

# Environment, Natural Resources, and Energy

See full summary documents for additional detail

## **Repeal Change to Definition of Solid Waste – 2023 Budget Technical/Other Corrections.**

SL 2024-1 (S508), Sec. 1.5

Section 1.5 of S.L. 2024-1 repeals language enacted in 2023 that would have exempted the term "auxiliary container" from the definition of "solid waste" in the statutes governing the management of solid waste. As defined in the statutes, the term "auxiliary container" means "[a] bag, cup, package, container, bottle, device, or other packaging made of cloth, paper, plastic, foamed plastic, fiber, expanded plastic, cardboard, corrugated material, aluminum, glass, post-consumer recycled material, or similar coated or laminated material that is designed for the consumption, transportation, or protection of merchandise, food, or beverage at a food service facility, manufacturing facility, distribution facility, processing facility, or retail facility."

This section became effective retroactively to July 1, 2023.

## **Clarify Changes to On-Site Wastewater Statutes – 2023 Budget Technical/Other Corrections.**

SL 2024-1 (S508), Sec. 3.9

Section 3.9 of S.L. 2024-1 makes various corrections to the changes in the on-site wastewater statutes made by S.L. 2023-90, including clarifying the responsibilities of the system owner, eliminating a redundant reference to a fee, requiring local health departments to notify inspections departments within two days of receiving required documentation for alternative on-site wastewater approvals, and restoring contracting language to its pre-S.L. 2023-90 status.

This section is effective retroactively to July 10, 2023.

## **Clarify Modification of the Floodplain Regulation Statutes to Deem Certain Airport Projects Permitted as Enacted in Session Law 2023-137 – 2023 Budget Technical/Other Corrections.**

SL 2024-1 (S508), Sec. 4.7

Section 4.7 of S.L. 2024-1: (i) repeals legislation enacted in 2023 that required the Department of Public Safety (DPS) to grant, in certain circumstances, a permit for the use of an eligible flood hazard area in connection with an airport project for which an airport authority received a no-rise certificate for the project; and (ii) in lieu, modifies the floodplain regulation statutes to provide that an airport project is deemed permitted for use of an eligible flood hazard area if the applicable airport authority has received a no-rise certificate for that airport project, and the no-rise certificate has been accepted by DPS.

This section became effective retroactively to October 10, 2023.

### **Aquatic Weed Program Changes – 2023 Budget Technical/Other Corrections.**

SL 2024-1 (S508), Sec. 4.12

Section 4.12 of S.L. 2024-1 expands the allowable uses of the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund to include aquatic weed control projects in State waters that address cyanobacteria causing harmful algal blooms or producing cyanotoxins or other aquatic vegetation not otherwise covered by an allowable use, if the vegetation obstructs public water access or access by watercraft to public watercraft launch or docking areas.

This section became effective July 1, 2023.

### **Pre-Permitting Activities Amendment – 2023 Budget Technical/Other Corrections.**

SL 2024-1 (S508), Sec. 4.13

Section 4.13 of S.L. 2024-1 amends Section 12.11 of S.L. 2023-134, which made several changes to statutes governing air quality permitting, to: (i) require the Department of Environmental Quality (DEQ), no later than July 1, 2025, to prepare and submit to the United States Environmental Protection Agency (USEPA) for approval by that agency a proposed North Carolina State Implementation Plan amendment based on the changes to the air permitting program set forth in Section 12.11 of S.L. 2023-134; and (ii) provide that the changes set forth in Section 12.11 of S.L. 2023-134 become effective on the first day of a month that is 60 days after the Secretary of Environmental Quality certifies to the Revisor of Statutes that the USEPA has approved the amendment to the North Carolina State Implementation Plan submitted by DEQ. The Secretary must provide this notice along with the effective date of the provision on DEQ's website and by written or electronic notice to current holders of air permits issued by DEQ. Once effective, the section applies to applications for new air permits and for modifications of existing permits received on or after the effective date.

This section became effective retroactively to July 1, 2023.

### **Exempt Agricultural Land from Stormwater Fees – North Carolina Farm Act of 2024.**

SL 2024-32 (S355), Sec. 14

Section 14 of S.L. 2024-32 prohibits cities and counties from imposing stormwater utility fees for property used for bona fide farm purposes.

This section became effective July 3, 2024, and applies to fees levied on or after that date.

## **Establish Annual Great Trails State Day – North Carolina Farm Act of 2024.**

SL 2024-32 (S355), Sec. 16

Section 16 of S.L. 2024-32 designates the third Saturday of October of each year, beginning in 2024, as North Carolina Great Trails State Day. The North Carolina Great Trails State Coalition (Coalition) is designated as the lead organization for recognition of North Carolina Great Trails State Day and is directed to develop a plan to raise awareness of, promote, and implement the first annual North Carolina Great Trails State Day. The Coalition includes 107 members, including nonprofit organizations, local governments, and private companies. The Coalition must report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than September 30, 2024, regarding its plan to raise awareness of and promote the first annual North Carolina Great Trails State Day.

This section became effective July 3, 2024.

## **Add One Member to the Community Conservation Assistance Program Advisory Committee – North Carolina Farm Act of 2024.**

SL 2024-32 (S355), Sec. 18

Section 18 of S.L. 2024-32 adds the Extension Administrator of the Cooperative Extension Service at North Carolina Agricultural and Technical State University (NC A&T State University) or the Extension Administrator's designee as the sixteenth member of the Community Conservation Assistance Program (CCAP) Advisory Committee.

The CCAP provides cost share funds to reduce the input of nonpoint source pollution into waters of the State. The CCAP Advisory Committee, which currently consists of 15 members, meets quarterly to review the progress of the CCAP.

This section became effective July 3, 2024.

## **C-PACE Program.**

SL 2024-44 (S802)

S.L. 2024-44:

- Establishes the commercial property assessed capital expenditure program (C-PACE Program), to be administered by the Economic Development Partnership of North Carolina (EDPNC) under the supervision of the Department of Commerce, providing a procedure by which owners of qualifying commercial property can apply to EDPNC for long-term financing to be provided by private lenders that will pay for property improvements that include energy efficiency, water conservation, renewable energy, and resilience measures, with repayment of the financed amount secured by a lien upon the improved property.

- Modifies the criteria under which an employee stock ownership (ESOP) company can qualify as a minority business or an historically underutilized business for purposes of public contract provisions in Chapter 143 of the General Statutes.
- Requires the Department of Environmental Quality and the Environmental Management Commission, no later than August 1, 2024, to develop and submit draft rules to the United States Environmental Protection Agency (USEPA) for USEPA's approval that establish methodologies and permitting requirements for the discharge of low-risk treated domestic wastewaters following site specific criteria to surface waters of the State.

The provisions regarding development of rules for wastewater discharge became effective July 8, 2024. The remainder of the act became effective July 1, 2024.

### **Modernize Wastewater Permitting to Support Environmentally Sound Economic Development – C-PACE Program.**

SL 2024-44 (S802), Sec. 5.1

Sec. 5.1 of S.L. 2024-44: (i) repeals a provision enacted in 2023 that required the Department of Environmental Quality (DEQ) to permit discharges of highly treated domestic wastewater to surface waters of the State where the 7Q10 flow or 30Q2 flow of the receiving waterbody is estimated to be low flow or zero flow if the wastewater treatment system is capable of meeting specific water quality-based effluent limitations for nine listed parameters; and (ii) in lieu, requires DEQ and the Environmental Management Commission (EMC) to, no later than August 1, 2024, develop and submit to the United States Environmental Protection Agency (USEPA) for USEPA's approval draft rules that establish methodologies and permitting requirements for the discharge of treated domestic wastewaters with low risk following site-specific criteria to surface waters of the State where the 7Q10 flow or 30Q2 flow of the receiving water is estimated to be low flow or zero flow, or under certain conditions non-existent, as determined by the United States Geological Survey. Within 20 days of the date USEPA approves these draft rules, the EMC must initiate the process for temporary and permanent rulemaking.

In addition, the section:

- Requires that DEQ, in conjunction with the North Carolina Collaboratory at the University of North Carolina at Chapel Hill (Collaboratory), convene a Wastewater General Permit Working Group (Working Group), no later than September 1, 2024, consisting of DEQ and Collaboratory staff and a maximum of five consulting experts appointed by the Director of the Collaboratory in the fields of environmental regulation, wastewater regulation, water quality regulation, and wastewater treatment regulation, to develop the draft rules for the implementation of a Wastewater Treatment and Discharge General Permit process for the State. The Working Group must report its findings to the Environmental Review Commission (ERC) no later than March 15, 2025. Following consideration by the ERC, and after making any changes required by the ERC, DEQ must develop and submit proposed rules to USEPA for its approval. Within 20 days of the date USEPA approves

these draft rules submitted, the EMC must initiate the process for temporary and permanent rulemaking.

- Requires that DEQ and the EMC report on their activities conducted pursuant to the legislation to various legislative committees and commissions, beginning September 1, 2024, and quarterly thereafter, until such time as the permanent rules required by the legislation have become effective.

This section became effective July 8, 2024.

### **Delay Fisheries Harvest Reporting System by One Year – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 8

Section 8 of S.L. 2024-45 delays the effective date of the punishment for failing to meet the recently established reporting requirements for commercial and recreational fish harvests by one year.

This section became effective July 9, 2024.

### **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 – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 10

Section 10 of S.L. 2024-45 prohibits any state-controlled enterprise of, or the government of, a foreign nation that has been designated an adversarial foreign government by the United States Secretary of Commerce, from purchasing, acquiring, leasing, or holding any interest in either a quartz mining operation or land containing commercially valuable amounts of high purity quartz. Any transfer of an interest in land or a mining operation in violation of this section is void. No individual who is not an adversarial foreign government will bear any civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is an adversarial foreign government.

Currently, the following foreign governments and foreign non-government persons have been found to be adversarial foreign governments:

- The People's Republic of China, including the Hong Kong Special Administrative Region (China).
- Republic of Cuba (Cuba).
- Islamic Republic of Iran (Iran).
- Democratic People's Republic of Korea (North Korea).
- Russian Federation (Russia).
- Venezuelan politician Nicolás Maduro (Maduro Regime).

This section became effective July 9, 2024, and applies only to ownership interests acquired on or after that date.

**Expand Requirements for Issuance of 401 Certifications by the Department of Environmental Quality to Projects Located at an Existing or Former Electric Generating Facility – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 11

Section 11 of S.L. 2024-45 extends statutory requirements applicable to the Department of Environmental Quality's (DEQ) handling of 401 certifications for certain projects to electric generation projects located at an existing or former electric generating facility.

This section became effective July 9, 2024, and applies to applications for 401 certifications pending or submitted on or after that date.

**Prohibit Public Water and Sewer Systems from Imposing Unauthorized Conditions and Implementing Preference Systems for Allocating Service for Residential Development – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 12

Section 12 of S.L. 2024-45 prohibits local government units from requiring an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions include, without limitation, any of the following:

- Payment of taxes, impact fees or other fees, or contributions to any fund.
- Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).
- Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

This section also prohibits local government units from implementing a scoring or preference system to allocate water or sewer service among applicants for water or sewer service for residential development that does any of the following:

- Includes consideration of building design elements, as defined in G.S. 160D-702(b).
- Sets a minimum square footage of any structures subject to regulation under the North Carolina Residential Code.
- Requires a parking space to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.
- Requires additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access

roads into developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code.

This section became effective July 9, 2024.

### **Remove Time Limits on Certain Viable Utility Reserve Grants – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 14

Section 14 of S.L. 2024-45 allows emergency grants from the Viable Utility Reserve to be awarded for more than three consecutive fiscal years.

This section became effective July 9, 2024.

### **Exemption From State Park Fees for Eligible Disabled Veterans – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 15

Section 15 of S.L. 2024-45 allows disabled veterans of any branch of the Armed Forces of the United States to apply for and receive any pass from the North Carolina State Parks Annual Pass Program for no fee.

This section became effective July 9, 2024.

### **Amend Statutes and Rules Applicable to Dock, Pier, and Walkway Replacement in the Coastal Area – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 15.1

Section 15.1 of S.L. 2024-45 does all of the following:

- Requires the Coastal Resources Commission to revise the Coastal Area Management Act (CAMA) rules to provide that for certain fixed docks, piers, or walkways damaged or destroyed by natural elements, fire, or normal deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition is considered repair of the structure, and does not require CAMA permits, without regard to the percentage of framing and structural components required to be rebuilt. At the time a dock, pier, or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired, the width and length of the dock, pier, or walkway structure can be enlarged by not more than five feet or five percent, whichever is less, and the structure can be heightened, without need for a CAMA permit. These changes do not, however, apply to docks and piers: (i) greater than six feet in width; (ii) greater than 800 square feet of platform area; or (iii) that are adjacent to a federal navigation channel.

No later than August 1, 2024, the Department of Environmental Quality (DEQ) must prepare and submit these changes to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. The Department of Environmental Quality must report to the Environmental Review Commission on the status of their activities pursuant to this provision quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this reporting requirement.

This provision becomes effective on the later of the following dates, and applies to applications for permits pending or filed on or after that date:

- October 1, 2024.
- The first day of a month that is 60 days after the Secretary of Environmental Quality certifies to the Revisor of Statutes that NOAA has approved the changes made to the CAMA Rules, as required by the provision. The Secretary must provide this notice along with the effective date of the provision on DEQ's website.

This provision expires when permanent rules adopted as required by the provision become effective.

- Requires local building inspection departments to, not later than 60 days after an inspection of a dock, pier, or catwalk or walkway that has been replaced in the coastal area, notify the Division of Coastal Management of the replacement.

This provision became effective July 9, 2024.

- Prohibits the North Carolina Residential Building Code from requiring a professional engineer or architect to design or otherwise certify the construction of residential docks, piers, or catwalks or walkways.

This provision became effective July 9, 2024.

### **Authorize Establishment of a Measurement Line for Dune Building Projects Conducted Pursuant to Permitted Terminal Groin Construction – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 16

Section 16 of S.L. 2024-45 requires the Coastal Resources Commission (CRC) to, for the purpose of a dune building and beach planting project, authorize local governments that have received a permit to construct a terminal groin to establish a measurement line that represents the location of the first line of stable and natural vegetation that is covered by the dune building and beach planting project. The measurement line must be: (i) established in coordination with the Division of Coastal Management (DCM) of the Department of Environmental Quality (DEQ) using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo dune building and beach planting project; and (ii) applicable for a period of no less than two years from the completion of the dune building and beach planting project. The CRC must amend their rules



for this purpose (but implement the policy, prior to an amended rule becoming effective, once the provision becomes law).

No later than August 1, 2024, DEQ must submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. In addition, DEQ must 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.

The change to allow establishment of a measurement line for permitted terminal groin construction becomes effective on the later of the following dates:

- September 1, 2024.
- The first day of a month that is 60 days after the Secretary of Environmental Quality certifies to the Revisor of Statutes that NOAA has approved the changes.

This section expires when permanent rules adopted as required by the provision become effective.

**Exclude Aquaculture from the Definition of "Development" for Purposes of CAMA and Limit the Authority of the Marine Fisheries Commission to Adopt Rules Regulating Aquaculture Equipment – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 16.1

Section 16.1(a) of S.L. 2024-45 provides that "development" does not include placement of a floating structure used primarily for aquaculture and associated with an active shellfish cultivation lease area or franchise. This section also clarifies that the use of any land for purposes related to aquaculture and aquaculture facilities associated with an active shellfish cultivation lease area or franchise is also excluded from the definition of "development."

The Department of Environmental Quality (DEQ) is directed to submit to the United States National Oceanic and Atmospheric Administration (NOAA) for approval these proposed changes. This subsection becomes effective on the later of:

- October 1, 2024.
- The first day of a month that is 60 days after the Secretary of Environmental Quality certifies to the Revisor of Statutes that NOAA has approved the changes.

Section 16.1(b) of S.L. 2024-45 provides that the Marine Fisheries Commission does not have the authority to 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.

This section became effective July 9, 2024.

## **Authorize Replacement of Certain Erosion Control Structures – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 16.1A

Section 16.1A of S.L. 2024-45 does all of the following:

- Makes several changes to the statutory definition of "terminal groin" to include a structure constructed: (i) where the ocean shoreline converges with Frying Pan Shoals; (ii) to protect the terminus of the island from shoreline erosion "or" inlet migration (prior law stated "and"); (iii) that allows sand moving in the littoral zone to flow "around, over, or through" the structure (prior law stated that sand "flow past").
- Requires the Coastal Resources Commission (CRC) to permit replacement of a permanent erosion control structure originally permitted pursuant to a variance granted by the CRC prior to July 1, 1995, consisting of a field of geotextile sand tubes, the field of geotextile sand tubes can be replaced with rock erosion control structures subject to the following criteria:
  - The number of rock erosion control structures must be equal to or less than the number of geotextile sand tubes originally permitted.
  - The structure(s) or field of structures can consist of groins, including T-head or lollipop groins, or breakwaters to be approved by the Division of Coastal Management of the Department of Environmental Quality (DEQ), in its discretion, or by variance from the CRC.
  - The structure field cannot be enlarged beyond the alongshore dimensions authorized under the original permit, and the aggregate overall length of the rock structures cannot exceed the aggregate overall length of the geotextile sand tubes authorized under the original permit.
  - The plans for the work must be sealed by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes with experience in engineering in the coastal area.

The language provides that such a permanent erosion control structure is not a terminal groin, and is not subject to requirements for terminal groins elsewhere in the statute.

- Increases the number of permits for the construction of terminal groins the CRC can issue from six to seven.

No later than August 1, 2024, DEQ must submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. In addition, DEQ must 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.

The changes to the terminal groin statute become effective on the later of:

- October 1, 2024.

- The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

### **Technical Correction to Restore Deleted Language Concerning Forced Connection of County Sewer, Originally Enacted in S.L. 2023-90 and S.L. 2023-108 – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 26

Section 26 of S.L. 2024-45 restores previously enacted language prohibiting counties from requiring the forced connection to county sewer in certain circumstances that was inadvertently deleted in the Regulatory Reform Act of 2023.

This section became effective July 9, 2024.

### **Coal Combustion Residual Report Revision – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 27

Section 27 of S.L. 2024-45 moves a required Department of Environmental Quality (DEQ) report on coal combustion residual impoundments from quarterly to annually, before October 1st each year, and authorizes DEQ to combine that report with its annual report to members of the General Assembly whose district contains a coal combustion residual impoundment.

This section became effective July 9, 2024.

### **Require the Department of Environmental Quality to Report Quarterly on Applications for Permits Required for Natural Gas Pipelines and Gas-Fired Electric Generating Facilities – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 28

Section 28 of S.L. 2024-45 requires the Department of Environmental Quality (DEQ) to report quarterly to the Joint Legislative Commission on Energy Policy on: (i) any applications received for permits required for siting or operation of natural gas pipelines and gas-fired electric generation facilities within the State; and, (ii) activities of DEQ to process such applications, including tracking of processing times.

This section became effective July 9, 2024, and apply to applications for permits for natural gas pipelines and gas-fired electric generation facilities pending on or received on or after that date. DEQ must submit the initial report no later than October 1, 2024.

## **Combine Stormwater Grant Report With Water Infrastructure Reports – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 29

Section 29 of S.L. 2024-45 allows the Department of Environmental Quality to submit its required annual report on the Local Assistance for Stormwater Infrastructure Fund (Stormwater Fund) along with the other required water infrastructure reports, as a single report, and moves the report date for the Stormwater Fund report to November 1.

This section became effective July 9, 2024.

## **Require Annual River Basin Advisory Commission Report Only in Years When the Commission Meets – Regulatory Reform Act of 2024.**

SL 2024-45 (S607), Sec. 30

Section 30 of S.L. 2024-45 changes the reporting requirement for three river basin advisory commissions. Instead of being required to submit an annual report each year, a river basin advisory commission is now only required to submit an annual report for those years in which it meets.

This section became effective July 9, 2024.

## **2024 Building Code Regulatory Reform.**

SL 2024-49 (S166)

Session Law 2024-49 amends various development regulations, amends various North Carolina State Building Codes, amends various construction contractors and design professionals' regulations, amends various environment and environmental health regulations, and reorganizes the Building Code Council.

This bill was vetoed by the Governor on July 5, 2024, and that veto was overridden by the General Assembly on September 11, 2024. This act has various effective dates. Please see the full summary for more details.

## **Funding Flexibility for Drinking Water and Wastewater Infrastructure Projects – Disaster Recovery Act of 2024.**

SL 2024-51 (H149), Sec. 10.1

Section 10.1 of S.L. 2024-51 authorizes the Department of Environmental Quality (DEQ) to do the following:

- Transfer funds between the Clean Water Reserve and the Drinking Water Reserve accounts in the Water Infrastructure Fund to provide emergency loans to local

governments for wastewater and drinking water system projects. Emergency loans awarded to a local government unit under this section may exceed the statutory cap of \$3 million per fiscal year, as well as the statutory cap of \$3 million over three consecutive fiscal years that applies to targeted interest rate projects.

- Authorize local government units within the affected areas<sup>[1]</sup> that were appropriated funds for wastewater or drinking water projects under previous legislation to use those funds for mitigating or remediating disaster-related damages, and for temporary measures that allow for the preservation or restoration of wastewater or drinking water service.

This section became effective October 10, 2024.

<sup>[1]</sup> An "affected area" is defined in S.L. 2024-57 as "[t]he counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene."

### **Wastewater Treatment Plant Service Flexibility – Disaster Recovery Act of 2024.**

SL 2024-51 (H149), Sec. 10.2

Section 10.2 of S.L. 2024-51 authorizes the Department of Environmental Quality, when a state of emergency has been declared by the Governor due to a natural disaster, to require wastewater treatment plants to accept domestic septage, including domestic septage originating from beyond the county or municipal boundaries where a plant is located, to the extent that the capacity and capabilities of the plant are not negatively impacted.

This section became effective October 10, 2024.

### **Conform Air Curtain Incinerator Permitting Requirements to Federal Law – Disaster Recovery Act of 2024.**

SL 2024-51 (H149), Sec. 10.5

Section 10.5 of S.L. 2024-51 requires the Department of Environmental Quality to amend the "Air Curtain Incinerators Rule" to provide that, consistent with recent revisions to the federal Clean Air Act's Air Curtain Incinerators Title V Permitting provisions, owners and operators of certain permanent and temporary air curtain incinerators are not required to obtain a General Title V Operating Permit.

This section became effective October 10, 2024.

## **Storm Debris Open Burning Regulatory Relief – Disaster Recovery Act of 2024.**

SL 2024-51 (H149), Secs 10.3 and 10.4

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

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

The Commissioner must:

- Suspend or terminate a waiver of permitting requirements for open burning of storm-related debris upon determination of (i) the Commissioner that hazardous forest fire conditions exist in the affected area or (ii) the Environmental Management

Commission that open burning in the affected area is causing significant contravention of ambient air quality standards or that an air pollution episode exists.

- Issue a press release containing relevant details of waivers granted pursuant to this section, and suspension or termination of a waiver, to news media and governmental agencies serving the area affected.

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

These sections became effective October 10, 2024.

### **Fee Waiver for Certain Infrastructure Emergency Loans – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.5

Section 4C.5 of S.L. 2024-53 provides discretion to the Secretary of Environmental Quality to waive the 2% loan fee for emergency loans to water supply systems or wastewater systems when the Governor has declared a state of emergency due to a natural disaster or a pending disaster.

This section became effective October 25, 2024.

#### **EXISTING LAW / BILL ANALYSIS:**

A loan awarded from the Water Infrastructure Fund is subject to a statutorily required fee of 2% of the loan, payable when the loan is awarded. This fee must be applied to the Department of Environmental Quality's and the Local Government Commission's costs in administering loans from the Water Infrastructure Fund.

Section 4C.5 provides discretion to the Secretary of Environmental Quality to waive the statutorily required loan fee for emergency loans to water supply systems or wastewater systems when the Governor has declared a state of emergency due to a natural disaster or a pending disaster.

**EFFECTIVE DATE:** This section became effective October 25, 2024.

## **DEQ Water Infrastructure Emergency Bridge Loan Program – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.7

Section 4C.7 of S.L. 2024-53 allocates \$100 million in nonrecurring funds from the Helene Fund to the Division of Water Infrastructure (Division) of the Department of Environmental Quality (DEQ) to administer a program to make interest-free bridge loans to local government units in areas affected by Hurricane Helene, for the purpose of supplying these local government units with short-term financial liquidity necessary to immediately conduct emergency repairs to drinking water and wastewater infrastructure, pending receipt of federal disaster relief.

This section became effective October 25, 2024. This section was later amended by Section 1D.10 of S.L. 2024-57 (Disaster Relief-3/Budget/Various Law Changes).

## **Emergency Infrastructure Bridge Loan Program for Commercial Underground Storage Tanks – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.8

Section 4C.8 of S.L. 2024-53 establishes a program to be administered by the Department of Environmental Quality, Division of Waste Management (Division), to distribute emergency financial assistance, in the form of bridge loans, to owners or operators of commercial underground storage tanks (USTs) to conduct emergency services. For purposes of this section, "emergency services" means infrastructure repair and testing related to commercial USTs located in the affected area, including line and tank testing, product pump out and disposal, and repair or replacement of any of the following: (i) aboveground piping, (ii) dispensers, and (iii) electronics. Such loans don't bear interest, and mature upon the earlier of (i) receipt of federal disaster relief by the owner or operator or (ii) June 30, 2030. For purposes of this section, "affected area" means the counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene.

The Division is directed to use \$22,000,000 in nonrecurring funds from the Helene Fund for this loan program.

This section became effective October 25, 2024.

## **Department of Environmental Quality Authority to Direct Pay Costs of Cleanup and Assessment of Underground Storage Tanks During Emergency Declarations – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.9

Section 4C.9 of S.L. 2024-53 authorizes the Department of Environmental Quality, when a state of emergency has been declared by the Governor due to a natural disaster, to, with the consent of the owner, operator, or landowner, issue reimbursements to contractors or third parties who



are under contract with the owner, operator, or landowner for costs of cleanup and assessment of underground storage tanks.

This section became effective October 25, 2024.

### **Authorize Use of Permitted Mines as Temporary Debris Disposal Sites – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.10

Section 4C.10 of S.L. 2024-53 authorizes the Department of Environmental Quality, upon agreement of a mine permittee, to allow storage of storm-related debris at a permitted mine when a state of emergency has been declared by the Governor due to a natural disaster or a pending disaster. The temporary storage of such waste would be authorized for a period not to exceed one year from the end of the state of emergency, and would not require a modification of a mine's permit. For purposes of this section, "storm-related debris" means construction and demolition debris and yard trash that originates from designated counties in an emergency area.

This section became effective October 25, 2024.

### **Codify Permitting Changes Applicable to Dock, Pier, and Walkway Replacement in the Coastal Area Made by S.L. 2024 45 – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.11

Section 4C.11 of S.L. 2024-53, as amended by Section 2C.4 of S.L. 2024-57, modifies a provision enacted in the 2024 regulatory reform bill (Sec. 15.1 of S.L. 2024-45) that required rulemaking for changes to permit requirements applicable to dock, pier, and walkway replacement in the coastal area, to add the provision to statute. The effective date of this section was amended by Section 2C.4.(a) of S.L. 2024-57 to: (i) eliminate language requiring approval of the National Oceanic and Atmospheric Administration (NOAA) prior to the provision becoming effective; and (ii) make this provision retroactively effective to October 25, 2024.

This section became effective October 25, 2024.

## **Codify Establishment of a Measurement Line for Dune Building Projects Conducted Pursuant to Permitted Terminal Groin Construction – The Disaster Recovery Act of 2024 - Part II.**

SL 2024-53 (S743), Sec. 4C.12

Section 4C.12 of S.L. 2024-53, as amended by Section 2C.4 of S.L. 2024-57, modifies a provision enacted in the 2024 regulatory reform bill (Sec. 16 of S.L. 2024-45) that required rulemaking to establish a measurement line that represents the location of the first line of stable and natural vegetation for dune building projects conducted pursuant to terminal groin construction, to add the provision to statute.

This section became effective October 25, 2024.

## **Extending Certain Governmental Approvals Affecting Development of Real Property Within the Affected Area – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.3

Section 1D.3 of S.L. 2024-57 extends certain government approvals affecting the development of real property within areas impacted by Hurricane Helene by the following:

- Directs that for any development approval that is current and valid at any point during the period beginning January 1, 2024, and ending December 31, 2027, the running of the period of the development approval and any associated vested right under GS 160D-108 (concerning permit choice and vested rights) or G.S. 160D-108.1 (site-specific vesting plans) is suspended within the affected area during the period beginning January 1, 2024, and ending December 31, 2027.
- Directs that the running of the period of development approval and associated vested right should not be construed or implemented to: (i) extend any permit or approval issued by the United States or any of its agencies or instrumentalities; (ii) extend any permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law; (iii) shorten the duration that any development approval would have had in the absence of this section; (iv) prohibit the granting of such additional extensions as are provided by law; (v) affect any administrative consent order issued by the Department of Environmental Quality in effect or issued at any time from the effective date of the section to December 31, 2027; (vi) affect the ability of a government entity to revoke or modify a development approval pursuant to law; or (vii) modify any requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program.
- Provides that when a development approval that is contingent upon connection to a water supply system or a sanitary sewer system is suspended and there is not sufficient supply or treatment capacity to accommodate requests for additional allocation, the local government that granted the allocation can reallocate reserved capacity from projects whose approvals are suspended but are not ready to proceed if the local government

meets the listed requirements for an allocation plan and reallocation plan and does not reallocate capacity to exceed the amount of the reserved capacity.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024.

### **Extend the Validity of Certain Septic System Permits within the Affected Area – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.4

Section 1D.4 of S.L. 2024-57 extends the validity of permits and authorizations issued for the construction, installation, and operation of on-site wastewater systems, including those issued by an engineer or Authorized On-Site Wastewater Evaluator, in an affected area<sup>[11](#)</sup> to 10 years from the date of issuance.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024, and applies to permits and authorizations that were current and valid at any point during the period beginning January 1, 2024, and ending December 11, 2024.

<sup>[11](#)</sup> An "affected area" is defined in S.L. 2024-57 as "[t]he counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene."

### **Temporary Public Water System Approval in Disaster Areas – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.5

Section 1D.5 of S.L. 2024-57 allows a supplier of water to temporarily operate a transient non-community public water system in the affected area for up to 59 days, without having been issued an operating permit by the Department of Environmental Quality (DEQ). DEQ can revoke this temporary authorization upon issuing a written notice to the transient non-community public water system citing a public health risk.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024.

### **Temporary Pump and Haul Wastewater Permits – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.6

Section 1D.6 of S.L. 2024-57 provides that temporary pump and haul wastewater permits issued to a temporary housing unit in an affected area remain valid for 12 months, with an option to extend the permit for no more than 12 months, provided the permit holder complies with certain requirements including septage management, public health and environmental protection, and monitoring and reporting.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024, and applies to permits issued through March 1, 2025.

### **Authorize Waiver of Submission and Approval of Sedimentation and Pollution Control Plan Prior to Initiation of Land-Disturbing Activities in Certain Circumstances – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.7

Sec. 1D.7 of S.L. 2024-57 provides that, to the extent authorized by federal law, the Sedimentation Control Commission, Department of Environmental Quality, or a local government that administers a delegated erosion and sedimentation control program, as applicable, must waive the requirement that persons conducting land-disturbing activity in an affected area file an erosion and sedimentation control plan (Plan) for approval of the agency with jurisdiction, and obtain a General Permit NCG01000 (NCG01), prior to initiating land-disturbing activity. If the applicable agency with jurisdiction waives the requirement for an approved Plan prior to initiation of activities, persons conducting such land-disturbing activities must: (i) install all erosion control measures required prior to initiation of land-disturbing activities; (ii) notify the agency with jurisdiction of the date on which land disturbing activity will be initiated; and (iii) submit a Plan to the agency with jurisdiction, for the agency's approval, within 30 days of initiation of the land-disturbing activity, and apply for a NCG01 after receipt of Plan approval. Notwithstanding a waiver for a submittal and approval of a Plan authorized pursuant to this section, all other provisions statutes governing erosion and sedimentation control and rules adopted thereunder apply, including required inspections and enforcement authority for noncompliance.

This act was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024.

This section became effective December 11, 2024, and expires March 1, 2025.

### **Tree Ordinance Restriction in Disaster Declared Counties – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.8

Section 1D.8 of S.L. 2024-57 prohibits local governments in an affected area<sup>[1]</sup> from enforcing ordinances regulating the removal, replacement, and preservation of trees on private property or requiring a permit for any activity relating to trees, on the portion of any private property that is more than 10 feet from the property boundary. This section does not apply to imminent threats to public safety or areas where tree removal or maintenance activities are prohibited by State or federal law.

This act was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024.

This section became effective December 11, 2024, and expires March 1, 2025.

<sup>[1]</sup> An "affected area" is defined in S.L. 2024-57 as "[t]he counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene."

### **Right to Connect Temporary Housing to Wastewater Treatment System – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.9

Section 1D.9 of S.L. 2024-57 requires local health departments to allow a homeowner in an affected area<sup>[1]</sup> to connect temporary housing to an existing subsurface wastewater treatment and dispersal system, provided that the homeowner signs an affidavit developed by the Department of Health and Human Services (Department) authorizing the use of the wastewater system with temporary housing for up to 12 months or until permanent housing is established, whichever occurs first. The Department and its employees, agents, and contractors bear no liability to a homeowner who signs an affidavit related to the homeowner's decision to connect to an existing subsurface wastewater treatment and dispersal system.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024 and expires June 1, 2025.

<sup>[1]</sup> An "affected area" is defined in S.L. 2024-57 as "[t]he counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene."

### **Modify DEQ Water Infrastructure Bridge Loan Program – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 1D.10

Section 1D.10 of S.L. 2024-57 makes the following revisions to the Water Infrastructure Bridge Loan Program (Program) established in Section 4C.7 of S.L. 2024-53 (The Disaster Recovery Act of 2024 – Part II):

- Extends eligibility to receive emergency bridge loans under the Program to nonprofit water corporations
- Stipulates that loans awarded under the Program mature upon the earlier of (i) receipt of federal or State disaster relief by the drinking water or wastewater provider, or (ii) June 30, 2030
- Defines the term "operational capacity"
- Requires the Division of Water Infrastructure of the Department of Environmental Quality to submit information on the administration of the program as part of its comprehensive annual report on the Water Infrastructure Fund, rather than as a separate, standalone report.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This section of the act became effective December 11, 2024.

### **Expedite Effective Dates for CAMA Provisions Requiring NOAA Approval – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 2C.4

Section 2C.4 of S.L. 2024-57, modifies Sections 4C.11 and 4C.12 of S.L. 2024-53, which amended provisions enacted in the 2024 regulatory reform bill (Sec. 15.1 of S.L. 2024-45) that required rulemaking: (i) for changes to permit requirements applicable to dock, pier, and walkway replacement in the coastal area; and (ii) to establish a measurement line that represents the location of the first line of stable and natural vegetation for dune building projects conducted pursuant to terminal groin construction. Sections 4C.11 and 4C.12 of S.L. 2024-53 added these provisions to statute. Section 2C.4.(a) of S.L. 2024-57 further amended these provisions to: (i) eliminate language requiring approval of the National Oceanic and Atmospheric Administration (NOAA) prior to the provisions becoming effective; and (ii) make these provisions retroactively effective to October 25, 2024.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024. This act became effective December 22, 2024. This section became effective October 25, 2024.

## **Repeal Energy Policy Council – Disaster Relief-3/Budget/Various Law Changes.**

SL 2024-57 (S382), Sec. 3F.2

Section 3F.2 of S.L. 2024-57 repeals the Energy Policy Council and transfers one of its responsibilities to the Utilities Commission, to develop contingency and emergency plans to deal with possible shortages of energy to protect public health, safety, and welfare, and requires such plans to be compiled into an Emergency Energy Program.

This bill was vetoed by the Governor on November 26, 2024, and that veto was overridden by the General Assembly on December 11, 2024.

This section became effective December 11, 2024.