



2023-2024 General Assembly

HOUSE BILL 149: Disaster Recovery Act of 2024, Secs 10.3 and 10.4: Storm Debris Open Burning Regulatory Relief

Committee:
Introduced by:
Analysis of: Secs 10.3 and 10.4 of S.L. 2024-51

Date: January 3, 2025
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Staff Attorney

OVERVIEW: Sections 10.3 and 10.4 of S.L. 2024-51 authorize open burning of storm-related debris in certain circumstances as follows:

- *From the date that the state of emergency was declared by the Governor under Executive Order No. 315 through March 31, 2025, the open burning of storm-related debris is permissible without an air quality permit if compliance with certain rules are met. Open burning of storm-related debris cannot, however, be initiated in a county for which the Department of Environmental Quality or the Forsyth County Office of Environmental Assistance and Protection has forecasted an "Air Quality Action Day Code 'Orange' or above" during the 24-hour time period covered by that Air Quality Action Day. For purposes of this section, "storm-related debris" means any solid and engineered wood products, vegetative land-clearing debris, or yard trash that originates from designated counties in an emergency area as a result of the impacts of Hurricane Helene occurring on September 25-30, 2024. The section does not:*
 - *Allow: (i) the burning of inert debris, including asphalt shingles, tar paper, insulation, drywall, concrete, bricks, or glass, (ii) the burning of tires, wire, plastics, refuse, salvageable items, or dangerous or hazardous materials, (iii) any activity that would violate federal law, or (iv) any activity that causes an imminent threat to public health or safety.*
 - *Exempt or excuse a person from: (i) the consequences, damages, or injuries that may result from this conduct; (ii) complying with laws, ordinances, rules, or orders of other governmental entities having jurisdiction even though the open burning is conducted in compliance with this section.*
- *During a state of emergency declared by the Governor due to a natural disaster or due to a pending disaster, the Commissioner of Agriculture (Commissioner) is authorized to waive permitting requirements under the statutes governing regulation of open fires for the open burning of storm-related debris generated as a result of a natural disaster in areas affected by the disaster. A waiver issued pursuant to this subsection can include limitations on burning with respect to property setbacks, timing of burns, and other matters as the Commissioner deems necessary or advisable for the protection of health, safety, and protection of property. For purposes of this section, "storm-related debris" means any solid and engineered wood products, vegetative land-clearing debris, or yard trash that originates from designated counties in an emergency area.*

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The Commissioner must:

- *Suspend or terminate a waiver of permitting requirements for open burning of storm-related debris upon determination of (i) the Commissioner that hazardous forest fire conditions exist in the affected area or (ii) the Environmental Management Commission that open burning in the affected area is causing significant contravention of ambient air quality standards or that an air pollution episode exists.*
- *Issue a press release containing relevant details of waivers granted pursuant to this section, and suspension or termination of a waiver, to news media and governmental agencies serving the area affected.*

Open burning conducted pursuant to authority granted by this section does not exempt or excuse a person from: (i) the consequences, damages, or injuries that can result from this conduct; or (ii) complying with laws, ordinances, rules, or orders of other governmental entities having jurisdiction even though the open burning is conducted in compliance with this section.

These sections became effective October 10, 2024.