



# HOUSE BILL 268: Disapprove Certain On-Site Wastewater Rules.

2019-2020 General Assembly

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<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	April 25, 2019
<b>Introduced by:</b>	Reps. Brody, Wray	<b>Prepared by:</b>	Jason Moran-Bates Committee Staff
<b>Analysis of:</b>	Second Edition		

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**OVERVIEW:** *House Bill 268 would disapprove a set of wastewater rules adopted by the North Carolina Commission for Public Health.*

### BILL ANALYSIS:

Section 1 of the bill would disapprove 11 rules adopted by the North Carolina Commission for Public Health (CPH) which were adopted on August 8, 2018, and were approved by the Rules Review Commission (RRC) on October 18, 2018.

Section 2 of the bill would disapprove 28 rules adopted by CPH on August 8, 2018, which were approved by RRC on November 15, 2018.

Section 3 of the bill would disapprove 2 rules adopted by CPH on August 8, 2018.

Section 4 of the bill would disapprove 1 rule adopted by CPH on August 8, 2018.

Section 5 would create the Onsite Wastewater Task Force (Task Force).

Section 6 would set the membership for the Task Force.

Section 7 would require the Task Force to meet for the first time no later than October 31, 2019. It would also require a majority of the members to be present for any meeting at which action is to be taken.

Section 8 would require the Legislative Services Commission to provide meeting space for the Task Force and allocate sufficient funds for its operation.

Section 9 would require the Task Force to conduct a study and make recommendations for new rules to (1) replace the ones disapproved by the bill and (2) prevent municipalities from prohibiting the design and installation of on-site wastewater treatment and dispersal systems.

Section 10 would require the Task Force to transmit a copy of its report to Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Joint Legislative Oversight Committee on Health and Human Services, and the Commission for Public Health no later than February 1, 2020.

Section 11 would keep the on-site wastewater rules found in Chapter 18A of Title 15A of the North Carolina Administrative Code in effect until the Commission for Public Health takes action on the rules recommended by the Task Force.

Section 12 would add a new section to Chapter 130A to establish regulations for the approval of non-engineered wastewater systems.

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- 130A-336.2(a) would allow licensed soil scientists who are also certified by the North Carolina On Site Wastewater Contractors and Inspectors Certification Board to prepare site evaluations for non-engineered wastewater systems. Licensed soil scientists who were certified by the North Carolina On Site Wastewater Contractors and Inspectors Certification Board would be known as Authorized Onsite Wastewater Evaluators (Evaluators).
- 130A-336.2(b) would require system owners who wish to use the services of an Evaluator to submit notice of their intent to do so to their local health department.
- 130A-336.2(c) would require local health departments to decide whether to approve non-engineered systems within 5 days of receiving the notice of intent described in 130A-336.2(b). Owners would have an opportunity to cure incomplete submissions, and local health departments would then have 5 additional days to decide whether to approve the system.
- 130A-336.2(d) would require Evaluators to do all of the following:
  - Use standards incorporated in recognized soil and siting practices in North Carolina.
  - Prepare a sealed statement of special instructions for the system.
  - Assist the system owner in selecting an onsite wastewater system contractor (Contractor).
- 130A-336.2(e) would require the Contractor to do all of the following:
  - Maintain certification under Article 5 of Chapter 90A.
  - Be responsible for all aspects of construction and installation of the system.
  - Submit a signed statement of responsibility for the system to the system owner.
- 130A-336.2(f) would relieve the Department of Health and Human Services, its authorized agents, and local health departments from any liability arising from systems developed by an Evaluator.
- 130A-336.2(g) would allow local health departments to inspect a non-engineered systems at any time. It would also allow Evaluators to periodically inspect the system while it was being constructed and installed.
- 130A-336.2(h) would require system owners to comply with all rules adopted by local health departments.
- 130A-336.2(i) would require Evaluators to create an operation program for the system and require system owners to contract with a water pollution control system operator (Operator) certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
- 130A-336.2(j) would require the Evaluator to conduct a post-construction conference, which must include start-up of the system and verification of system components.
- 130A-336.2(k) would require the Evaluator to provide the system owner with copies of all reports, the system operation program, and reports and findings related to the evaluation, siting, and construction of the system.
- 130A-336.2(l) would require the system owner to submit the Evaluator's report, notarized acceptance of the system, and a fee to the local health department.
- 130A-336.2(m) would require the local health department to issue an authorization to operate the system within 5 days of receiving the documents described in 130A-336.2(l).

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- 130A-336.2(n) would permit local health departments to assess a fee that is no more than 30% of the fees established for similar systems.
- 130A-336.2(o) would allow systems authorized by this section to remain authorized despite a change in ownership.
- 130A-336.2(p) would clarify that Evaluators, Contractors, and Operators are only subject to discipline by the boards that license or certify them.
- 130A-336.2(q) would grant rule-making authority necessary to implement this section.
- 130A-336.2(r) would require the Department of Health and Human Services to report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on the program established under this section. The report must include the efficiency and effectiveness of the program developed under this section and whether the program aided in reducing the length of time in issuing permits. The report is due January 1, 2020, and annually thereafter.

**EFFECTIVE DATE:** This act would be effective when it becomes law.

**BACKGROUND:** Pursuant to G.S. 150B-21.3(b1), any member of the General Assembly may file a bill to disapprove a rule promulgated by an executive agency before the thirty-first legislative day of the legislative session beginning after the rule was promulgated. If the disapproval bill is ratified, the disapproved rules will not become effective. If the disapproval bill is not ratified, the rules will become effective on the date of unfavorable final legislative action is taken against the bill or the date the General Assembly adjourns its session, whichever comes first.