



HOUSE BILL 219: Amend Environmental Laws.

2021-2022 General Assembly

Committee:		Date:	July 28, 2022
Introduced by:		Prepared by:	Kyle Evans Staff Attorney
Analysis of:	S.L. 2022-43		

OVERVIEW: *S.L. 2022-43 does the following:*

- *Sets a deadline for reversion for certain directed infrastructure projects.*
- *Expands the Department of Environmental Quality's (DEQ) authorization for use of river debris funding.*
- *Makes a technical correction to a Flood Resiliency Blueprint provision.*
- *Provides the Division of Marine Fisheries flexibility in maintaining its aircraft.*
- *Aligns Coastal Area Management Act public notice requirements for land-use plan hearings with existing local government notice requirements.*
- *Directs DEQ to study the express permit and certification review program and the fast-track stormwater permitting program.*
- *Authorizes DEQ to allow limited wastewater discharges to waters with naturally occurring low dissolved oxygen levels.*
- *Makes changes to the mining permit notice requirements and appeal deadlines.*

This act has various effective dates. Please see the full summary for more details.

CURRENT LAW & BILL ANALYSIS:

DIRECTED INFRASTRUCTURE PROJECTS DEADLINE FOR REVERSION

Under rules adopted by the Treasury Department of the United States, found at [31 CFR 35.5](#), certain funds allocated to the State as a part of the American Rescue Plan Act of 2021 (ARPA) must be obligated by the fund recipients no later than December 31, 2024, and expended no later than December 31, 2026, or those funds can revert to the federal government.

Sections 12.13 and 12.14 of S.L. 2021-180 allocated ARPA funds to the Department of Environmental Quality (DEQ) for directed water, sewer, and stormwater infrastructure projects. Funds in excess of the amounts needed for the directed infrastructure projects in Section 12.13 revert to DEQ for other eligible water and sewer infrastructure projects. For funds allocated under Section 12.14 to an eligible entity for a disallowed purpose, those funds must revert to DEQ to be used for other eligible stormwater projects.

Section 1 provides that entities receiving a directed infrastructure grant for certain water and sewer projects (Sections 12.13.(d), 12.13.(e), and 12.13.(f)) and stormwater projects (Section 12.14.(b)) must provide a complete request for funding to DEQ for an eligible project no later than June 30, 2023. Failure

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Legislative Analysis
Division
919-733-2578

House Bill 219

Page 2

to provide a complete funding request form by June 30, 2023, will cause the directed allocations to fully revert on July 1, 2023. For complete funding requests that are less than the amount allocated to the requesting entity, the excess amount of the directed allocation reverts on July 1, 2023.

AMEND STATE CAPITAL AND INFRASTRUCTURE FUND (SCIF) RIVER DEBRIS FUNDING AUTHORIZATION

Section 40.7 of S.L. 2021-180 directs DEQ to use SCIF funds for stream debris removal, specifically for the removal and disposal of waterway debris from waters of the State located in a targeted river basin. Subsection (b) of this section exempts those stream debris removal projects from requirements for stormwater or water quality permits under Article 21 of Chapter 143 of the General Statutes. Funds allocated under this section cannot be distributed until the Flood Resiliency Blueprint required under Section 5.9.(c) of S.L. 2021-180 has been completed.

Section 2 expands the allowable uses of SCIF funds allocated by Section 40.7 of S.L. 2021-180 to include other flood mitigation strategies prioritized throughout the Flood Blueprint Resiliency Plan.

This section became effective retroactively to July 1, 2021, the effective date of S.L. 2021-180.

FLOOD RESILIENCY BLUEPRINT TECHNICAL CORRECTION

Subdivision (a)(1) of Section 5.9.(a) of S.L. 2021-180 is an allocation to the Department of Public Safety to be used for State match requirements under federal disaster declarations. Subdivision (a)(7) of that section is an allocation to DEQ to be used to develop a statewide Flood Resiliency Blueprint.

Section 3 amends Section 5.9.(c) of S.L. 2021-180 to reference subdivision (a)(7), the correct funding source for the Flood Resiliency Blueprint.

This section became effective retroactively to July 1, 2021, the effective date of S.L. 2021-180.

PROVIDE THE DIVISION OF MARINE FISHERIES FLEXIBILITY IN MAINTAINING DIVISION AIRCRAFT

Section 13.16 of S.L. 2010-31 directed the Division of Marine Fisheries (DMF), headquartered in Morehead City, to use mechanics employed by the Division of Forest Resources (DFR) to perform any required aircraft maintenance for any DMF aircraft. In 2010, when this became law, both DMF and DFR were divisions within DEQ and DFR's aircraft maintenance facilities were in Kinston. Since then, the General Assembly moved DFR from DEQ to the Department of Agriculture and Consumer Services. As a part of that move, DFR's aircraft maintenance facilities have moved from Kinston to Sanford.

Section 4 eliminates the requirement that DMF use only DFR aircraft maintenance facilities and allows DMF to use non-DFR aircraft maintenance vendors.

House Bill 219

Page 3

ALIGN COASTAL AREA MANAGEMENT ACT (CAMA) PUBLIC NOTICE REQUIREMENTS FOR LAND-USE PLAN HEARINGS WITH EXISTING LOCAL GOVERNMENT NOTICE REQUIREMENTS

[G.S. 113A-110](#) requires that CAMA notices be published not less than 30 days before a hearing for a land-use plan or amendment, and that copies of the proposed plan or amendment be made available at a designated office in the county courthouse.

[G.S. 160D-601](#), which provides hearing and notice requirements for local government changes to development regulations, requires that a hearing notice must be published not less than 10 days and no more than 25 days before the date of the scheduled hearing.

Section 5 amends the CAMA notice requirement in G.S. 113A-110 for land-use plan/amendment hearings to match the required notice period under G.S. 160D-601. This section also allows a local government to post the proposed plan/amendment at a designated county or local government office, instead of in the county courthouse.

DEQ STUDY OF THE EXPRESS PERMIT AND CERTIFICATION REVIEW PROGRAM AND THE FAST-TRACK STORMWATER PERMITTING PROGRAM

Section 6 directs DEQ to conduct a study to expedite permit issuance under the express permit and review certification review program ([G.S. 143B-279.13](#)) and the fast-track permitting for stormwater management program ([G.S. 143-214.7B](#)). DEQ must report its findings, including recommendations for legislative action, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2022.

AUTHORIZE DEQ TO ALLOW LIMITED WASTEWATER DISCHARGES TO WATERS WITH NATURALLY OCCURRING LOW DISSOLVED OXYGEN LEVELS

Section 7 provides that, for surface waters of the State that have naturally occurring low dissolved oxygen levels, as determined by DEQ, permitted wastewater discharges to those surface waters must not cause a reduction in the dissolved oxygen levels of those surface waters of more than 0.10mg/l below the approved modeled in-stream dissolved oxygen level for the surface waters at total permitted capacity for all discharges to those surface waters.

MINING PERMIT NOTICE AND APPEAL CHANGES

Generally, an applicant for a mine permit must provide notice to all landowners within 1,000 feet of a mine's existing permit boundaries when applying for a new mine permit or a modification to add land to the permitted area.

G.S. 74-61 provides that an applicant, permittee, or other affected person can contest a decision by DEQ to deny, suspend, modify, or revoke a permit by filing a contested case within 30 days of DEQ's decision.

Section 8(a) provides that an applicant for a mine permit must provide notice only to landowners within 1,000 feet of the land to be added under a proposed permit modification, rather than all landowners within 1,000 feet of existing boundaries. **Section 8(b)** provides that a decision to grant a permit can be contested and establishes that the 30-day deadline for contesting a DEQ permitting decision begins on the day DEQ posts the decision on a publicly available website.

House Bill 219

Page 4

This section became effective July 7, 2022. Subsection (a) applies to permit applications submitted on or after that date, and subsection (b) applies to permit decisions made on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act became effective July 7, 2022.