

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

D

HOUSE BILL 385

Senate Agriculture, Energy, and Environment Committee Substitute Adopted 6/6/24
PROPOSED SENATE COMMITTEE SUBSTITUTE H385-PCS40637-RI-42

Short Title: Various Energy/Env. Changes.

(Public)

Sponsors:

Referred to:

March 16, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS LAWS RELATING TO ENERGY AND ENVIRONMENTAL MATTERS.

The General Assembly of North Carolina enacts:

PART I. REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION FACILITIES

SECTION 1.(a) Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.20. Report on Department activity to process applications for permits required for natural gas pipelines and gas-fired electric generation facilities.

The Department of Environmental Quality shall report on any applications received for permits required for siting or operation of natural gas pipelines and gas-fired electric generation facilities within the State, and activities of the Department to process such applications, including tracking of processing times. The processing time tracked shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. The Department shall report quarterly to the Joint Legislative Commission on Energy Policy pursuant to this section."

SECTION 1.(b) This section is effective when it becomes law and applies to applications for permits for natural gas pipelines and gas-fired electric generation facilities pending on or received on or after that date. The Department shall submit the initial report due pursuant to G.S. 143B-279.20, as enacted by this section, no later than October 1, 2024.

PART II. INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING FACILITIES, AND MAKE CONFORMING CHANGES TO UPDATE STATUTES RELATING TO DAMAGE TO UTILITIES

SECTION 2.(a) G.S. 14-159.1 reads as rewritten:

"§ 14-159.1. Contaminating or injuring a public water system; injuring a wastewater treatment facility.



* H 3 8 5 - P C S 4 0 6 3 7 - R I - 4 2 *

1 (a) ~~A person commits the offense of contaminating a public water system, as defined in~~
2 ~~G.S. 130A-313(10), if he willfully or wantonly: Contaminating a Public Water System. –~~

3 (1) ~~Contaminates, adulterates or otherwise impurifies or attempts~~ It is unlawful to
4 knowingly and willfully contaminate, adulterate, or otherwise impurify, or
5 attempt to contaminate, adulterate or otherwise impurify-impurify, the water
6 in a public water system, as defined in G.S. 130A-313(10), including the water
7 source, with any toxic chemical, biological agent or radiological substance
8 that is harmful to human health, except those added in approved
9 concentrations for water treatment operations; or operations.

10 (2) ~~Damages or tampers with the property or equipment of a public water system~~
11 ~~with the intent to impair the services of the public water system.~~

12 (b) Injuring a Public Water System. – It is unlawful to knowingly and willfully stop,
13 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
14 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a public water
15 system, as defined in G.S. 130A-313(10), with the intent to impair the services of the public
16 water system.

17 (c) Injuring a Wastewater Treatment System. – It is unlawful to knowingly and willfully
18 stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
19 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a wastewater
20 treatment system that is owned or operated by a (i) public utility, as that term is defined under
21 G.S. 62-3, or (ii) local government unit, as defined in G.S. 159G-20(13). For purposes of this
22 section, the term "wastewater treatment facility" means the various facilities and devices used in
23 the treatment of sewage, industrial waste, or other wastes of a liquid nature, including the
24 necessary interceptor sewers, outfall sewers, nutrient removal equipment, pumping equipment,
25 power and other equipment, and their appurtenances.

26 (b)(d) ~~Any person who commits the offense defined in~~ Punishment. – A person who violates
27 subsection (a), (b), or (c) of this section is guilty of a Class C felony. Additionally, a person who
28 violates subsection (a), (b), or (c) of this section shall be ordered to pay a fine of two hundred
29 fifty thousand dollars (\$250,000).

30 (e) Merger. – Each violation of this section constitutes a separate offense and shall not
31 merge with any other offense.

32 (f) Civil Remedies. – Any person whose property or person is injured by reason of a
33 violation of subsection (a), (b), or (c) of this section shall have a right of action on account of
34 such injury done against the person who committed the violation and any person who acts as an
35 accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to
36 the violation of this section. If damages are assessed in such case, the plaintiff shall be entitled
37 to recover treble the amount of damages fixed by the verdict or punitive damages pursuant to
38 Chapter 1D of the General Statutes, together with costs, including attorneys' fees. A violation of
39 subsection (a), (b), or (c) of this section shall constitute willful or wanton conduct within the
40 meaning of G.S. 1D-5(7) in any civil action filed as a result of the violation. The rights and
41 remedies provided by this subsection are in addition to any other rights and remedies provided
42 by law. For purposes of this subsection, the term "damages" includes actual and consequential
43 damages.

44 (g) The provisions of subsection (f) of this section relating to treble damages shall not be
45 made known to the trier of fact through any means, including voir dire, the introduction into
46 evidence, argument, or instructions to the jury.

47 (h) Nothing in this section shall apply to work or activity that is performed at or on a
48 wastewater treatment facility by the owner or operator of the facility, or an agent of the owner or
49 operator authorized to perform such work or activity by the owner or operator."

50 **SECTION 2.(b)** G.S. 143-152 is repealed.

51 **SECTION 2.(c)** G.S. 62-323 reads as rewritten:

1 **"§ 62-323. Willful injury to property of public utility a ~~misdemeanor~~-felony.**

2 (a) If any person shall willfully do or cause to be done any act or acts whatever whereby
3 any building, construction or work of any public utility, or any engine, machine or structure or
4 any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened,
5 injured or destroyed, he shall be guilty of a ~~Class 1 misdemeanor~~-Class C felony.

6 (b) Merger. – Each violation of this section constitutes a separate offense and shall not
7 merge with any other offense.

8 (c) Civil Remedies. – Any person whose property or person is injured by reason of a
9 violation of subsection (a) of this section shall have a right of action on account of such injury
10 done against the person who committed the violation and any person who acts as an accessory
11 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation
12 of this section. If damages are assessed in such case, the plaintiff shall be entitled to recover
13 treble the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D
14 of the General Statutes, together with costs, including attorneys' fees. A violation of subsection
15 (a) of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7)
16 in any civil action filed as a result of the violation. The rights and remedies provided by this
17 subsection are in addition to any other rights and remedies provided by law. For purposes of this
18 subsection, the term "damages" includes actual and consequential damages.

19 (d) The provisions of subsection (c) of this section relating to treble damages shall not be
20 made known to the trier of fact through any means, including voir dire, the introduction into
21 evidence, argument, or instructions to the jury.

22 (e) The provisions of this section shall only apply to conduct resulting in injury to a public
23 utility, or property thereof, not otherwise covered by G.S. 14-150.2, 14-154, or 14-159.1.

24 (f) Nothing in this section shall apply to work or activity that is performed at or on a
25 public utility by the owner or operator of the utility, or an agent of the owner or operator
26 authorized to perform such work or activity by the owner or operator."

27 **SECTION 2.(d)** Article 22 of Chapter 14 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 14-150.3. Injuring manufacturing facility.**

30 (a) Injuring a Manufacturing Facility. – It is unlawful to knowingly and willfully stop,
31 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
32 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a
33 manufacturing facility. For purposes of this section, the term "manufacturing facility" means a
34 facility used for the lawful production or manufacturing of goods.

35 (b) Punishment. – A person who violates subsection (a) of this section is guilty of a Class
36 C felony. Additionally, a person who violates subsection (a) of this section shall be ordered to
37 pay a fine of two hundred fifty thousand dollars (\$250,000).

38 (c) Merger. – Each violation of this section constitutes a separate offense and shall not
39 merge with any other offense.

40 (d) Civil Remedies. – Any person whose property or person is injured by reason of a
41 violation of subsection (a) of this section shall have a right of action on account of such injury
42 done against the person who committed the violation and any person who acts as an accessory
43 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation
44 of this section. If damages are assessed in such case, the plaintiff shall be entitled to recover
45 treble the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D
46 of the General Statutes, together with costs, including attorneys' fees. A violation of subsection
47 (a) of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7)
48 in any civil action filed as a result of the violation. The rights and remedies provided by this
49 subsection are in addition to any other rights and remedies provided by law. For purposes of this
50 subsection, the term "damages" includes actual and consequential damages.

1 (e) The provisions of subsection (d) of this section relating to treble damages shall not be
2 made known to the trier of fact through any means, including voir dire, the introduction into
3 evidence, argument, or instructions to the jury.

4 (f) Nothing in this section shall apply to (i) work or activity that is performed at or on a
5 public utility by the owner or operator of the utility, or an agent of the owner or operator
6 authorized to perform such work or activity by the owner or operator, and (ii) lawful activity
7 authorized or required pursuant to State or federal law."

8 **SECTION 2.(e)** G.S. 1D-27 reads as rewritten:

9 **"§ 1D-27. Injuring ~~energy~~ energy, water, wastewater, or manufacturing facility; exemption**
10 **from cap.**

11 G.S. 1D-25(b) shall not apply to a claim for punitive damages for injury or harm arising from
12 actions of the defendant that constitute a violation of ~~G.S. 14-150.2(b)~~.G.S. 14-150.2(b),
13 14-150.3(a), 14-159.1(a), (b), or (c), or 62-323(a)."

14 **SECTION 2.(f)** Prosecutions for offenses committed before the effective date of this
15 act are not abated or affected by this act, and the statutes that would be applicable but for this act
16 remain applicable to those prosecutions.

17 **SECTION 2.(g)** This section becomes effective December 1, 2024, and applies to
18 offenses committed on or after that date.

19
20 **PART III. PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND**
21 **LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS**
22 **DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF**
23 **COMMERCE**

24 **SECTION 3.(a)** Chapter 64 of the General Statutes is amended by adding a new
25 Article to read:

26 "Article 3.

27 "Prohibit Adversarial Foreign Government Acquisition of High Purity Quartz.

28 **"§ 64-50. Title.**

29 This act shall be known and be cited as the North Carolina High Purity Quartz Protection
30 Act.

31 **"§ 64-51. Purpose.**

32 The General Assembly finds that high purity quartz is a highly valuable resource used in the
33 manufacture of semiconductors, optical fibers, circuit boards, and other technologically advanced
34 components and it is therefore in the public interest for the State to guard its deposits of high
35 purity quartz from the potential of adversarial foreign government control in order to protect our
36 vital mineral and economic resources.

37 **"§ 64-52. Definitions.**

38 As used in this Article, the following definitions apply:

39 (1) Adversarial foreign government. – A state-controlled enterprise or the
40 government of a foreign nation that has received a designation under 15 C.F.R.
41 § 7.4 from a determination by the United States Secretary of Commerce that
42 the entity has engaged in a long-term pattern or serious instances of conduct
43 significantly adverse to the national security of the United States or security
44 and safety of United States persons.

45 (2) Controlling interest. – Possession of more than fifty percent (50%) of the
46 ownership interest in an entity. The term also includes possession of fifty
47 percent (50%) or less of the ownership interest in an entity if an owner directs
48 the business and affairs of the entity without the requirement or consent of any
49 other party.

50 (3) High purity quartz. – A mineral made of silicon dioxide and containing fewer
51 than 50 parts per million of impurity elements.

(4) Interest. – Any estate, remainder, or reversion, or any portion of the estate, remainder, or reversion, or an option pursuant to which one party has a right to cause the transfer of legal or equitable title to land covered by G.S. 64-53(a); or ownership or partial ownership of a mining operation covered under G.S. 64-53(a).

(5) State-controlled enterprise. – A business enterprise, however denominated, in which a foreign government has a controlling interest.

"§ 64-53. Adversarial foreign government acquisition of high purity quartz resources prohibited.

(a) Notwithstanding any provision of law to the contrary, no adversarial foreign government shall purchase, acquire, lease, or hold any interest in the following:

(1) A quartz mining operation.

(2) Land containing commercially valuable amounts of high purity quartz.

(b) Any transfer of an interest in land or a mining operation in violation of this section shall be void.

(c) The responsibility for determining whether an individual or other entity is subject to this Article rests solely with the United States Secretary of Commerce and the State of North Carolina and no other individual or entity. An individual or other entity who is not an adversarial foreign government shall bear no civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is an adversarial foreign government."

SECTION 3.(b) This section is effective when it becomes law and applies only to ownership interests acquired on and after that date.

PART IV. EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED AT AN EXISTING OR FORMER ELECTRIC GENERATING FACILITY

SECTION 4.(a) G.S. 143-214.1A reads as rewritten:

"§ 143-214.1A. Water quality certification requirements for certain projects.

(a) The following requirements shall govern applications for certification filed with the Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), for maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund-Fund, electric generation projects located at an existing or former electric generating facility, and projects involving the distribution or transmission of energy or fuel, including natural gas, diesel, petroleum, or electricity:

...."

SECTION 4.(b) This section is effective when it becomes law and applies to applications for 401 Certification pending or submitted on or after that date.

PART V. PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT

SECTION 5.(a) Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Miscellaneous.

"§ 162A-900. Limitations on allocating service for residential development.

(a) For purposes of this section, "residential development" means new development of single-family or multifamily housing.

(b) A local government unit, as defined in G.S. 162A-201, shall not require an applicant for water or sewer service for residential development to agree to any condition not otherwise

1 authorized by law, or to accept any offer by the applicant to consent to any condition not
2 otherwise authorized by law. These conditions include, without limitation, any of the following:

- 3 (1) Payment of taxes, impact fees or other fees, or contributions to any fund.
- 4 (2) Adherence to any restrictions related to land development or land use,
5 including those within the scope of G.S. 160D-702(c).
- 6 (3) Adherence to any restrictions related to building design elements within the
7 scope of G.S. 160D-702(b).

8 (c) A local government unit, as defined in G.S. 162A-201, shall not implement a scoring
9 or preference system to allocate water or sewer service among applicants for water or sewer
10 service for residential development that does any of the following:

- 11 (1) Includes consideration of building design elements, as defined in
12 G.S. 160D-702(b).
- 13 (2) Sets a minimum square footage of any structures subject to regulation under
14 the North Carolina Residential Code.
- 15 (3) Requires a parking space to be larger than 9 feet wide by 20 feet long unless
16 the parking space is designated for handicap, parallel, or diagonal parking.
- 17 (4) Requires additional fire apparatus access roads into developments of one- or
18 two-family dwellings that are not in compliance with the required number of
19 fire apparatus access roads into developments of one- or two-family dwellings
20 set forth in the Fire Code of the North Carolina Residential Code."

21 **SECTION 5.(b)** This section is effective when it becomes law.
22

23 **PART VI. SWINE FARM SITING ACT TECHNICAL CORRECTION**

24 **SECTION 6.(a)** G.S. 106-803(a2) reads as rewritten:

25 "(a2) No component of a liquid animal waste management system for which a permit is
26 required under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General Statutes, other
27 than a land application site, shall be constructed on land that is located within the 100-year
28 floodplain."

29 **SECTION 6.(b)** G.S. 106-805 reads as rewritten:

30 **"§ 106-805. Written notice of swine farms.**

31 Any person who intends to construct a swine farm whose animal waste management system
32 is subject to a permit under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General
33 Statutes shall, after completing a site evaluation and before the farm site is modified, notify all
34 adjoining property owners; all property owners who own property located across a public road,
35 street, or highway from the swine farm; the county or counties in which the farm site is located;
36 and the local health department or departments having jurisdiction over the farm site of that
37 person's intent to construct the swine farm. This notice shall be by certified mail sent to the
38 address on record at the property tax office in the county in which the land is located. Notice to
39 a county shall be sent to the county manager or, if there is no county manager, to the chair of the
40 board of county commissioners. Notice to a local health department shall be sent to the local
41 health director. The written notice shall include all of the following:

- 42 (1) The name and address of the person intending to construct a swine farm.
- 43 (2) The type of swine farm and the design capacity of the animal waste
44 management system.
- 45 (3) The name and address of the technical specialist preparing the waste
46 management plan.
- 47 (4) The address of the local Soil and Water Conservation District office.
- 48 (5) Information informing the adjoining property owners and the property owners
49 who own property located across a public road, street, or highway from the
50 swine farm that they may submit written comments to the Division of Water
51 Resources, Department of Environmental Quality."

1
2 **PART IX. NATURAL GAS LOCAL DISTRIBUTION COMPANIES COST RECOVERY**
3 **MODIFICATIONS**

4 **SECTION 9.(a)** G.S. 62-133.4 reads as rewritten:

5 **"§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

6 ...

7 (c) Each natural gas local distribution company shall submit to the Commission
8 information and data for an historical 12-month test period concerning the utility's actual cost of
9 gas, volumes of purchased gas, sales volumes, negotiated sales volumes, and transportation
10 volumes. This information and data shall be filed on an annual basis in the form and detail and
11 at the time required by the Commission. The Commission, upon notice and hearing, shall
12 compare the utility's prudently incurred costs with costs recovered from all the utility's customers
13 that it served during the test period. If those prudently incurred costs are greater or less than the
14 recovered costs, the Commission shall, subject to G.S. 62-158, require the utility to refund any
15 overrecovery by credit to bill or through a decrement in its rates and shall permit the utility to
16 recover any deficiency through an increment in its rates. If the Commission finds the
17 overrecovery or deficiency has been or is likely to be substantially reduced, negated, or reversed
18 before or during the period in which it would be credited or recovered, the Commission, in its
19 discretion, may order the utility to make an appropriate adjustment or no adjustment to its rates,
20 consistent with the public interest.

21 ...

22 (d1) The utility shall not recover from ratepayers, in any rate recovery proceeding or rider,
23 the incremental cost of natural gas attributable to renewable energy biomass resources that
24 exceeds the average system cost of gas unattributable to renewable energy biomass resources
25 calculated and filed with the Commission pursuant to subsection (c) of this section. Each natural
26 gas local distribution company that incurs costs attributable to renewable energy biomass
27 resources shall submit the utility's actual cost thereof to the Commission monthly for purposes
28 of determining the total amount of natural gas costs recoverable under this section.

29 (e) ~~As used in this section, the word "cost" or "costs" shall be defined by Commission~~
30 ~~rule or order and may include all costs related to the purchase and transportation of natural gas~~
31 ~~to the natural gas local distribution company's system.~~The following definitions apply in this
32 section:

- 33 (1) "Cost" or "costs" shall be defined by Commission rule or order and may
34 include all costs related to the production, purchase, and transportation of
35 natural gas to the natural gas local distribution company's system.
36 (2) "Domestic wastewater" means water-carried human wastes together with all
37 other water-carried wastes normally present in wastewater from non-industrial
38 processes.
39 (3) "Natural gas" or "gas" includes gas derived from renewable energy biomass
40 resources.
41 (4) "Renewable energy biomass resources" includes agricultural waste, animal
42 waste, wood waste, spent pulping liquors, organic waste, combustible
43 residues, combustible gases, energy crops, landfill methane, or domestic
44 wastewater."

45 **SECTION 9.(b)** G.S. 62-133.7A reads as rewritten:

46 **"§ 62-133.7A. Rate adjustment ~~mechanism~~ mechanisms for natural gas local distribution**
47 **company rates.**

48 (a) In setting rates for a natural gas local distribution company in a general rate case
49 proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a
50 rate adjustment ~~mechanism~~ mechanisms to enable the company to recover the prudently incurred

capital investment and associated costs of ~~complying any of the following, including a return based on the company's then authorized return:~~

(1) ~~Complying with federal gas pipeline safety requirements, including a return based on the company's then authorized return.~~ requirements.

(2) Producing and transporting natural gas, as defined in G.S. 62-133.4(e)(3), or consistent with the intent and purpose of G.S. 62-133.4.

(b) The Commission shall adopt, implement, modify, or eliminate ~~a~~ any of the rate adjustment mechanism mechanisms authorized under this section only upon a finding by the Commission that the mechanism is in the public interest."

SECTION 9.(c) This section is effective when it becomes law and applies to rate case proceedings filed on or after that date.

PART X. EXCLUDE AQUACULTURE FROM THE DEFINITION OF "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING AQUACULTURE EQUIPMENT

SECTION 10.(a) G.S. 113A-103 reads as rewritten:

"§ 113A-103. Definitions.

...

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating ~~structure~~ structure, except a floating structure used primarily for aquaculture as defined in G.S. 106-758 and associated with an active shellfish cultivation lease area or franchise, in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

...

4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, uses related to aquaculture and aquaculture facilities as defined in G.S. 106-758 and associated with an active shellfish cultivation lease area or franchise, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;

...

(5a) "Floating structure" means any structure, not a boat, supported by a means of floatation, designed to be used without a permanent foundation, which is used or intended for human habitation or commerce. A structure shall be considered a floating structure when it is inhabited or used for commercial purposes for more than thirty days in any one location. A boat may be considered a floating

1 structure when its means of propulsion has been removed or rendered
2 inoperative.

3"

4 **SECTION 10.(b)** G.S. 143B-289.52 is amended by adding a new subsection to read:

5 "(j) The Commission may not adopt rules regulating cages, poles, anchoring systems, or
6 any above-water frames or structural supports used to suspend or hold in place equipment or
7 floating structures used for aquaculture as defined in G.S. 106-758."

8 **SECTION 10.(c)** No later than July 1, 2024, the Department of Environmental
9 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
10 Administration for approval by that agency the proposed changes made to Article 7 of Chapter
11 113A of the General Statutes, as enacted by subsection (a) of this section. The Department of
12 Environmental Quality shall report to the Environmental Review Commission on the status of
13 their activities pursuant to this section quarterly, beginning September 1, 2024, until such time
14 as the General Assembly repeals this reporting requirement.

15 **SECTION 10.(d)** Subsection (a) of this section becomes effective on the later of the
16 following dates and applies to applications for permits pending or filed on or after that date:

17 (1) October 1, 2024.

18 (2) The first day of a month that is 60 days after the Secretary of the Department
19 of Environmental Quality certifies to the Revisor of Statutes that the National
20 Oceanic and Atmospheric Administration has approved the changes made to
21 Article 7 of Chapter 113A of the General Statutes, as enacted by subsection
22 (a) of this section, as required by subsection (c) of this section. The Secretary
23 shall provide this notice along with the effective date of subsection (a) of this
24 section on its website. The remainder of this section is effective when it
25 becomes law.

26
27 **PART XI. REQUIRE THE OFFICE OF STATE ARCHAEOLOGY TO PROVIDE**
28 **INFORMATION TO LANDOWNERS OR PROSPECTIVE PURCHASERS IN AREAS**
29 **OF ENVIRONMENTAL CONCERN UPON REQUEST; ASSOCIATED LIMITATION**
30 **ON CAMA PERMIT CONDITIONS**

31 **SECTION 11.(a)** Part 3 of Article 7 of Chapter 113A of the General Statutes is
32 amended by adding a new section to read:

33 "**§ 113A-113.1. Office of State Archaeology to provide information to owners and**
34 **prospective purchasers in areas of environmental concern; permit conditions.**

35 (a) The Office of State Archaeology section of the Office of Archives and History of the
36 Department of Natural and Cultural Resources shall, upon the request of an owner or prospective
37 purchaser of land located in an area of environmental concern, provide the owner or prospective
38 purchaser with information as to any known or suspected archaeological or historical significance
39 of the property, including the supporting evidence of the known or suspected archaeological or
40 historical significance.

41 (b) If the Office of State Archaeology has informed an owner or prospective purchaser
42 of land that there is no known or suspected archaeological or historical significance associated
43 with the property pursuant to subsection (a) of this section, the Office of State Archaeology shall,
44 for a period of three years thereafter, unless a new finding or study indicates otherwise, be
45 prohibited from adding a condition to a permit issued under this Article that requires or restricts
46 a permittee's activity with respect to the property based on any archaeological or historical
47 significance of the property. If a new finding or study reveals information to support imposition
48 of such a condition in a permit issued within the three-year period, the Office shall notify the
49 prospective purchaser or owner of the finding or study prior to imposition of the condition."

50 **SECTION 11.(b)** The Office of State Archaeology section of the Office of Archives
51 and History of the Department of Natural and Cultural Resources shall apply for any State,

1 federal, or private grant funding that may be available to purchase properties within areas of
2 environmental concern that the Department has determined to be of exceptional archaeological
3 or historical significance to the State.

4 **SECTION 11.(c)** No later than August 1, 2024, the Department of Environmental
5 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
6 Administration for approval by that agency the proposed changes made to G.S. 113A-113.1(b),
7 as enacted by subsection (a) of this section. The Department of Environmental Quality shall
8 report to the Environmental Review Commission on the status of their activities pursuant to this
9 section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals
10 this reporting requirement.

11 **SECTION 11.(d)** G.S. 113A-113.1(b), as enacted by subsection (a) of this section,
12 becomes effective on the later of the following dates and applies to applications for permits
13 pending or filed on or after that date:

14 (1) October 1, 2024.

15 (2) The first day of a month that is 60 days after the Secretary of Environmental
16 Quality certifies to the Revisor of Statutes that the National Oceanic and
17 Atmospheric Administration has approved the changes made to
18 G.S. 113A-113.1(b), as enacted by subsection (a) of this section, as required
19 by subsection (c) of this section. The Secretary shall provide this notice along
20 with the effective date of this section on its website.

21 **SECTION 11.(e)** Except as otherwise provided in subsection (d) of this section, this
22 section becomes effective August 1, 2024.

23

24 **PART XII. REMOVE TIME LIMITS ON CERTAIN VUR GRANTS**

25 **SECTION 12.** G.S. 159G-36(d)(2) reads as rewritten:

26 "(2) Grants for the purpose set forth in ~~G.S. 159-32(d)(6)~~ G.S. 159G-32(d)(6) to
27 any single local government unit shall not ~~(i) exceed seven hundred fifty~~
28 thousand dollars (\$750,000) in any fiscal year ~~and (ii) be awarded for more~~
29 ~~than three consecutive fiscal years.~~ year."

30

31 **PART XIII. ESTABLISH A TIME LIMIT FOR REVIEW OF APPLICATIONS**

32 **SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR**

33 **WATER DISTRIBUTION SYSTEMS TO CONSTRUCT OR ALTER A PUBLIC**

34 **WATER SYSTEM**

35 **SECTION 13.(a)** G.S. 130A-328 is amended by adding a new subsection to read:

36 "(c1) The Department shall perform a review of an application for a water distribution
37 system authorization subject to the following requirements:

38 (1) The Department shall review the application within 45 days of receipt of a
39 complete application when a professional engineer provides certification that
40 the design meets or exceeds the Minimum Design Criteria developed by the
41 Department applicable to the project. For purposes of this section, a complete
42 application is defined as an application that includes all of the required
43 components described in the application form.

44 (2) The Department shall perform an administrative review of a new application
45 within 10 days of receipt to determine if all required information is included
46 in the application. If the application is complete, the Department shall issue a
47 receipt letter or electronic response stating that the application is complete and
48 that a 45-calendar-day technical review period has started as of the date on
49 which the Department received the complete application. If required items or
50 information are not included in the application, the application is incomplete,
51 and the Department shall issue an application receipt letter or electronic

1 response identifying the information required to complete the application
2 before the technical review begins. When the Department receives the
3 required information, the Department shall issue a receipt letter or electronic
4 response specifying that the application is complete and that the
5 45-calendar-day review period has started as of the date on which the
6 Department received the remaining required information.

7 (3) If additional information is required to complete the technical review, the
8 Department shall issue a request for additional information required to
9 complete the review, and the 45-calendar-day technical review period shall
10 pause until the additional information is received. If the Department does not
11 receive the requested additional information from the applicant within 30
12 calendar days, the Department shall return the application to the applicant.

13 (4) If the Department receives the additional information from the applicant
14 within 30 days, the technical review period review time shall restart, and the
15 Department shall complete its review within the number of days that remained
16 in the technical review period on the date the technical review period was
17 paused by the request for additional information.

18 (5) Should the Department not complete its review of the application within the
19 45-day technical review period, the application shall be considered deemed
20 approved."

21 **SECTION 13.(b)** This section becomes effective December 1, 2024, and applies to
22 applications submitted on or after that date.

23 24 **PART XIV. AMEND STATUTES AND RULES APPLICABLE TO DOCK, PIER, AND** 25 **WALKWAY REPLACEMENT IN THE COASTAL AREA**

26 **SECTION 14.(a)** Definitions. – For purposes of this section:

27 (1) "CAMA Rules" means 15A NCAC Subchapter 07J (Procedures for
28 Processing and Enforcement of Major and Minor Development Permits,
29 Variance Requests, Appeals from Permit Decisions, Declaratory Rulings, and
30 Static Line Exceptions).

31 (2) "Replacement of Existing Structures Rule" means 15A NCAC 07J .0210
32 (Replacement of Existing Structures).

33 **SECTION 14.(b)** Replacement of Existing Structure. – Until the effective date of
34 the revised permanent rules that the Coastal Resources Commission is required to adopt pursuant
35 to subsection (d) of this section, the Commission shall implement the Replacement of Existing
36 Structures Rule and the CAMA Rules as provided in subsection (c) of this section.

37 **SECTION 14.(c)** Implementation. – For fixed docks, floating docks, fixed piers,
38 floating piers, or walkways damaged or destroyed by natural elements, fire, or normal
39 deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be
40 considered repair of the structure, and shall not require CAMA permits, without regard to the
41 percentage of framing and structural components required to be rebuilt. At the time a dock, pier,
42 or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired,
43 the width and length of the dock, pier, or walkway structure may be enlarged by not more than 5
44 feet or five percent (5%), whichever is less, and the structure may be heightened, without need
45 for a CAMA permit. The owner shall, however, be required to comply with all other applicable
46 State and federal laws. The provisions of this subsection shall not apply to docks and piers (i)
47 greater than 6 feet in width, (ii) greater than 800 square feet of platform area, or (iii) that are
48 adjacent to a federal navigation channel.

49 **SECTION 14.(d)** Additional Rulemaking Authority. – The Commission shall adopt
50 rules to amend the Replacement of Existing Structures Rule and any other pertinent CAMA Rules
51 consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules

1 adopted by the Commission pursuant to this section shall be substantively identical to the
2 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject
3 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
4 section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written
5 objections had been received as provided in G.S. 150B-21.3(b2).

6 **SECTION 14.(e)** Sunset. – This section expires when permanent rules adopted as
7 required by subsection (d) of this section become effective.

8 **SECTION 14.(f)** No later than July 1, 2024, the Department of Environmental
9 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
10 Administration for approval by that agency the proposed changes made to the CAMA Rules, as
11 enacted by this section. The Department of Environmental Quality shall report to the
12 Environmental Review Commission on the status of their activities pursuant to this section
13 quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this
14 reporting requirement.

15 **SECTION 14.(g)** Subsections (a) through (e) of this section become effective on the
16 later of the following dates and apply to applications for permits pending or filed on or after that
17 date:

18 (1) October 1, 2024.

19 (2) The first day of a month that is 60 days after the Secretary of the Department
20 of Environmental Quality certifies to the Revisor of Statutes that the National
21 Oceanic and Atmospheric Administration has approved the changes made to
22 the CAMA Rules, as enacted by subsections (a) through (e) of this section, as
23 required by subsection (f) of this section. The Secretary shall provide this
24 notice along with the effective date of this act on its website.

25 **SECTION 14.1.(a)** G.S. 160D-1104 is amended by adding a new subsection to read:

26 "(g) No later than 60 days after an inspection of a dock, pier, or catwalk or walkway that
27 has been replaced in the coastal area, as that term is defined under G.S. 113A-103(2), an
28 inspection department shall notify the Division of Coastal Management of the replacement."

29 **SECTION 14.1.(b)** Notwithstanding Section 35 of S.L. 2023-137, the North
30 Carolina Residential Building Code shall not require a professional engineer or architect to
31 design or otherwise certify the construction of residential docks, piers, or catwalks or walkways.
32

33 **PART XV. PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY** 34 **PUBLIC WATER SYSTEMS**

35 **SECTION 15.(a)** Article 10 of Chapter 130A of the General Statutes is amended by
36 adding a new section to read:

37 **§ 130A-330. Local authority to require backflow preventers; testing.**

38 (a) No public water system owned or operated by a local government unit, as that term is
39 defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an
40 existing nonresidential or residential connection, including multifamily dwellings, not otherwise
41 required by State or federal law except where the degree of hazard from the customer's
42 connection is determined to be high by the Department.

43 (b) The limitation established in subsection (a) of this section shall not be construed to
44 prohibit requirements for installation of backflow preventers pursuant to the North Carolina
45 Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's
46 plumbing, facility addition on the customer's property, or change in use of the property served
47 by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited
48 to the service line between the home or building and the meter, and without a change in use or
49 facility addition, does not necessitate a backflow preventer. An increase in the flow of water to
50 the home or building, without a change in use or facility addition, does not necessitate a backflow
51 preventer.

1 (c) A public water system owned or operated by a local government unit, and its
2 employees, including the Cross Connection Control Operator in Responsible Charge, is immune
3 from civil liability in tort from any loss, damage, or injury arising out of or relating to the
4 backflow of water into potable water supply systems where a backflow preventer is not required
5 by State or federal law, or where the degree of hazard from the customer's connection is not
6 determined to be high by the Department.

7 (d) The Department shall determine whether the degree of hazard for a service connection
8 is high when the installation of a backflow preventer is not otherwise required by State or federal
9 law. The Department shall provide notice of such determinations on its website.

10 (e) Nothing in this section shall prohibit a public water system owned or operated by a
11 local government unit from requiring the installation of a backflow preventer if the system pays
12 all costs associated with the backflow preventer, including the device, installation, and
13 appropriate landscaping.

14 (f) No public water system owned or operated by a local government unit shall require
15 periodic testing more frequently than once every three years for backflow preventers installed or
16 replaced within the last 10 years on residential irrigation systems that do not apply or dispose
17 chemical feeds.

18 (g) A public water system owned or operated by a local government, and its employees,
19 including the Cross Connection Control Operator in Responsible Charge, is immune from civil
20 liability in tort from any loss, damage, or injury resulting from compliance with the limitations
21 on periodic testing provided in subsection (f) of this section.

22 (h) A public water system owned or operated by a local government unit may accept the
23 results of backflow preventer testing conducted by a plumbing contractor licensed under Article
24 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester
25 approved by the public water system.

26 (i) For purposes of this section, the following definitions apply:

27 (1) "Backflow preventer" means an assembly, device, or method that prohibits the
28 backflow of water into potable water supply systems.

29 (2) "Certified backflow prevention assembly tester" means an individual who
30 holds a certificate of completion from a training program in the testing of
31 backflow preventers.

32 (3) "High hazard" means a cross-connection or potential cross-connection
33 involving any substance that could, if introduced into the potable water
34 supply, cause illness or death, spread disease, or have a high probability of
35 causing such effects.

36 (4) "Qualified instructor" means an individual who holds an active and current
37 Cross-Connection Control Operator certification issued by the Water
38 Treatment Facility Operators Board of Certification.

39 (5) "Training program" means a program of classroom training, education, and
40 instruction and a written practical examination provided by a qualified
41 instructor offered by any of the following:

42 a. A public water system owned and operated by a local government unit.

43 b. A North Carolina community college.

44 c. A North Carolina nonprofit corporation that is exempt from federal
45 income tax under section 501(c)(3) of the Internal Revenue Code,
46 whose membership primarily consists of public water systems owned
47 or operated by local government units, that offers other certification
48 programs and provides on-site technical assistance and training for
49 public water systems across the State."

50 **SECTION 15.(b)** G.S. 150B-2 reads as rewritten:

51 **"§ 150B-2. Definitions.**

As used in this Chapter, the following definitions apply:

...

(8a) Rule. – Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

...

m. Determinations by the Department of Environmental Quality of high hazards pursuant to G.S. 130A-330.

...."

SECTION 15.(c) This section is effective when it becomes law and applies to requirements for installation or testing of backflow preventers made by a public water supply on or after that date.

PART XVI. EXEMPT CERTAIN FOOD SERVICE ESTABLISHMENTS FROM SEPTAGE MANAGEMENT FIRM PERMITTING REQUIREMENTS

SECTION 16.(a) G.S. 130A-291.1 is amended by adding a new subsection to read:

"(k) A food service establishment not involved in pumping or vacuuming a grease appurtenance does not need a permit under this section."

SECTION 16.(b) This section is effective when it becomes law.

PART XVII. AUTHORIZE REPLACEMENT OF CERTAIN EROSION CONTROL STRUCTURES

SECTION 17.(a) G.S. 113A-115.1 reads as rewritten:

"§ 113A-115.1. Limitations on erosion control structures.

(a) As used in this section:

(1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.

(1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that border estuarine waters as defined in G.S. 113A-113(b)(2).

(2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

(3) "Terminal groin" means one or more structures constructed at the terminus of an island or on the side of an ~~inlet,~~ inlet, or where the ocean shoreline converges with Frying Pan Shoals, with a main stem generally perpendicular to the beach shoreline, that is primarily intended to protect the terminus of the island from shoreline erosion ~~and~~ or inlet migration. A "terminal groin" shall be pre-filled with beach quality sand and allow sand moving in the littoral zone to flow ~~past~~ around, over, or through the structure. A "terminal groin" may include other design features, such as a number of smaller supporting structures, that are consistent with sound engineering practices and as recommended by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes. A "terminal groin" is not a jetty.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This subsection shall not apply to any of the following:

- 1 (1) Any permanent erosion control structure that is approved pursuant to an
2 exception set out in a rule adopted by the Commission prior to July 1, 2003.
3 (2) Any permanent erosion control structure that was originally constructed prior
4 to July 1, 1974, and that has since been in continuous use to protect an inlet
5 that is maintained for navigation.

6 (3) Any terminal groin permitted pursuant to this section.
7 (b1) This section shall not be construed to limit the authority of the Commission to adopt
8 rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to
9 govern the use of erosion control structures in estuarine shorelines.

10 (c) The Commission may renew a permit for a permanent erosion control structure
11 originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995, if
12 the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out
13 in the original permit; (ii) there is no practical alternative to replacing the structure that will
14 provide the same or similar benefits; and (iii) the replacement structure will comply with all
15 applicable laws and with all rules, other than the rule or rules with respect to which the
16 Commission granted the variance, that are in effect at the time the structure is ~~replaced-replaced,~~
17 except as otherwise provided in this subsection. If a permanent erosion control structure
18 originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995,
19 consists of a field of geotextile sand tubes, the field of geotextile sand tubes may be replaced with
20 rock erosion control structures subject to the following criteria:

- 21 (1) The number of rock erosion control structures shall be equal to or less than
22 the number of geotextile sand tubes originally permitted.
23 (2) The structure(s) or field of structures may consist of groins, including T-head
24 or lollipop groins, or breakwaters to be approved by the Division of Coastal
25 Management, in its discretion, or by variance from the Coastal Resources
26 Commission.
27 (3) The structure field shall not be enlarged beyond the alongshore dimensions
28 authorized under the original permit, and the aggregate overall length of the
29 rock structures shall not exceed the aggregate overall length of the geotextile
30 sand tubes authorized under the original permit.
31 (4) The plans for the work shall be sealed by a professional engineer licensed to
32 practice pursuant to Chapter 89C of the General Statutes with experience in
33 engineering in the coastal area.

34 The Commission shall permit replacement of the geotextile sand tubes with rock erosion
35 control structures meeting the criteria of subdivisions (1) through (4) of this subsection as
36 replacement of the permanent erosion control structure originally permitted. Such a permanent
37 erosion control structure is not a terminal groin and shall not be subject to the provisions of this
38 section applicable to terminal groins.

39 ...
40 (g) The Commission may issue no more than ~~six-seven~~ permits for the construction of a
41 terminal groin pursuant to this section, provided that two of the ~~six-seven~~ permits may be issued
42 only for the construction of terminal groins on the sides of New River Inlet in Onslow County
43 and Bogue Inlet between Carteret and Onslow Counties.

44"
45 **SECTION 17.(b)** No later than July 1, 2024, the Department of Environmental
46 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
47 Administration for approval by that agency the proposed changes made to G.S. 113A-115.1, as
48 amended by subsection (a) of this section. The Department of Environmental Quality shall report
49 to the Environmental Review Commission on the status of their activities pursuant to this section
50 quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this
51 reporting requirement.

1 **SECTION 17.(c)** Subsection (a) of this section becomes effective on the later of the
2 following dates and applies to applications for permits pending or filed on or after that date:

3 (1) October 1, 2024.

4 (2) The first day of a month that is 60 days after the Secretary of Environmental
5 Quality certifies to the Revisor of Statutes that the National Oceanic and
6 Atmospheric Administration has approved the changes made to
7 G.S. 113A-115.1, as amended by subsection (a) of this section, as required by
8 subsection (b) of this section. The Secretary shall provide this notice along
9 with the effective date of this section on its website.

10
11 **PART XVIII. ADD COMPOST TO RIGHT TO FARM/NUISANCE ACTIONS**
12 **STATUTE**

13 **SECTION 18.(a)** G.S. 106-701 reads as rewritten:

14 **"§ 106-701. Right to farm defense; nuisance actions.**

15 (a) No nuisance action may be filed against an agricultural or forestry operation unless
16 all of the following apply:

17 (1) The plaintiff is a legal possessor of the real property affected by the conditions
18 alleged to be a nuisance.

19 (2) The real property affected by the conditions alleged to be a nuisance is located
20 within one half-mile of the source of the activity or structure alleged to be a
21 nuisance.

22 (3) The action is filed within one year of the establishment of the agricultural or
23 forestry operation or within one year of the operation undergoing a
24 fundamental change.

25 (a1) For the purposes of subsection (a) of this section, a fundamental change to the
26 operation does not include any of the following:

27 (1) A change in ownership or size.

28 (2) An interruption of farming for a period of no more than three years.

29 (3) Participation in a government-sponsored agricultural program.

30 (4) Employment of new technology.

31 (5) A change in the type of agricultural or forestry product produced.

32 (a2) Repealed by Session Laws 2018-113, s. 10(a), effective June 27, 2018.

33 (b) For the purposes of this Article, "agricultural operation" includes, without limitation,
34 any facility for the production for commercial purposes of crops, compost, livestock, poultry,
35 livestock products, or poultry products.

36 "

37 **SECTION 18.(b)** This section is effective when it becomes law and applies to
38 actions filed on or after that date.

39
40 **PART XIX. SEVERANCE CLAUSE AND EFFECTIVE DATE**

41 **SECTION 19.(a)** If any section or provision of this act is declared unconstitutional
42 or invalid by the courts, it does not affect the validity of this act as a whole or any part other than
43 the part so declared to be unconstitutional or invalid.

44 **SECTION 19.(b)** Except as otherwise provided, this act is effective when it becomes
45 law.