

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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**HOUSE BILL 385
PROPOSED SENATE COMMITTEE SUBSTITUTE H385-PCS30492-RI-38**

Short Title: Various Energy/Env. Changes.

(Public)

Sponsors:

Referred to:

March 16, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO: (I) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO
3 REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR
4 NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION
5 FACILITIES; (II) INCREASE THE PUNISHMENT FOR PROPERTY CRIMES
6 COMMITTED AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC
7 WATER SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND
8 MANUFACTURING FACILITIES, AND TO MAKE CONFORMING CHANGES TO
9 UPDATE STATUTES RELATING TO DAMAGE TO UTILITIES; (III) PROHIBIT THE
10 ACQUISITION OF QUARTZ MINING OPERATIONS AND LANDS CONTAINING
11 HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS DESIGNATED AS
12 ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF COMMERCE; (IV)
13 EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE
14 DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED AT AN
15 EXISTING OR FORMER ELECTRIC GENERATING FACILITY; (V) REQUIRE THE
16 COASTAL RESOURCES COMMISSION TO REVISE THE CAMA RULES TO
17 ELIMINATE A PERMIT REQUIREMENT FOR DOCK, PIER, AND WALKWAY
18 REPLACEMENT, AND TO ALLOW THE WIDTH AND LENGTH OF A PIER, DOCK,
19 OR WALKWAY TO BE ENLARGED BY NOT MORE THAN FIVE FEET AND THE
20 STRUCTURE HEIGHTENED, AT THE TIME OF REPAIR; (VI) MAKE A TECHNICAL
21 CORRECTION TO THE SWINE FARM SITING ACT; (VII) AMEND THE STATUTE
22 GOVERNING CLEANFIELDS RENEWABLE ENERGY DEMONSTRATION PARKS;
23 (VIII) AUTHORIZE RENEWABLE ENERGY CERTIFICATES FOR NATURAL GAS
24 GENERATED FROM RENEWABLE ENERGY RESOURCES; (IX) AMEND THE
25 STATUTES GOVERNING NATURAL GAS LOCAL DISTRIBUTION COMPANIES
26 COST RECOVERY; (X) EXCLUDE AQUACULTURE FROM THE DEFINITION OF
27 "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF
28 THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING
29 AQUACULTURE EQUIPMENT; (XI) AMEND VARIOUS STATUTES GOVERNING
30 COASTAL DEVELOPMENT; (XII) REMOVE TIME LIMITS ON CERTAIN VIABLE
31 UTILITY RESERVE GRANTS; (XIII) ESTABLISH A TIME LIMIT FOR REVIEW OF
32 APPLICATIONS SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL
33 QUALITY FOR APPROVAL OF CONSTRUCTION OR ALTERATION OF A PUBLIC
34 WATER SYSTEM; (XIV) LIMIT THE AUTHORITY OF PUBLIC WATER AND SEWER
35 SYSTEMS TO IMPOSE UNAUTHORIZED CONDITIONS ON RESIDENTIAL
36 DEVELOPMENT, AND TO PROHIBIT THE IMPLEMENTATION OF PREFERENCE



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1 SYSTEMS FOR ALLOCATING WATER AND SEWER SERVICE TO RESIDENTIAL
2 DEVELOPMENT; (XV) PROHIBIT CERTAIN BACKFLOW PREVENTER
3 REQUIREMENTS BY PUBLIC WATER SYSTEMS; AND (XVI) TO EXEMPT
4 CERTAIN FOOD SERVICE ESTABLISHMENTS FROM SEPTAGE MANAGEMENT
5 FIRM PERMITTING REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO**
9 **REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR**
10 **NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION**
11 **FACILITIES**

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

14 **"§ 143B-279.20. Report on Department activity to process applications for permits**
15 **required for natural gas pipelines and gas-fired electric generation facilities.**

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

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

28
29 **PART II. INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED**
30 **AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER**
31 **SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING**
32 **FACILITIES, AND TO MAKE CONFORMING CHANGES TO UPDATE STATUTES**
33 **RELATING TO DAMAGE TO UTILITIES**

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

35 **"§ 14-159.1. Contaminating or injuring a public water system; injuring a**
36 **wastewater treatment facility.**

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

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

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

48 (b) Injuring a Public Water System. – It is unlawful to knowingly and willfully stop,
49 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
50 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a public water

1 system, as defined in G.S. 130A-313(10), with the intent to impair the services of the public
2 water system.

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

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

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

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

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

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

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

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

38 **"§ 62-323. Willful injury to property of public utility a ~~misdemeanor-felony~~.**

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

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

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

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

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

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

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

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

15 **"§ 14-150.3. Injuring manufacturing facility.**

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

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

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

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

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

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

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

45 **"§ 1D-27. Injuring energy-energy, water, or manufacturing facility; exemption from cap.**

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

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

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

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

8
9 **PART IV. EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY**
10 **THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED**
11 **AT AN EXISTING OR FORMER ELECTRIC GENERATING FACILITY**

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

13 "**§ 143-214.1A. Water quality certification requirements for certain projects.**

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

20"

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

23
24 **PART V. REQUIRE THE COASTAL RESOURCES COMMISSION TO REVISE CAMA**
25 **RULES TO ELIMINATE A PERMIT REQUIREMENT FOR DOCK, PIER, AND**
26 **WALKWAY REPLACEMENT, AND TO ALLOW THE WIDTH AND LENGTH OF A**
27 **PIER, DOCK, OR WALKWAY TO BE ENLARGED BY NOT MORE THAN 5 FEET,**
28 **AND THE STRUCTURE HEIGHTENED, AT THE TIME OF REPAIR**

29 **SECTION 5.(a)** Definitions. – For purposes of this section:

- 30 (1) "Replacement of Existing Structures Rule" means 15A NCAC 07J .0210
31 (Replacement of Existing Structures).
32 (2) "CAMA Rules" means 15A NCAC Subchapter 07J (Procedures for
33 Processing and Enforcement of Major and Minor Development Permits,
34 Variance Requests, Appeals from Permit Decisions, Declaratory Rulings, and
35 Static Line Exceptions).

36 **SECTION 5.(b)** Replacement of Existing Structure. – Until the effective date of the
37 revised permanent rules that the Coastal Resources Commission is required to adopt pursuant to
38 subsection (d) of this section, the Commission shall implement the Replacement of Existing
39 Structures Rule and the CAMA Rules as provided in subsection (c) of this section.

40 **SECTION 5.(c)** Implementation. – For fixed docks, floating docks, fixed piers,
41 floating piers, or walkways damaged or destroyed by natural elements, fire, or normal
42 deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be
43 considered repair of the structure, and shall not require CAMA permits, without regard to the
44 percentage of framing and structural components required to be rebuilt. At the time a dock, pier,
45 or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired,
46 the width and length of the dock, pier, or walkway structure may be enlarged by not more than
47 five feet, and the structure may be heightened, without need for a CAMA permit. The owner
48 shall, however, be required to comply with all other applicable State and federal laws.

49 **SECTION 5.(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 5.(e)** Sunset. – This section expires when permanent rules adopted as
7 required by subsection (d) of this section become effective.

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

14 **SECTION 5.(g)** Subsections (a) through (e) of this section become effective on the
15 later of the following dates and apply to applications for permits pending or filed on or after that
16 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 the CAMA Rules, as enacted by subsections (a) through (e) of this section, as
22 required by subsection (f) of this section. The Secretary shall provide this
23 notice along with the effective date of this act on its website.

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

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

26 "(a2) No component of a liquid animal waste management system for which a permit is
27 required under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General Statutes, other
28 than a land application site, shall be constructed on land that is located within the 100-year
29 floodplain."
30

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

32 **"§ 106-805. Written notice of swine farms.**

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

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

1 swine farm that they may submit written comments to the Division of Water
2 Resources, Department of Environmental Quality."
3

4 **PART VII. AMEND THE STATUTE GOVERNING CLEANFIELDS RENEWABLE**
5 **ENERGY DEMONSTRATION PARKS**

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

7 "**§ 62-133.20. Cleanfields renewable energy demonstration parks.**

8 (a) Criteria for Designation. – A parcel or tract of land, or any combination of contiguous
9 parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields
10 renewable energy demonstration park:

11 ...

12 (2) All of the real property comprising the park is contiguous to a body of
13 ~~water~~water, including estuaries, rivers, streams, wetlands, and swamps.

14 (3) The property within the park is or may be subject to remediation under the
15 Comprehensive Environmental Response, Compensation, and Liability Act of
16 1980, as amended (42 U.S.C. § 9601, et seq.), except for a site listed on the
17 National Priorities List pursuant to 42 U.S.C. § 9605.

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

21 ...

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

26 ...

27 (9) The development plan for the park must include a biomass renewable energy
28 facility that utilizes refuse derived fuel, including animal waste, yard waste,
29 wood waste, and waste generated from construction and demolition, but not
30 including wood directly derived from whole trees, as the primary source for
31 generating energy. The refuse derived fuel shall undergo an enhanced
32 recycling process before being utilized by the biomass renewable energy
33 facility.

34 ...

35 (c) Renewable Energy Generation. – The definitions in G.S. 62-133.8 apply to this
36 section. If the Utilities Commission determines that a biomass renewable energy facility located
37 in the cleanfields renewable energy demonstration park is a new renewable energy facility, the
38 Commission shall assign triple credit to any electric ~~power~~power, natural gas, or renewable
39 energy certificates generated from renewable energy resources at the biomass renewable energy
40 facility that are purchased by an electric power supplier for the purposes of compliance with
41 G.S. 62-133.8. G.S. 62-133.8, including G.S. 62-133.8 (e) and (f). The additional credits
42 assigned to the first 10 megawatts of biomass renewable energy facility generation capacity shall
43 be eligible for use to meet the requirements of G.S. 62-133.8(f). ~~either G.S. 62-133.8(f), if the~~
44 underlying electric power, natural gas, or renewable energy certificates were produced from any
45 form of biomass other than swine waste resources, or G.S. 62-133.8(e) if produced from swine
46 waste resources. The additional credits assigned to the first 10 megawatts of biomass renewable
47 energy facility generation capacity shall first be used to satisfy the requirements of
48 G.S. 62-133.8(f). G.S. 62-133.8 (e) or (f), whichever is applicable. Only when the requirements
49 of G.S. 62-133.8(f) G.S. 62-133.8 (e) or (f), whichever is applicable, are met, shall the additional
50 credits assigned to the first 10 megawatts of biomass renewable energy facility generation
51 capacity be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit shall apply only

1 to the first 20 megawatts of biomass renewable energy facility generation capacity located in all
2 cleanfields renewable energy demonstration parks in the State."
3

4 **PART VIII. AUTHORIZE RENEWABLE ENERGY CERTIFICATES FOR NATURAL**
5 **GAS GENERATED FROM RENEWABLE ENERGY RESOURCES**

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

8 "**§ 62-133.8A. Renewable energy certificates for natural gas generated from renewable**
9 **energy resources.**

10 (a) Natural gas generated from renewable energy resources may earn renewable energy
11 certificates.

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

15
16 **PART IX. NATURAL GAS LOCAL DISTRIBUTION COMPANIES COST RECOVERY**
17 **MODIFICATIONS**

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

19 "**§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

20 ...

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

35 ...

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

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

47 (1) "Cost" or "costs" shall be defined by Commission rule or order and may
48 include all costs related to the production, purchase, and transportation of
49 natural gas to the natural gas local distribution company's system.

- 1 (2) "Domestic wastewater" means water-carried human wastes together with all
 2 other water-carried wastes normally present in wastewater from non-industrial
 3 processes.
- 4 (3) "Natural gas" or "gas" includes gas derived from renewable energy biomass
 5 resources.
- 6 (4) "Renewable energy biomass resources" includes agricultural waste, animal
 7 waste, wood waste, spent pulping liquors, organic waste, combustible
 8 residues, combustible gases, energy crops, landfill methane, or domestic
 9 wastewater."

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

11 **"§ 62-133.7A. Rate adjustment ~~mechanism~~ mechanisms for natural gas local distribution**
 12 **company rates.**

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

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

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

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

27
 28 **PART X. EXCLUDE AQUACULTURE FROM THE DEFINITION OF**
 29 **"DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF**
 30 **THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING**
 31 **AQUACULTURE EQUIPMENT**

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

33 **"§ 113A-103. Definitions.**

- 34 ...
- 35 (5) a. "Development" means any activity in a duly designated area of
 36 environmental concern (except as provided in paragraph b of this
 37 subdivision) involving, requiring, or consisting of the construction or
 38 enlargement of a structure; excavation; dredging; filling; dumping;
 39 removal of clay, silt, sand, gravel or minerals; bulkheading, driving of
 40 pilings; clearing or alteration of land as an adjunct of construction;
 41 alteration or removal of sand dunes; alteration of the shore, bank, or
 42 bottom of the Atlantic Ocean or any sound, bay, river, creek, stream,
 43 lake, or canal; or placement of a floating ~~structure~~ structure, except a
 44 floating structure used for aquaculture as defined in G.S. 106-758, in
 45 an area of environmental concern identified in G.S. 113A-113(b)(2) or
 46 (b)(5).
 - 47 b. The following activities including the normal and incidental
 48 operations associated therewith shall not be deemed to be development
 49 under this section:
 50 ...

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

...."

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

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

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

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

- (1) October 1, 2024.
- (2) The first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the National Oceanic and Atmospheric Administration has approved the changes made to Article 7 of Chapter 113A of the General Statutes, as enacted by subsection (a) of this section, as required by subsection (c) of this section. The Secretary shall provide this notice along with the effective date of subsection (a) of this section on its website. The remainder of this section is effective when it becomes law.

PART XI. AMEND VARIOUS STATUTES GOVERNING COASTAL DEVELOPMENT

SECTION 11.(a) G.S. 113A-103 reads as rewritten:

"§ 113A-103. Definitions.

As used in this Article:

...

- (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~~ of: (i) land disturbing resulting from the construction or enlargement of a structure; structure, including the clearing or alteration of land as an adjunct of construction; (ii) excavation; (iii) dredging; (iv) filling; (v)

dumping; (vi) removal of clay, silt, sand, gravel or minerals; (vii) bulkheading, bulkheading or driving of pilings; clearing or alteration of land as an adjunct of construction; (viii) alteration or removal of sand dunes; (ix) alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or (x) placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5). "Development" shall not include activities set forth in sub-subdivision b. of this subdivision.

...
 (6) "Land disturbing activity" means any use of the land by any person that results in a change in the natural cover or topography of lands or submerged lands.

...."

SECTION 11.(b) G.S. 113A-113 reads as rewritten:

"§ 113A-113. Areas of environmental concern; in general.

(a) The Coastal Resources Commission shall by rule designate geographic areas of the coastal area as areas of environmental concern and specify the boundaries thereof, in the manner provided in this Part.

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

...
 (4) ~~Fragile or historic areas, and other areas containing~~ The following areas, to the extent they contain environmental or natural resources of more than local significance, ~~or where uncontrolled or incompatible~~ development could result in major ~~or and~~ irreversible damage to important historic, cultural, scientific or scenic values or natural systems, ~~which may include:~~ systems:

...
 h. ~~Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, determined to be eligible for listing, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121, 1966, and properties or areas that are or may be designated by the Secretary of the Interior as registered natural landmarks or as national historic landmarks;~~

(c) In those instances where subsection (b) of this section refers to locations identified by a specified agency, said agency is hereby authorized to make the indicated identification from time to time and is directed to transmit the identification to the Commission; provided, however, that no designation of an area of environmental concern based solely on an agency identification of a proposed location may remain effective for longer than three years unless, in the case of ~~paragraphs (4)a and d~~ sub-subdivisions a., d., and h. of subdivision (4) of subsection (b) of this section, the proposed site has been at least seventy-five percent (75%) acquired. Within the meaning of this section, "formal designation for acquisition" means designation in a formal resolution adopted by the governing body of the agency having ~~jurisdiction (or jurisdiction, or by its chief executive, if it has no governing body),~~ body, together with a direction in said resolution that the initial step in the land acquisition process be ~~taken (as by taken, such as filing an application with the Department of Administration to acquire property pursuant to G.S. 146-23),~~ G.S. 146-23.

...."

SECTION 11.(c) G.S. 113A-118 reads as rewritten:

"§ 113A-118. Permit required.

1 (a) After the date designated by the Secretary pursuant to G.S. 113A-125, every person
 2 before undertaking ~~any~~ development in any area of environmental concern shall ~~obtain (in obtain,~~
 3 in addition to any other required State or local permit) permit, a permit pursuant to the provisions
 4 of this Part. The permit applies only to development activities within the area of environmental
 5 concern, notwithstanding any related development activities outside the area of environmental
 6 concern.

7"

8 **SECTION 11.(d)** G.S. 113A-118.2 reads as rewritten:

9 **"§ 113A-118.2. Development in Primary Nursery Areas and Outstanding Resource Waters**
 10 **areas of environmental concern.**

11 Public ~~notice,~~ notice and opportunity for public comment, and ~~agency~~ review by the Division
 12 of Coastal Management of the Department shall be required for all development within the
 13 Primary Nursery Areas or Outstanding Resource Waters areas of environmental concern.
 14 Provided, however, that the Coastal Resources Commission may by rule exempt or issue general
 15 permits for minor maintenance and improvement projects as defined in G.S. 113A-103(5)c. and
 16 for single-family residential development pursuant to use standards or conditions adopted by the
 17 Coastal Resources Commission."

18 **SECTION 11.(e)** G.S. 113A-120 reads as rewritten:

19 **"§ 113A-120. Grant or denial of permits.**

20 (a) The responsible official or body shall deny an application for a permit only upon
 21 finding: issuance of written findings supported in detail, including its basis for concluding that
 22 conditions as may be identified pursuant to subsection (b) of this section are insufficient to avoid
 23 the finding, on the basis of any of the following:

- 24 (1) In the case of coastal wetlands, that the development would contravene an
 25 order that has been or could be issued pursuant to G.S. 113-230.
- 26 (2) In the case of estuarine waters, that a permit for the development would be
 27 denied pursuant to G.S. 113-229(e).
- 28 (3) In the case of a renewable resource area, that the development will result in
 29 loss or significant reduction of continued long-range productivity that would
 30 jeopardize one or more of the water, food or fiber requirements of more than
 31 local concern identified in subdivisions a through c of G.S. 113A-113(b)(3).
- 32 (4) In the case of ~~a fragile or historic area, or other area~~ areas that have been
 33 designated as containing environmental or natural resources of more than
 34 local significance, significance where uncontrolled development could result
 35 in major and irreversible damage to important historic, cultural, scientific, or
 36 scenic values or natural systems under G.S. 113A-113(b)(4), that the
 37 development activities will directly result in major ~~or~~ and irreversible damage
 38 to one or more of the historic, cultural, scientific, environmental or scenic
 39 values or natural systems identified in subdivisions a through h of
 40 G.S. 113A-113(b)(4).systems within the area being disturbed. For purposes of
 41 this subdivision, incidental disturbance of archaeological resources during
 42 development is not considered major and irreversible damage.
 43 Notwithstanding the foregoing, the responsible official or body may provide
 44 the results of any investigation conducted pursuant to G.S. 113A-124(a)(1) to
 45 the Department of Natural and Cultural Resources, and the Department of
 46 Natural and Cultural Resources may take actions within its statutory
 47 jurisdiction with respect to resources identified in the investigation.
- 48 (5) In the case of areas covered by G.S. 113A-113(b)(5), that the development
 49 will jeopardize the public rights or interests specified in said subdivision.
- 50 (6) In the case of natural hazard areas, that the development would occur in one
 51 or more of the areas identified in subdivisions a through e of

- 1 G.S. 113A-113(b)(6) in such a manner as to unreasonably endanger life or
 2 property.
 3 (7) In the case of areas which are or may be impacted by key facilities, that the
 4 development is inconsistent with the written State guidelines or the local
 5 land-use plans, or would contravene any of the provisions of subdivisions (1)
 6 to (6) of this subsection.
 7 (8) In any case, that the development is inconsistent with the written State
 8 guidelines or the local land-use plans.
 9 (9) In any case, that considering engineering requirements and all economic costs
 10 there is a practicable alternative that would accomplish the overall project
 11 purposes with less adverse impact on the public resources.
 12 (10) In any case, that the proposed development would unreasonably contribute to
 13 cumulative ~~effects that would be inconsistent with the written guidelines set~~
 14 ~~forth in subdivisions (1) through (9) of this subsection.~~ impacts on waters
 15 subject to this Article. Cumulative ~~effects are~~ impacts attributable to the
 16 collective effects of a number of projects on waters subject to this Article and
 17 include the effects of additional projects similar to the requested permit in
 18 areas available for development in the vicinity.

19 (b) In the absence of such findings, a permit shall be granted. The permit may be
 20 ~~conditioned upon the applicant's amending his proposal to take whatever measures or agreeing~~
 21 ~~to carry out whatever terms of operation or use of the~~ impose conditions on development
 22 activities, or the operation or maintenance of the completed project, or both, that are reasonably
 23 necessary to protect the public interest prevent a finding with respect to the applicable factors
 24 enumerated in subsection (a) of this section. The applicant may amend its proposal to incorporate
 25 conditions, and the Department may conduct additional investigations pursuant to
 26 G.S. 113A-124(a)(1) prior to issuance of the permit to determine what conditions are reasonably
 27 necessary, but the conditions must be specific, unambiguous, and minimize restriction on the
 28 applicant's development activities to the greatest extent feasible.

29 ...

30 (d) In making a determination to grant, deny, or condition a permit under this section, the
 31 responsible body or official must base its determination on its own review and is not authorized
 32 to incorporate conditions based on recommendations from other agencies unless expressly
 33 authorized to do so under this Article or under other applicable law."

34 **SECTION 11.(f)** G.S. 113A-124(a)(1) reads as rewritten:

35 "**§ 113A-124. Additional powers and duties.**

36 (a) The Secretary shall have the following additional powers and duties under this
 37 Article:

- 38 (1) To conduct or cause to be conducted, at the Department's sole cost and
 39 expense, investigations of proposed developments in areas of environmental
 40 concern in order to obtain sufficient evidence to enable a balanced judgment
 41 to be rendered concerning the issuance of permits to build such developments.
 42 Notice of investigations must be provided to applicants by the Department
 43 within 30 days of receipt of a permit application, and investigation shall be
 44 completed within 60 days of the notice."

45 **SECTION 11.(g)** 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 Article 7 of Chapter
 48 113A of the General Statutes, as enacted by subsections (a) through (f) of this section. The
 49 Department of Environmental Quality shall report to the Environmental Review Commission on
 50 the status of their activities pursuant to this section quarterly, beginning September 1, 2024, until
 51 such time as the General Assembly repeals this reporting requirement.

1 **SECTION 11.(h)** Subsections (a) through (f) of this section become effective on the
 2 later of the following dates and apply to applications for permits pending or filed on or after that
 3 date:

- 4 (1) October 1, 2024.
- 5 (2) The first day of a month that is 60 days after the Secretary of the Department
 6 of Environmental Quality certifies to the Revisor of Statutes that the National
 7 Oceanic and Atmospheric Administration has approved the changes made to
 8 Article 7 of Chapter 113A of the General Statutes, as enacted by subsections
 9 (a) through (f) of this section, as required by subsection (g) of this section.
 10 The Secretary shall provide this notice along with the effective date of this
 11 Section on its website.

12
 13 **PART XII. REMOVE TIME LIMITS ON CERTAIN VUR GRANTS**

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

- 15 "(2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local
 16 government unit shall not ~~(i)~~ exceed seven hundred fifty thousand dollars
 17 (\$750,000) in any fiscal year and ~~(ii)~~ be awarded for more than three
 18 consecutive fiscal years.year."

19
 20 **PART XIII. ESTABLISH A TIME LIMIT FOR REVIEW OF APPLICATIONS**
 21 **SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR**
 22 **APPROVAL OF CONSTRUCTION OR ALTERATION OF A PUBLIC WATER**
 23 **SYSTEM**

24 **SECTION 13.(a)** G.S. 130A-328 reads as rewritten:

25 **"§ 130A-328. Public water system operating permit and permit fee.**

26 ...

27 (c) The following fees are imposed for the review of plans, specifications, and other
 28 information submitted to the Department for approval of construction or alteration of a public
 29 water system. The fees are based on the type of constructions or alteration proposed:

30		
31	Distribution system:	Fee
32	Construction of water lines, less than 5000 linear feet	\$300
33	Construction of water lines, 5000 linear feet or more	\$400
34	Other construction or alteration to a distribution system	\$150
35		
36	Ground water system:	
37	Construction of a new ground water system or adding a new well	\$400
38	Alteration to an existing ground water system	\$200
39		
40	Surface Water system:	
41	Construction of a new surface water treatment facility	\$500
42	Alteration to an existing surface water treatment facility	\$300
43	Water System Management Plan review	\$150
44	Miscellaneous changes or maintenance not covered above	\$100
45		

46 (c1) For purposes of this section, the following definitions apply:

- 47 (1) Plan set. – All plans, specifications, and other information required to be
 48 submitted to the Department for a permit issued pursuant to subsection (c) of
 49 this section.
- 50 (2) Technical review period. – The period of time comprised of the 30 calendar
 51 days in which the Department must review an application filed pursuant to

- 1 subsection (c) of this section, plus the number of days by which the review
2 period is extended pursuant to subdivision (c2)(2) or (c2)(5) of this section.
- 3 (c2) A permit issued pursuant to subsection (c) of this section shall be reviewed subject to
4 the following requirements:
- 5 (1) The Department shall review a plan set submitted with the application within
6 30 calendar days of the receipt of the completed plan set.
- 7 (2) The Department shall perform an administrative review of each plan set
8 received within 10 days of receipt of the application. If the plan set is
9 complete, the Department shall issue an electronic response to the applicant
10 stating that the plan set is complete and that the technical review period began
11 on the date that the application was received. If the plan set is incomplete, the
12 Department shall send an electronic response to the applicant requesting (i)
13 required information that was missing in the plan set, (ii) revisions if the plan
14 set does not comply with applicable State or federal law, or (iii) clarifications
15 if the plan set is not clear. If the Department does not receive the requested
16 information within five days, the technical review period shall be extended by
17 the total number of days between the date the Department requested the
18 information and the date the applicant provided all requested information to
19 the Department.
- 20 (3) If the Department requests additional information pursuant to subdivision (2)
21 of this subsection, the Department shall determine whether the plan set is
22 complete within five days of receipt of the requested information. If the
23 Department determines that the plan set is complete, the Department shall
24 issue an electronic response to the applicant stating that the plan set is
25 complete and providing the date that the technical review period ends. If the
26 Department determines that the plan set is incomplete, the Department shall
27 issue an electronic response requesting (i) additional required information that
28 was missing in the original submission, (ii) revisions if the plan set is not
29 consistent with applicable State or federal law, or (iii) clarifications if the plan
30 set is not clear. The application shall be considered complete when the
31 applicant has provided all information requested by the Department pursuant
32 to subdivision (2) of this subsection, and the technical review period shall
33 begin on that date.
- 34 (4) If the Department requests additional information from the applicant pursuant
35 to subdivision (3) of this subsection, and the applicant does not provide the
36 requested information within 15 days of the request for additional information,
37 the Department shall return the plan set to the applicant and deny the
38 application. The applicant shall submit a new application with a complete plan
39 set, with a new application fee, before the Department reviews the application
40 again.
- 41 (5) If the Department determines that it needs information that was not requested
42 in an initial request for additional information pursuant to subdivision (2) of
43 this subsection, the plan review period may only be extended by the number
44 of days beyond five days between the date the Department requested the
45 information and the date the applicant provided all requested information to
46 the Department.
- 47 (6) The Department shall complete its review of the application and issue either
48 an authorization to construct or a denial of the application by the last day of
49 the technical review period. Ten percent (10%) of the application fee shall be
50 returned to the applicant from the Department's administrative overhead for
51 each working day that the Department goes beyond the technical review

1 period before issuing a construction authorization or a denial of the
2 application. The Department shall return the fees to the applicant within 45
3 days after the last day of the technical review period.

4 (d) The Department may charge an administrative fee of up to one hundred fifty dollars
5 (\$150.00) for failure to pay the permit fee by January 31 of each year.

6 (e) All fees collected under this section shall be applied to the costs of administering and
7 enforcing this Article."

8 **SECTION 13.(b)** The Department shall prepare a guidance document identifying all
9 required information constitutes a completed plan set, as defined in G.S. 130A-328(c1), as
10 amended by this section, and post the guidance document on the Department's website no later
11 than September 1, 2024.

12 **SECTION 13.(c)** Subsection (a) of this section becomes effective December 1, 2024,
13 and applies to applications submitted on or after that date. The remainder of this section is
14 effective when it becomes law.

15
16 **PART XIV. PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING**
17 **UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS**
18 **FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT**

19 **SECTION 14.(a)** Chapter 162A of the General Statutes is amended by adding a new
20 Article to read:

21 "Article 11.

22 "Miscellaneous.

23 **"§ 162A-900. Limitations on allocating service for residential development.**

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

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

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

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

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

35 (c) A local government unit, as defined in G.S. 162A-201, shall not implement a scoring
36 or preference system to allocate water or sewer service among applicants for water or sewer
37 service for residential development."

38 **SECTION 14.(b)** This section is effective when it becomes law.

39
40 **PART XV. PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY**
41 **PUBLIC WATER SYSTEMS**

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

44 **"§ 130A-330. Local authority to require backflow preventers; testing.**

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

50 (b) The limitation established in subsection (a) of this section shall not be construed to
51 prohibit requirements for installation of backflow preventers pursuant to the North Carolina

1 Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's
2 plumbing, facility addition on the customer's property, or change in use of the property served
3 by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited
4 to the service line between the home or building and the meter, and without a change in use or
5 facility addition, does not necessitate a backflow preventer. An increase in the flow of water to
6 the home or building, without a change in use or facility addition, does not necessitate a backflow
7 preventer.

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

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

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

21 (f) No public water system owned or operated by a local government unit shall require
22 periodic testing more frequently than once every three years for backflow preventers on
23 residential irrigation systems that do not apply or dispose chemical feeds.

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

28 (h) A public water system owned or operated by a local government unit may accept the
29 results of backflow preventer testing conducted by a plumbing contractor licensed under Article
30 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester
31 approved by the public water system.

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

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

35 (2) "Certified backflow prevention assembly tester" means a person who holds a
36 certificate of completion from a training program in the testing and repair of
37 backflow preventors.

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

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

43 **"§ 150B-2. Definitions.**

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

45 ...

46 (8a) Rule. – Any agency regulation, standard, or statement of general applicability
47 that implements or interprets an enactment of the General Assembly or
48 Congress or a regulation adopted by a federal agency or that describes the
49 procedure or practice requirements of an agency. The term includes the
50 establishment of a fee and the amendment or repeal of a prior rule. The term
51 does not include the following:

1 ...
2 m. Determinations by the Department of Environmental Quality of high
3 hazards pursuant to G.S. 130A-330.

4"
5 **SECTION 15.(c)** This section is effective when it becomes law and applies to
6 requirements for installation or testing of backflow preventers made by a public water supply on
7 or after that date.

8
9 **PART XVI. EXEMPT CERTAIN FOOD SERVICE ESTABLISHMENTS FROM**
10 **SEPTAGE MANAGEMENT FIRM PERMITTING REQUIREMENTS**

11 **SECTION 16.(a)** G.S. 130A-291.1 is amended by adding a new subsection to read:
12 "(k) A food service establishment not involved in pumping or vacuuming a grease
13 appurtenance does not need a permit under this section."

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

15
16 **PART XVII. SEVERANCE CLAUSE AND EFFECTIVE DATE**

17 **SECTION 17.(a)** If any section or provision of this act is declared unconstitutional
18 or invalid by the courts, it does not affect the validity of this act as a whole or any part other than
19 the part so declared to be unconstitutional or invalid.

20 **SECTION 17.(b)** Except as otherwise provided, this act is effective when it becomes
21 law.