

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**HOUSE BILL 385**

**Senate Agriculture, Energy, and Environment Committee Substitute Adopted 6/6/24**

**PROPOSED SENATE COMMITTEE SUBSTITUTE H385-CSRI-42 [v.8]**

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Short Title: Various Energy/Env. Changes.

(Public)

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Sponsors:

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Referred to:

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March 16, 2023

A BILL TO BE ENTITLED

1 AN ACT TO: (I) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO  
2 REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR  
3 NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION  
4 FACILITIES; (II) INCREASE THE PUNISHMENT FOR PROPERTY CRIMES  
5 COMMITTED AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC  
6 WATER SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND  
7 MANUFACTURING FACILITIES, AND TO MAKE CONFORMING CHANGES TO  
8 UPDATE STATUTES RELATING TO DAMAGE TO UTILITIES; (III) PROHIBIT THE  
9 ACQUISITION OF QUARTZ MINING OPERATIONS AND LANDS CONTAINING  
10 HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS DESIGNATED AS  
11 ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF COMMERCE; (IV)  
12 EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE  
13 DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED AT AN  
14 EXISTING OR FORMER ELECTRIC GENERATING FACILITY; (V) AMEND  
15 STATUTES AND RULES APPLICABLE TO DOCK, PIER, AND WALKWAY  
16 REPLACEMENT IN THE COASTAL AREA; (VI) MAKE A TECHNICAL  
17 CORRECTION TO THE SWINE FARM SITING ACT; (VII) AMEND THE STATUTE  
18 GOVERNING CLEANFIELDS RENEWABLE ENERGY DEMONSTRATION PARKS;  
19 (VIII) AUTHORIZE RENEWABLE ENERGY CERTIFICATES FOR NATURAL GAS  
20 GENERATED FROM RENEWABLE ENERGY RESOURCES; (IX) AMEND THE  
21 STATUTES GOVERNING NATURAL GAS LOCAL DISTRIBUTION COMPANIES  
22 COST RECOVERY; (X) EXCLUDE AQUACULTURE FROM THE DEFINITION OF  
23 "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF  
24 THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING  
25 AQUACULTURE EQUIPMENT; (XI) REQUIRE THE OFFICE OF STATE  
26 ARCHAEOLOGY TO PROVIDE INFORMATION TO LANDOWNERS OR  
27 PROSPECTIVE PURCHASERS IN AREAS OF ENVIRONMENTAL CONCERN UPON  
28 REQUEST, AND ESTABLISH LIMITS ON ASSOCIATED CAMA PERMIT  
29 CONDITIONS; (XII) REMOVE TIME LIMITS ON CERTAIN VIABLE UTILITY  
30 RESERVE GRANTS; (XIII) ESTABLISH A TIME LIMIT FOR REVIEW OF  
31 APPLICATIONS SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL  
32 QUALITY FOR APPROVAL OF CONSTRUCTION OR ALTERATION OF A PUBLIC  
33 WATER SYSTEM; (XIV) LIMIT THE AUTHORITY OF PUBLIC WATER AND SEWER  
34 SYSTEMS TO IMPOSE UNAUTHORIZED CONDITIONS ON RESIDENTIAL  
35



1 DEVELOPMENT, AND TO PROHIBIT THE IMPLEMENTATION OF PREFERENCE  
2 SYSTEMS FOR ALLOCATING WATER AND SEWER SERVICE TO RESIDENTIAL  
3 DEVELOPMENT; (XV) PROHIBIT CERTAIN BACKFLOW PREVENTER  
4 REQUIREMENTS BY PUBLIC WATER SYSTEMS; (XVI) TO EXEMPT CERTAIN  
5 FOOD SERVICE ESTABLISHMENTS FROM SEPTAGE MANAGEMENT FIRM  
6 PERMITTING REQUIREMENTS; AND (XVII) AUTHORIZE REPLACEMENT OF  
7 CERTAIN EROSION CONTROL STRUCTURES.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO**  
11 **REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR**  
12 **NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION**  
13 **FACILITIES**

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

16 **"§ 143B-279.20. Report on Department activity to process applications for permits**  
17 **required for natural gas pipelines and gas-fired electric generation facilities.**

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

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

30  
31 **PART II. INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED**  
32 **AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER**  
33 **SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING**  
34 **FACILITIES, AND TO MAKE CONFORMING CHANGES TO UPDATE STATUTES**  
35 **RELATING TO DAMAGE TO UTILITIES**

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

37 **"§ 14-159.1. Contaminating or injuring a public water system-system; injuring a**  
38 **wastewater treatment facility.**

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

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

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

50 (b) Injuring a Public Water System. – It is unlawful to knowingly and willfully stop,  
51 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,

1 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a public water  
2 system, as defined in G.S. 130A-313(10), with the intent to impair the services of the public  
3 water system.

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

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

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

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

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

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

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

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

39 **"§ 62-323. Willful injury to property of public utility a ~~misdemeanor~~-felony.**

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

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

46 (c) Civil Remedies. – Any person whose property or person is injured by reason of a  
47 violation of subsection (a) of this section shall have a right of action on account of such injury  
48 done against the person who committed the violation and any person who acts as an accessory  
49 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation  
50 of this section. If damages are assessed in such case, the plaintiff shall be entitled to recover  
51 treble the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D

1 of the General Statutes, together with costs, including attorneys' fees. A violation of subsection  
2 (a) of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7)  
3 in any civil action filed as a result of the violation. The rights and remedies provided by this  
4 subsection are in addition to any other rights and remedies provided by law. For purposes of this  
5 subsection, the term "damages" includes actual and consequential damages.

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

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

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

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

16 **"§ 14-150.3. Injuring manufacturing facility.**

17 (a) Injuring a Manufacturing Facility. – It is unlawful to knowingly and willfully stop,  
18 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  
20 manufacturing facility. For purposes of this section, the term "manufacturing facility" means a  
21 facility used for the lawful production or manufacturing of goods.

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

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

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

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

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

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

46 **"§ 1D-27. Injuring ~~energy~~ energy, water, or manufacturing facility; exemption from cap.**

47 G.S. 1D-25(b) shall not apply to a claim for punitive damages for injury or harm arising from  
48 actions of the defendant that constitute a violation of ~~G.S. 14-150.2(b)~~.G.S. 14-150.2(b),  
49 14-159.1(a), (b), or (c), 62-323(a), or 14-150.3(a)."

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

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

6  
7 **PART III. PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND**  
8 **LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS**  
9 **DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF**  
10 **COMMERCE**

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

13    "Article 3.

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

15 **"§ 64-50. Title.**

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

18 **"§ 64-51. Purpose.**

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

24 **"§ 64-52. Definitions.**

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

- 26                (1)   Adversarial foreign government. – A state-controlled enterprise or the  
27 government of a foreign nation that has received a designation under 15 C.F.R.  
28 § 7.4 from a determination by the United States Secretary of Commerce that  
29 the entity has engaged in a long-term pattern or serious instances of conduct  
30 significantly adverse to the national security of the United States or security  
31 and safety of United States persons.
- 32                (2)   Controlling interest. – Possession of more than fifty percent (50%) of the  
33 ownership interest in an entity. The term also includes possession of fifty  
34 percent (50%) or less of the ownership interest in an entity if an owner directs  
35 the business and affairs of the entity without the requirement or consent of any  
36 other party.
- 37                (3)   High purity quartz. – A mineral made of silicon dioxide and containing fewer  
38 than 50 parts per million of impurity elements.
- 39                (4)   Interest. – Any estate, remainder, or reversion, or any portion of the estate,  
40 remainder, or reversion, or an option pursuant to which one party has a right  
41 to cause the transfer of legal or equitable title to land covered by  
42 G.S. 64-53(a); or ownership or partial ownership of a mining operation  
43 covered under G.S. 64-53(a).
- 44                (5)   State-controlled enterprise. – A business enterprise, however denominated, in  
45 which a foreign government has a controlling interest.

46 **"§ 64-53. Adversarial foreign government acquisition of high purity quartz resources**  
47 **prohibited.**

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

- 50                (1)   A quartz mining operation.  
51                (2)   Land containing commercially valuable amounts of high purity quartz.

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

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

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

10  
11 **PART IV. EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY**  
12 **THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED**  
13 **AT AN EXISTING OR FORMER ELECTRIC GENERATING FACILITY**

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

15 **"§ 143-214.1A. Water quality certification requirements for certain projects.**

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

22       ...."

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

25  
26 **PART V. PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING**  
27 **UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS**  
28 **FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT**

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

31                               "Article 11.

32                               "Miscellaneous.

33 **"§ 162A-900. Limitations on allocating service for residential development.**

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

36       (b) A local government unit, as defined in G.S. 162A-201, shall not require an applicant  
37 for water or sewer service for residential development to agree to any condition, or accept any  
38 offer by the applicant to consent to any condition, not otherwise authorized by law, including,  
39 without limitation, any of the following:

40               (1) Payment of taxes, impact fees or other fees, or contributions to any fund.

41               (2) Adherence to any restrictions related to land development or land use,  
42 including those within the scope of G.S. 160D-702(c).

43               (3) Adherence to any restrictions related to building design elements within the  
44 scope of G.S. 160D-702(b).

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

48               (1) Includes consideration of building design elements, as defined in  
49 G.S. 160D-702(b).

50               (2) Sets a minimum square footage of any structures subject to regulation under  
51 the North Carolina Residential Code.

- 1           (3)   Requires a parking space to be larger than 9 feet wide by 20 feet long unless
- 2           the parking space is designated for handicap, parallel, or diagonal parking.
- 3           (4)   Requires additional fire apparatus access roads into developments of one- or
- 4           two-family dwellings that are not in compliance with the required number of
- 5           fire apparatus access roads into developments of one- or two-family dwellings
- 6           set forth in the Fire Code of the North Carolina Residential Code."

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

8

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

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

11          "(a2) No component of a liquid animal waste management system for which a permit is

12          required under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General Statutes, other

13          than a land application site, shall be constructed on land that is located within the 100-year

14          floodplain."

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

16          "**§ 106-805. Written notice of swine farms.**

17          Any person who intends to construct a swine farm whose animal waste management system

18          is subject to a permit under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General

19          Statutes shall, after completing a site evaluation and before the farm site is modified, notify all

20          adjoining property owners; all property owners who own property located across a public road,

21          street, or highway from the swine farm; the county or counties in which the farm site is located;

22          and the local health department or departments having jurisdiction over the farm site of that

23          person's intent to construct the swine farm. This notice shall be by certified mail sent to the

24          address on record at the property tax office in the county in which the land is located. Notice to

25          a county shall be sent to the county manager or, if there is no county manager, to the chair of the

26          board of county commissioners. Notice to a local health department shall be sent to the local

27          health director. The written notice shall include all of the following:

- 28           (1)   The name and address of the person intending to construct a swine farm.
- 29           (2)   The type of swine farm and the design capacity of the animal waste
- 30           management system.
- 31           (3)   The name and address of the technical specialist preparing the waste
- 32           management plan.
- 33           (4)   The address of the local Soil and Water Conservation District office.
- 34           (5)   Information informing the adjoining property owners and the property owners
- 35           who own property located across a public road, street, or highway from the
- 36           swine farm that they may submit written comments to the Division of Water
- 37           Resources, Department of Environmental Quality."

38

39          **PART VII. AMEND THE STATUTE GOVERNING CLEANFIELDS RENEWABLE**

40          **ENERGY DEMONSTRATION PARKS**

41          **SECTION 7.** G.S. 62-133.20 reads as rewritten:

42          "**§ 62-133.20. Cleanfields renewable energy demonstration parks.**

43          (a)   Criteria for Designation. – A parcel or tract of land, or any combination of contiguous

44          parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields

45          renewable energy demonstration park:

- 46           ...
- 47           (2)   All of the real property comprising the park is contiguous to a body of
- 48           water, water, including estuaries, rivers, streams, wetlands, and swamps.
- 49           (3)   The property within the park is or may be subject to remediation under the
- 50           Comprehensive Environmental Response, Compensation, and Liability Act of

1 1980, as amended (42 U.S.C. § 9601, et seq.), except for a site listed on the  
 2 National Priorities List pursuant to 42 U.S.C. § 9605.

3 (4) The park contains a manufacturing facility that is idle, underutilized, or  
 4 curtailed and that at one time employed at least 250 ~~people~~ people, or  
 5 currently includes more than 400,000 square feet of building enclosures.

6 ...  
 7 (6) The owners of the park have applied for or entered into a brownfields  
 8 agreement with the Department of ~~Environment and Natural Resources~~  
 9 Environmental Quality pursuant to G.S. 130A-310.32 and have provided  
 10 satisfactory financial assurance for the brownfields agreement.

11 ...  
 12 (9) The development plan for the park must include a biomass renewable energy  
 13 facility that utilizes refuse derived fuel, including animal waste, yard waste,  
 14 wood waste, and waste generated from construction and demolition, but not  
 15 including wood directly derived from whole trees, as the primary source for  
 16 generating energy. The refuse derived fuel shall undergo an enhanced  
 17 recycling process before being utilized by the biomass renewable energy  
 18 facility.

19 ...  
 20 (c) Renewable Energy Generation. – The definitions in G.S. 62-133.8 apply to this  
 21 section. If the Utilities Commission determines that a biomass renewable energy facility located  
 22 in the cleanfields renewable energy demonstration park is a new renewable energy facility, the  
 23 Commission shall assign triple credit to any electric ~~power~~ power, natural gas, or renewable  
 24 energy certificates generated from renewable energy resources at the biomass renewable energy  
 25 facility that are purchased by an electric power supplier for the purposes of compliance with  
 26 ~~G.S. 62-133.8.~~ G.S. 62-133.8, including G.S. 62-133.8 (e) and (f). The additional credits  
 27 assigned to the first 10 megawatts of biomass renewable energy facility generation capacity shall  
 28 be eligible for use to meet the requirements of ~~G.S. 62-133.8(f).~~ either G.S. 62-133.8(f), if the  
 29 underlying electric power, natural gas, or renewable energy certificates were produced from any  
 30 form of biomass other than swine waste resources, or G.S. 62-133.8(e) if produced from swine  
 31 waste resources. The additional credits assigned to the first 10 megawatts of biomass renewable  
 32 energy facility generation capacity shall first be used to satisfy the requirements of  
 33 ~~G.S. 62-133.8(f).~~ G.S. 62-133.8 (e) or (f), whichever is applicable. Only when the requirements  
 34 of ~~G.S. 62-133.8(f)~~ G.S. 62-133.8 (e) or (f), whichever is applicable, are met, shall the additional  
 35 credits assigned to the first 10 megawatts of biomass renewable energy facility generation  
 36 capacity be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit shall apply only  
 37 to the first 20 megawatts of biomass renewable energy facility generation capacity located in all  
 38 cleanfields renewable energy demonstration parks in the State."  
 39

## 40 PART VIII. AUTHORIZE RENEWABLE ENERGY CERTIFICATES FOR NATURAL 41 GAS GENERATED FROM RENEWABLE ENERGY RESOURCES

42 SECTION 8. Article 7 of Chapter 62 of the General Statutes is amended by adding  
 43 a new section to read:

44 "§ 62-133.8A. Renewable energy certificates for natural gas generated from renewable  
 45 energy resources.

46 (a) Natural gas generated from renewable energy resources may earn renewable energy  
 47 certificates.

48 (b) The Commission shall consider each 5,500 cubic feet of natural gas generated from  
 49 renewable energy resources when injected into a natural gas pipeline to be equivalent to 1  
 50 megawatt hour of electric generation when assigning renewable energy certificates."  
 51



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

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

4 **"§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

5 ...

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

20 ...

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

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

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

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

45 **"§ 62-133.7A. Rate adjustment ~~mechanism~~ mechanisms for natural gas local distribution**  
46 **company rates.**

47 (a) In setting rates for a natural gas local distribution company in a general rate case  
48 proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a  
49 rate adjustment ~~mechanism~~ mechanisms to enable the company to recover the prudently incurred  
50 capital investment and associated costs of ~~complying~~ any of the following, including a return  
51 based on the company's then authorized return:

- 1           (1)    Complying with federal gas pipeline safety requirements, including a return  
 2                based on the company's then authorized return requirements.
- 3           (2)    Producing and transporting natural gas, as defined in G.S. 62-133.4(e)(3), or  
 4                consistent with the intent and purpose of G.S. 62-133.4.

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

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

10  
 11 **PART X. EXCLUDE AQUACULTURE FROM THE DEFINITION OF**  
 12 **"DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF**  
 13 **THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING**  
 14 **AQUACULTURE EQUIPMENT**

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

16 **"§ 113A-103. Definitions.**

- 17                ...
- 18           (5)    a.    "Development" means any activity in a duly designated area of  
 19                    environmental concern (except as provided in paragraph b of this  
 20                    subdivision) involving, requiring, or consisting of the construction or  
 21                    enlargement of a structure; excavation; dredging; filling; dumping;  
 22                    removal of clay, silt, sand, gravel or minerals; bulkheading, driving of  
 23                    pilings; clearing or alteration of land as an adjunct of construction;  
 24                    alteration or removal of sand dunes; alteration of the shore, bank, or  
 25                    bottom of the Atlantic Ocean or any sound, bay, river, creek, stream,  
 26                    lake, or canal; or placement of a ~~floating structure~~ floating  
 27                    structure used for primarily for aquaculture as defined in G.S. 106-758  
 28                    and associated with an active shellfish cultivation lease area or  
 29                    franchise, in an area of environmental concern identified in  
 30                    G.S. 113A-113(b)(2) or (b)(5).

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

- 34                ...
- 35           4.    The use of any land for the purposes of planting, growing, or  
 36                    harvesting plants, crops, trees, or other agricultural or forestry  
 37                    products, including normal private road construction, raising  
 38                    livestock or poultry, uses related to aquaculture and  
 39                    aquaculture facilities as defined in G.S. 106-758 and  
 40                    associated with an active shellfish cultivation lease area or  
 41                    franchise, or for other agricultural purposes except where  
 42                    excavation or filling affecting estuarine waters (as defined in  
 43                    G.S. 113-229) or navigable waters is involved;

44                ...

- 45           (5a) "Floating structure" means any structure, not a boat, supported by a means of  
 46                    floatation, designed to be used without a permanent foundation, which is used  
 47                    or intended for human habitation or commerce. A structure shall be considered  
 48                    a floating structure when it is inhabited or used for commercial purposes for  
 49                    more than thirty days in any one location. A boat may be considered a floating  
 50                    structure when its means of propulsion has been removed or rendered  
 51                    inoperative.

1           ...."

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

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

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

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

15           (1) October 1, 2024.

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

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

29  
30           **SECTION 11.(a)** Part 3 Article 7 of Chapter 113A of the General Statutes is  
31 amended by adding a new section to read:

32 **"§ 113A-113.1. Office of State Archaeology to provide information to owners and**  
33 **prospective purchasers in areas of environmental concern; permit conditions.**

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

39           (b) If the Office of State Archaeology has informed an owner or prospective purchaser  
40 of land that there is no known or suspected archaeological or historical significance associated  
41 with the property pursuant to subsection (a) of this section, the Office of State Archaeology shall,  
42 for a period of three years thereafter, be prohibited from adding a condition to a permit issued  
43 under this Article that requires or restricts a permittee's activity with respect to the property based  
44 on any archaeological or historical significance of the property."

45           **SECTION 11.(b)** The Office of State Archaeology section of the Office of Archives  
46 and History, of the Department of Natural and Cultural Resources, shall apply for any State,  
47 federal, or private grant funding that may be available to purchase properties within areas of  
48 environmental concern of great archaeological or historical significance to the State.

49           **SECTION 11.(c)** No later than August 1, 2024, the Department of Environmental  
50 Quality shall prepare and submit to the United States National Oceanic and Atmospheric  
51 Administration for approval by that agency the proposed changes made to G.S. 113A-113.1(b),

1 as enacted by subsection (a) of this section. The Department of Environmental Quality shall  
2 report to the Environmental Review Commission on the status of their activities pursuant to this  
3 section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals  
4 this reporting requirement.

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

8 (1) October 1, 2024.

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

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

## 17 18 **PART XII. REMOVE TIME LIMITS ON CERTAIN VUR GRANTS**

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

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

## 24 25 **PART XIII. ESTABLISH A TIME LIMIT FOR REVIEW OF APPLICATIONS** 26 **SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR** 27 **WATER DISTRIBUTION SYSTEMS TO CONSTRUCT OR ALTER A PUBLIC** 28 **WATER SYSTEM.**

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

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

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

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

- 1           (3) If additional information is required to complete the technical review, the  
2           Department shall issue a request for additional information required to  
3           complete the review, and the 45-calendar-day technical review period shall  
4           pause until the additional information is received. If the Department does not  
5           receive the requested additional information from the applicant within 30  
6           calendar days, the Department shall return the application to the applicant.  
7           (4) If the Department receives the additional information from the applicant  
8           within 30 days, the technical review period review time shall restart, and the  
9           Department shall complete its review within the number of days that remained  
10           in the technical review period on the date the technical review period was  
11           paused by the request for additional information.  
12           (5) Should the Department not complete its review of the application within the  
13           45-day technical review period, the authorization to construct shall be  
14           considered deemed approved."

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

17  
18 **PART XIV. AMEND STATUTES AND RULES APPLICABLE TO DOCK, PIER, AND**  
19 **WALKWAY REPLACEMENT IN THE COASTAL AREA**

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

- 21           (1) "Replacement of Existing Structures Rule" means 15A NCAC 07J .0210  
22           (Replacement of Existing Structures).  
23           (2) "CAMA Rules" means 15A NCAC Subchapter 07J (Procedures for  
24           Processing and Enforcement of Major and Minor Development Permits,  
25           Variance Requests, Appeals from Permit Decisions, Declaratory Rulings, and  
26           Static Line Exceptions).

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

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

43           **SECTION 14.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
44 rules to amend the Replacement of Existing Structures Rule and any other pertinent CAMA Rules  
45 consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules  
46 adopted by the Commission pursuant to this section shall be substantively identical to the  
47 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject  
48 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
49 section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written  
50 objections had been received as provided in G.S. 150B-21.3(b2).

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

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

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

13           (1)     October 1, 2024.

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

20  
21           **SECTION 14.1.(a)** G.S. 160D-1104 is amended by adding a new subsection to read:  
22 "**§ 160D-1104. Duties and responsibilities.**

23           ...

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

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

## 30 31 **PART XV. PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY** 32 **PUBLIC WATER SYSTEMS**

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

35 "**§ 130A-330. Local authority to require backflow preventers; testing.**

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

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

50           (c)     A public water system owned or operated by a local government unit, and its  
51 employees, including the Cross Connection Control Operator in Responsible Charge, is immune

1 from civil liability in tort from any loss, damage, or injury arising out of or relating to the  
2 backflow of water into potable water supply systems where a backflow preventer is not required  
3 by State or federal law, or where the degree of hazard from the customer's connection is not  
4 determined to be high by the Department.

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

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

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

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

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

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

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

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

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

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

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

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

41 b. A North Carolina community college.

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

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

49 **"§ 150B-2. Definitions.**

50 As used in this Chapter, the following definitions apply:

51 ...

(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) Any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to July 1, 2003.



1 (2) Any permanent erosion control structure that was originally constructed prior  
2 to July 1, 1974, and that has since been in continuous use to protect an inlet  
3 that is maintained for navigation.

4 (3) Any terminal groin permitted pursuant to this section.

5 (b1) This section shall not be construed to limit the authority of the Commission to adopt  
6 rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to  
7 govern the use of erosion control structures in estuarine shorelines.

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

19 (1) The number of rock erosion control structures shall be equal to or less than  
20 the number of geotextile sand tubes originally permitted.

21 (2) The structure(s) or field of structures may consist of groins, including T-head  
22 or lollipop groins, or breakwaters to be approved by the Division of Coastal  
23 Management, in its discretion, or by variance from the Coastal Resources  
24 Commission.

25 (3) The structure field shall not be enlarged beyond the alongshore dimensions  
26 authorized under the original permit, and the aggregate overall length of the  
27 rock structures shall not exceed the aggregate overall length of the geotextile  
28 sand tubes authorized under the original permit.

29 (4) The plans for the work shall be sealed by a professional engineer licensed to  
30 practice pursuant to Chapter 89C of the General Statutes with experience in  
31 engineering in the coastal area.

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

37 ...

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

42 ...."

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

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

- 1           (1)     October 1, 2024.  
2           (2)     The first day of a month that is 60 days after the Secretary of Environmental  
3                 Quality certifies to the Revisor of Statutes that the National Oceanic and  
4                 Atmospheric Administration has approved the changes made to  
5                 G.S. 113A-115.1, as enacted by subsection (a) of this section, as required by  
6                 subsection (b) of this section. The Secretary shall provide this notice along  
7                 with the effective date of this Section on its website.  
8

9     **PART XVIII. SEVERANCE CLAUSE AND EFFECTIVE DATE**

10           **SECTION 18.(a)** If any section or provision of this act is declared unconstitutional  
11     or invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
12     the part so declared to be unconstitutional or invalid.

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