal product based on a non-native backfill material requirement without the prior approval of the manufacturer. With respect to approvals already issued by the Department or the Commission that include conditions or requirements specifying the use of non-native backfill material, the Department or Commission, as applicable, shall reissue those approvals, at the written request of the manufacturer, without conditions or requirements relating to the use of non-native backfill material.

...."

SECTION 17.(b) This section is effective when it becomes law and applies retroactively to any wastewater system approvals issued by the Commission for Public Health or the Department of Health and Human Services.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 18.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application and, to this end, the provisions of this act are declared to be severable.

SECTION 18.(b) Except as otherwise provided, this act is effective when it becomes

In the General Assembly read three times and ratified this the 12th day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Erin Paré
Presiding Officer of the House of Representatives

VETO Roy Cooper Governor

Became law notwithstanding the objections of the Governor at 2:10 p.m. this 27th day of June, 2023.

s/ Mr. James White
House Principal Clerk

APPENDIX 2

Proposed Amended 15A NCAC 2B .0202

1 15A NCAC 2B .0202 is proposed for amendment as follows:
2

3 **15A NCAC 02B .0202 DEFINITIONS**

4 The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The
5 following words and phrases shall be defined as follows:

- 6 (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident
7 aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a
8 short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a specific
9 chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the
10 following procedures:
- 11 (a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to a
12 concentration of one-half or less of the Final Acute Value (FAV) as determined according
13 to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic
14 Life and its Uses" published by the Environmental Protection Agency and referenced in
15 the Federal Register (50 FR 30784, July 29, 1985) which is incorporated by reference
16 including subsequent amendments and editions.
 - 17 (b) for specific chemical constituents or compounds for which values described under Sub-
18 Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a
19 concentration of one-third or less of the lowest available LC50 value.
 - 20 (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99
21 percent confidence level using Student's t-test) during a specified exposure period.
22 Concentrations of exposure shall be based on permit requirements and procedures in
23 accordance with 15A NCAC 02H .1110.
 - 24 (d) in instances where detailed dose response data indicate that levels of acute toxicity are
25 different from those defined in this Rule, the Director may determine on a case-by-case
26 basis an alternate acceptable level through statistical analyses of the dose response in
27 accordance with 15A NCAC 02H .1110.
- 28 (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a
29 specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
- 30 (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm purposes.
- 31 (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local,
32 State, or federal governmental agency; or any other person who applies fertilizer to the land of a
33 consumer or client or to land that they own, lease, or otherwise hold rights.
- 34 (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in
35 accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S.
36 130A-317.

- 1 (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and
2 cost effective and reasonable best management practices (BMP) for nonpoint source control.
- 3 (7) "Available cyanide" means inorganic cyanides that are free (HCN and CN⁻) and metal-cyanide
4 complexes that are dissociated into free cyanide ions under mildly acidic conditions (pH 3 to 6).
- 5 (8) "Average" means the arithmetical average of the analytical results of all representative samples
6 taken under prevailing environmental conditions during a specified period (for example: daily,
7 weekly, or monthly).
- 8 (9) "Best Management Practice" or "BMP" means a structural or nonstructural management-based
9 practice used singularly or in combination to reduce point source or nonpoint source inputs to
10 receiving waters in order to achieve water quality protection goals.
- 11 (10) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by
12 the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- 13 (11) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which
14 substances are taken up or accumulated into tissues of aquatic organisms from water directly and
15 from food or other ingested materials containing the accumulated substances, and is measured as a
16 ratio of a substance's concentration in tissue versus its concentration in water in situations where
17 exposure to the substance occurs from both water and the food chain.
- 18 (12) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which
19 substances are absorbed or concentrated into tissues of aquatic organisms from water directly and
20 is measured as a ratio of substance's concentration in tissue versus its concentration in water in
21 situations where exposure to the substance occurs from water only.
- 22 (13) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced
23 and indigenous community of organisms having species composition, diversity, population
24 densities, and functional organization similar to that of reference conditions.
- 25 (14) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse
26 manner so that the runoff does not become channelized and which provides for infiltration of the
27 runoff and filtering of pollutants.
- 28 (15) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic
29 populations or indicator species used as test organisms in a controlled toxicity test due to long-term
30 exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the
31 duration of a sensitive period of the life cycle to a specific chemical substance or mixture of
32 chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or
33 reproductive toxicity tests may be used to define chronic impacts.
- 34 (16) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a
35 controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest
36 Observable Effect Concentration (LOEC).

- 1 (17) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or
2 any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- 3 (18) "Concentration" means the mass of a substance per volume of water and, for the purposes of this
4 Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms
5 per liter (ng/l).
- 6 (19) "Contiguous" means those wetlands landward of the mean high water line or normal water level and
7 within 575 feet of classified surface waters that appear as solid blue lines on the most recently
8 published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available
9 at no cost at <http://www.usgs.gov/pubprod/>.
- 10 (20) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated
11 with pollution is greater than risk associated with pollution from the remaining portions of the
12 watershed. The boundary of a critical area is defined as:
- 13 (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal
14 pool elevation of the reservoir in which the intake is located or to the ridge line of the
15 watershed, whichever is nearest the normal pool elevation of the reservoir;
- 16 (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake
17 (or other appropriate downstream location associated with the water supply) located
18 directly in the stream or river (run-of-the-river) or to the ridge line of the watershed,
19 whichever is nearest the intake; or
- 20 (c) extending a different distance from the reservoir or intake as adopted by the Commission
21 during the reclassification process pursuant to Rule .0104 of this Subchapter.
- 22 Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
- 23 (21) "Cropland" means agricultural land that is not covered by a certified animal waste management plan
24 and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other
25 vegetables or fruits.
- 26 (22) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North
27 Carolina Nonpoint Source Management Program, as approved by the Environmental Protection
28 Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that
29 established Section 319 Nonpoint source management programs.
- 30 (23) "Director" means the Director of the Division.
- 31 (24) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to
32 State surface waters.
- 33 (25) "Division" means the Division of Water Resources or its successors.
- 34 (26) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial
35 wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater
36 includes, but is not limited to, liquid waste generated by domestic water using fixtures and
37 appliances from any residence, place of business, or place of public assembly, even if it contains no

- 1 sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood
2 packing facility discharges, and wastewater from restaurants.
- 3 (27) "Effluent channel" means a discernable confined and discrete conveyance that is used for
4 transporting treated wastewater to a receiving stream or other body of water, as provided in Rule
5 .0228 of this Section.
- 6 (28) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975,
7 whether or not they are included in the water quality standards.
- 8 (29) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant
9 food.
- 10 (30) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish
11 or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to protect
12 the biological integrity of the environment for fish.
- 13 (31) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in
14 wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous
15 plants, including mature and successional forests and cutover stands.
- 16 (32) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500 mg/l
17 or less.
- 18 (33) "Industrial discharge" means the discharge of industrial process treated wastewater or wastewater
19 other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is
20 contaminated with industrial wastewater. Industrial discharge includes:
- 21 (a) wastewater resulting from any process of industry or manufacture or from the development
22 of any natural resource;
- 23 (b) wastewater resulting from processes of trade or business, including wastewater from
24 laundromats and car washes, but not wastewater from restaurants; and
- 25 (c) for the purpose of prohibiting discharges to waters classified as Water Supply (WS) in
26 accordance with Rules .0212, .0214, .0215, .0216, and .0218 of this Section, wastewater
27 discharged from a municipal wastewater treatment plant required to administer a
28 pretreatment program pursuant to 15A NCAC 02H .0904.
- 29 (34) "Land-disturbing activity" means any use of the land that results in a change in the natural cover or
30 topography that may cause or contribute to sedimentation.
- 31 (35) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent of
32 the sensitive aquatic toxicity testing species tested during a specified exposure period, as required
33 by NPDES permit, under aquatic conditions characteristic of the receiving waters. Sensitive species
34 for aquatic toxicity testing is defined by Subparagraph (50) of this Rule.
- 35 (36) "Lentic" means an aquatic ecosystem with standing or slow flowing water such as a lake, pond, or
36 reservoir.

- 1 (37) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and
2 G.S. 158A-10.
- 3 (38) "Lotic" means an aquatic ecosystem with rapidly flowing water such as a stream or river.
- 4 (39) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below
5 Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie
6 County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan,
7 Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S
8 classifications.
- 9 (40) "MF" means the membrane filter procedure for bacteriological analysis.
- 10 (41) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which
11 dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to conditions
12 established in accordance with Rule .0204(b) of this Section.
- 13 (42) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee,
14 including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins;
15 and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River
16 Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- 17 (43) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation
18 and subsequent runoff from lands that have been disturbed by man's activities and includes all
19 sources of water pollution that are not required to have a permit in accordance with G.S.
20 143-215.1(c).
- 21 (44) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing
22 process. An example is non-contact cooling water from a compressor.
- 23 (45) "Offensive condition" means any condition or conditions resulting from the presence of sewage,
24 industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that
25 shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of
26 abnormally large quantities of mosquitoes or other insect pests; damage private or public water
27 supplies or other structures; result in the development of gases which destroy or damage surrounding
28 property, herbage, or grasses; cause the impairment of taste such as from fish flesh tainting; or affect
29 the health of any person residing or working in the area.
- 30 (46) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human
31 body contact with water where such activities take place in an organized or on a frequent basis.
- 32 (47) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early
33 development of commercially important fish and shellfish and are so designated by the Marine
34 Fisheries Commission.
- 35 (48) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply
36 in which protection measures are required. The boundary of a protected area is defined as:

- 1 (a) extending either five miles in an as-the-river-runs manner upstream from and draining to
2 the normal pool elevation of the reservoir in which the intake is located or to the ridge line
3 of the watershed, whichever is nearest the normal pool elevation of the reservoir;
- 4 (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the
5 intake located directly in the stream or river run-of-the-river or to the ridge line of the
6 watershed, whichever is nearest the intake. In some cases the protected area shall
7 encompass the entire watershed; or
- 8 (c) extending a different distance from the reservoir or intake as adopted by the Commission
9 during the reclassification process pursuant to Rule .0104 of this Subchapter.
- 10 (49) "Residential development" means buildings for residence such as attached and detached single
11 family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated
12 outbuildings such as garages, storage buildings, and gazebos.
- 13 (50) "Residuals" has the same meaning as in 15A NCAC 02T .0103.
- 14 (51) "Riparian area" means an area that is adjacent to a body of water.
- 15 (52) "Secondary contact recreation" means wading, boating, other uses not involving human body
16 contact with water, and activities involving human body contact with water where such activities
17 take place on an infrequent, unorganized, or incidental basis.
- 18 (53) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted by
19 the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the following
20 genera:
- 21 (a) Arbacia;
- 22 (b) Ceriodaphnia;
- 23 (c) Champia;
- 24 (d) Chironomus;
- 25 (e) Cyprinodon;
- 26 (f) Daphnia;
- 27 (g) Hyalella;
- 28 (h) Lumbriculus;
- 29 (i) Menidia;
- 30 (j) Mysidopsis;
- 31 (k) Notropis;
- 32 (l) Oncorhynchus;
- 33 (m) Penaeus;
- 34 (n) Pimephales;
- 35 (o) Salmo;
- 36 (p) Salvelinus;
- 37 (q) Selenastrum.

- 1 (54) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters,
2 clams, and other shellfish for market purposes.
- 3 (55) "Swamp waters" means those waters that are classified as such by the Environmental Management
4 Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to
5 topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining
6 steeper topography.
- 7 (56) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts
8 per million.
- 9 (57) "Toxic substance" or "Toxicant" means any substance or combination of substances (including
10 disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or
11 assimilation into any organism, either directly from the environment or indirectly by ingestion
12 through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer,
13 genetic mutations, physiological malfunctions (including malfunctions or suppression in
14 reproduction or growth), or physical deformities in such organisms or their offspring.
- 15 (58) "Trout waters" means those waters that are classified as such by the Environmental Management
16 Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow
17 for natural trout propagation and survival and for year-round maintenance of stocked trout.
- 18 (59) "Water dependent structures" means those structures that require access or proximity to or siting
19 within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads.
20 Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat
21 storage areas are not water dependent structures.
- 22 (60) "Water quality based effluent limits (or limitations) and management practices" mean limits and
23 practices developed by the Division to protect water quality standards and best uses of surface
24 waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control
25 Act, as amended.
- 26 (61) "Waters with quality higher than the standards" means waters that the Director determines (pursuant
27 to Rule .0206 of this Section) have the capacity to receive additional pollutant loading and continue
28 to meet applicable water quality standards.
- 29 (62) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of
30 at least one major waterway within the State, the specific limits of each separate watershed to be
31 designated by the Commission as defined by G.S. 143-213(21).
- 32 (63) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity of a
33 substance in laboratory waters and the toxicity in site water.
- 34 (64) "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an
35 accumulation of surface or ground water at a frequency and duration sufficient to support, and that
36 under normal circumstances do support, a prevalence of vegetation typically adapted for life in
37 saturated soil conditions. Wetlands classified as waters of the State are restricted to waters of the

1 United States as defined by 33 C.F.R. 328.3 and 40 C.F.R. 230.3. Wetlands do not include prior
2 converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is
3 hereby incorporated by reference, not including subsequent amendments and editions, and is
4 available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

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6 *History Note:* *Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1); S.L. 2023-63*
7 *Eff. February 1, 1976;*
8 *Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;*
9 *RRC Objection Eff. July 18, 1996 due to lack of authority and ambiguity;*
10 *Amended Eff. August 1, 1998; October 1, 1996;*
11 *Readopted Eff. November 1, 2019;*
12 *Amended Eff. June 1, 2022.*
13 *Amended Eff. Pending Legislative Review.*
14