

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 385  
PROPOSED SENATE COMMITTEE SUBSTITUTE H385-CSRI-38 [v.6]  
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Short Title: Various Energy/Env. Changes.

(Public)

Sponsors:

Referred to:

March 16, 2023

A BILL TO BE ENTITLED

AN ACT TO: (I) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION FACILITIES; (II) INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING FACILITIES, AND TO MAKE CONFORMING CHANGES TO UPDATE STATUTES RELATING TO DAMAGE TO UTILITIES; (III) PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF COMMERCE; (IV) EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS INVOLVING THE GENERATION OF ENERGY OR FUEL; (V) PROVIDE FOR A TWENTY-FIVE-FOOT BUFFER FOR CERTAIN AGRICULTURAL ACTIVITIES IN PROXIMITY TO STREAMS CLASSIFIED AS TROUT WATERS; AND (VI) REQUIRE THE COASTAL RESOURCES COMMISSION TO REVISE THE CAMA RULES TO ELIMINATE A PERMIT REQUIREMENT FOR DOCK, PIER, AND WALKWAY REPLACEMENT, AND TO ALLOW THE WIDTH AND LENGTH OF A PIER, DOCK, OR WALKWAY TO BE ENLARGED BY NOT MORE THAN 5%, AND THE STRUCTURE HEIGHTENED, AT THE TIME OF REPAIR.

The General Assembly of North Carolina enacts:

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

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

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

**The Department of Environmental Quality shall report on any applications received for permits required for siting or operation of natural gas pipelines and gas-fired electric generation**



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1 facilities within the State, and activities of the Department to process such applications, including  
 2 tracking of processing times. The processing time tracked shall include (i) the total processing  
 3 time from when an initial permit application is received to issuance or denial of the permit and  
 4 (ii) the processing time from when a complete permit application is received to issuance or denial  
 5 of the permit. The Department shall report quarterly to the Joint Legislative Commission on  
 6 Energy Policy pursuant to this section."

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

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

16  
 17 **SECTION 2.(a)** G.S. 14-159.1 reads as rewritten:

18 "**§ 14-159.1. Contaminating or injuring a public water system; injuring a**  
 19 **wastewater treatment facility.**

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

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

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

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

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

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

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

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

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

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

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

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

23 **"§ 62-323. Willful injury to property of public utility a ~~misdemeanor~~ felony.**

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

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

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

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

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

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

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

51 **"§ 14-150.3. Injuring manufacturing facility.**

1 (a) Injuring a manufacturing facility. – It is unlawful to knowingly and willfully stop,  
 2 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,  
 3 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a  
 4 manufacturing facility. For purposes of this section, the term "manufacturing facility" means a  
 5 facility used for the lawful production or manufacturing of goods.

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

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

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

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

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

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

29 **§ 1D-27. Injuring energy, energy, water, or manufacturing facility; exemption from cap.**

30 G.S. 1D-25(b) shall not apply to a claim for punitive damages for injury or harm arising from  
 31 actions of the defendant that constitute a violation of ~~G.S. 14-150.2(b).~~ G.S. 14-150.2(b),  
 32 G.S. 14-159.1(a), (b), or (c), G.S. 62-323(a), or G.S. 14-150.(a)."

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

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

38  
 39 **PART III. PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND**  
 40 **LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS**  
 41 **DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF**  
 42 **COMMERCE**

43  
 44 **SECTION 3.(a)** Chapter 64 of the General Statutes is amended by adding a new  
 45 Article to read:

46 "Article 3.

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

48 **"§ 64-50. Title.**

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

50 **"§ 64-51. Purpose.**

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

6 **"§ 64-52. Definitions.**

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

- 8            (1) Adversarial foreign government. – A state-controlled enterprise or the  
9 government of a foreign nation that has received a designation under 15 C.F.R.  
10 § 7.4 from a determination by the United States Secretary of Commerce that  
11 the entity has engaged in a long-term pattern or serious instances of conduct  
12 significantly adverse to the national security of the United States or security  
13 and safety of United States persons.
- 14            (2) Controlling interest. – Possession of more than fifty percent (50%) of the  
15 ownership interest in an entity. The term also includes possession of fifty  
16 percent (50%) or less of the ownership interest in an entity if an owner directs  
17 the business and affairs of the entity without the requirement or consent of any  
18 other party.
- 19            (3) High purity quartz. – A mineral made of silicon dioxide and containing fewer  
20 than 50 parts per million of impurity elements.
- 21            (4) Interest. – Any estate, remainder, or reversion, or any portion of the estate,  
22 remainder, or reversion, or an option pursuant to which one party has a right  
23 to cause the transfer of legal or equitable title to land covered by  
24 G.S. 64-53(a); or ownership or partial ownership of a mining operation  
25 covered under G.S. 64-53(a).
- 26            (5) State-controlled enterprise. – A business enterprise, however denominated, in  
27 which a foreign government has a controlling interest.

28 **"§ 64-53. Adversarial foreign government acquisition of high purity quartz resources**  
29 **prohibited.**

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

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

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

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

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

43  
44 **PART IV. EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY**  
45 **THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS INVOLVING**  
46 **THE GENERATION OF ENERGY OR FUEL**  
47

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

49 **"§ 143-214.1A. Water quality certification requirements for certain projects.**

50            (a) The following requirements shall govern applications for certification filed with the  
51 Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), for

1 maintenance dredging projects partially funded by the Shallow Draft Navigation Channel  
2 Dredging and Aquatic Weed Fund and projects involving the generation, distribution,  
3 distribution—or transmission of energy or fuel, including natural gas, diesel, petroleum, or  
4 electricity:

5 ...."

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

## 9 **PART V. SEDIMENTATION BUFFER FOR TROUT WATERS**

10  
11 **SECTION 5.(a)** G.S. 113A-52.01 reads as rewritten:

### 12 **"§ 113A-52.01. Applicability of this Article.**

13 (a) This Article shall not apply to the following land-disturbing ~~activities:activities~~  
14 except as provided in subsection (b) of this section:

15 (1) Activities, including the production and activities relating or incidental to the  
16 production of crops, grains, fruits, vegetables, ornamental and flowering  
17 plants, dairy, livestock, poultry, and all other forms of agriculture undertaken  
18 on agricultural land for the production of plants and animals useful to man,  
19 including, but not limited to:

- 20 a. Forages and sod crops, grains and feed crops, tobacco, cotton, and  
21 peanuts.
- 22 b. Dairy animals and dairy products.
- 23 c. Poultry and poultry products.
- 24 d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies,  
25 mules, and goats.
- 26 e. Bees and apiary products.
- 27 f. Fur producing animals.
- 28 g. Mulch, ornamental plants, and other horticultural products. For  
29 purposes of this section, "mulch" means substances composed  
30 primarily of plant remains or mixtures of such substances.

31 ...

32 (b) Waters that have been classified as trout waters by the Environmental Management  
33 Commission shall have an undisturbed, vegetated buffer zone 25 feet wide where activities  
34 included under subdivision (a)(1) of this section are prohibited. The Commission, however, may  
35 approve plans that include land-disturbing activity within the 25-foot buffer when the duration  
36 of the disturbance would be temporary and the extent of the disturbance would be minimal in the  
37 discretion of the Commission. The Commission may take any action reasonably necessary to  
38 enforce this requirement."

39 **SECTION 5.(b)** This section becomes effective January 1, 2025, and applies to tracts  
40 or portions of tracts on which activities set forth under G.S. 113A-52.01(a)(1), as amended by  
41 this section, are initiated on or after that date.

## 42 43 **PART VI. REQUIRE THE COASTAL RESOURCES COMMISSION TO REVISE** 44 **CAMA RULES TO ELIMINATE A PERMIT REQUIREMENT FOR DOCK, PIER, AND** 45 **WALKWAY REPLACEMENT, AND TO ALLOW THE WIDTH AND LENGTH OF A** 46 **PIER, DOCK, OR WALKWAY TO BE ENLARGED BY NOT MORE THAN 5%, AND** 47 **THE STRUCTURE HEIGHTENED, AT THE TIME OF REPAIR**

48  
49 **SECTION 6.(a)** Definitions. – For purposes of this section,

- 50 (1) "Replacement of Existing Structures Rule" means 15A NCAC 07J .0210  
51 (Replacement of Existing Structures).

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

5 **SECTION 6.(b)** Replacement of Existing Structure. – Until the effective date of the  
6 revised permanent rules that the Coastal Resources Commission is required to adopt pursuant to  
7 subsection (d) of this section, the Commission shall implement the Replacement of Existing  
8 Structures Rule and the CAMA Rules as provided in subsection (c) of this section.

9 **SECTION 6.(c)** Implementation. – For fixed docks, piers, or walkways damaged or  
10 destroyed by natural elements, fire, or normal deterioration, activity to rebuild the dock, pier, or  
11 walkway to its pre-damage condition shall be considered repair of the structure, and shall not  
12 require CAMA permits, without regard to the percentage of framing and structural components  
13 required to be rebuilt. At the time a dock, pier, or walkway damaged or destroyed by natural  
14 elements, fire, or normal deterioration is repaired, the width and length of the dock, pier, or  
15 walkway structure may be enlarged by not more than five percent (5%), and the structure may  
16 be heightened, without need for a CAMA permit.

17 **SECTION 6.(d)** Additional Rulemaking Authority. – The Commission shall adopt  
18 rules to amend the Replacement of Existing Structures Rule and any other pertinent CAMA Rule  
19 consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules  
20 adopted by the Commission pursuant to this section shall be substantively identical to the  
21 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject  
22 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this  
23 section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written  
24 objections had been received as provided in G.S. 150B-21.3(b2).

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

27  
28 **PART VII. SEVERANCE CLAUSE AND EFFECTIVE DATE**

29 **SECTION 7.(a)** If any section or provision of this act is declared unconstitutional or  
30 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
31 the part so declared to be unconstitutional or invalid.

32 **SECTION 7.(b)** Except as otherwise provided, this act is effective when it becomes  
33 law.  
34