

# **Environment, Natural Resources, and Energy**

**See full summary documents for additional detail**

## **Cities/Remove and Dispose of Abandoned Vessels.**

SL 2023-27 (S465)

S.L. 2023-27 expands authority over the removal and disposal of abandoned vessels from coastal counties to all counties and grants that same authority to cities.

This act became effective June 2, 2023, and does not invalidate any local acts authorizing ordinances regulating the removal and disposal of vessels from navigable waters or any ordinances that were adopted under that authority before this act became law.

## **Authorize Haw River State Trail.**

SL 2023-36 (S100)

OVERVIEW: S.L. 2023-36 authorizes the Department of Natural and Cultural Resources (DNCR) to add the Haw River Trail to the State Parks System as a State trail.

This act became effective June 9, 2023.

## **Permit Choice/Certain Airport Authorities.**

SL 2023-53 (S240)

S.L. 2023-53 allows certain airport authorities to elect to be regulated under the permitting authority of a local erosion and sedimentation control program.

This act became effective October 1, 2023.

## **Wastewater Regulatory Relief Act.**

SL 2023-55 (S673)

S.L. 2023-55 allows permittees for new or expanded wastewater treatment systems to use alternative wastewater flow calculations, to expand beyond the system's hydraulic capacity if the system meets certain requirements; and makes changes to how a local government can impose a system development fee.

Section 12.15 of S.L. 2023-134 amends Section 1 of this act to clarify that if a permittee for a wastewater treatment system exceeds its currently permitted monthly flow more than once in any 12-month period, the permittee may not allocate more than 100% of the existing system's hydraulic capacity until the permittee complies with the permitted monthly flow for at least 12 consecutive months.

This act became effective June 23, 2023.

### **Establish Equine State Trail – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 6

Section 6 of S.L. 2023-63 authorizes the Department of Natural and Cultural Resources to add the Equine State Trail in Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, and Richmond Counties to the State Parks System as a State trail.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

### **Limit Civil Penalties for Removal of Timber in a Riparian Buffer to the Value of the Timber – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 11.1

Section 11.1 of S.L. 2023-63 provides that a civil penalty for removal of timber in a riparian buffer in violation of rules applicable to that riparian buffer cannot exceed the value of the timber removed from the riparian buffer.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective July 1, 2023, and applies to acts committed on or after that date.

### **Align Animal Waste Management System Operator Fees with Water Pollution Control System Operator Fees – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 13.1

Section 13.1 of S.L. 2023-63 increases the examination including certificate fee for Animal Waste Management System Operators from \$25.00 to \$85.00 and raises the renewal fee from \$10.00 to \$25.00.

Additionally, this section provides that a certificate that is not renewed when due is invalid. If the certificate has been invalid for less than 12 months, it can be renewed by paying the renewal fee plus a late application fee of twice the annual renewal fee. The certificate holder must pay all penalties that have been assessed since the certificate was last renewed and meet all accrued continuing education requirements. If the certificate has been invalid for more than 12 months, the operator must pass the certification examination to renew the certificate.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

### **Digester General Permit Clarification – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 14

In 2021, the General Assembly directed the Department of Environmental Quality to develop a general permit for animal operations that includes authorization for the permittee to construct and operate a farm digester system.

Section 14 of S.L. 2023-63 amends the definition of "farm digester system" to clarify that "associated equipment" refers to "animal waste management equipment" and that collected gases must be used as a renewable energy resource as quickly as feasible, but within six months of the collection of the gases, and during that period the gas must be flared rather than vented.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

### **Direct the Environmental Management Commission to Withdraw the 2021 NPDES General Permit for Aquaculture and Revise it to be Substantively Identical to the Previous General Permit – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 14.1

Section 14.1 of S.L. 2023-63 requires the Environmental Management Commission (EMC) and Department of Environmental Quality (DEQ) to reopen and modify National Pollutant Discharge Elimination System (NPDES) General Permit NCG530000 issued for discharges from seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters that took effect on December 1, 2021, to make it substantially similar to the previous general permit issued in 2018. The 2021 permit is more stringent than the 2018 permit in that it (i) requires quarterly, rather than annual monitoring, (ii) requires monitoring of nine parameters rather than four, and (iii) includes enhanced best management practices.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023, and expires when the EMC revises the permit and notifies the Revisor of Statutes that it has done so.

## **Clarify Definition of Wetlands – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 15

Section 15 of S.L. 2023-63 directs the Environmental Management Commission (EMC) to implement 15A NCAC 02B .0202 consistent with the pre-2019 definition of "wetlands" restricting those waters to only those waters of the United States as defined by 33 C.F.R. § 328.2 and 40 C.F.R. § 230.2, and readopt its rule consistent with that implementation. The rule must also specify that wetlands do not include prior converted cropland, consistent with the existing rule.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

## **Wastewater Amendments – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 16

The 18E on-site wastewater rules suite became effective January 1, 2024. 15A NCAC 18E .0905 will require that prefabricated permeable block panel systems (PPBPS) trenches must be located the greater of either a minimum of eight feet on center or three times the trench width, and that when used in sand lined trench systems, PPBPS must use an equivalent trench width of three feet to calculate minimum trench length. PPBPS can only be used in domestic strength wastewater systems.

Section 16 of S.L. 2023-63 directs the Commission for Public Health (Commission) to implement 15A NCAC 18E .0905 as follows, and readopt its rule consistent with that implementation:

- PPBPS trenches can be located a minimum of eight feet on center or three times the trench width.
- When used in a sand lined trench, PPBPS must use an equivalent trench width of six feet.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

## **Wastewater Amendments – North Carolina Farm Act of 2023.**

SL 2023-63 (S582), Sec. 17

The Commission for Public Health (Commission) and the Department of Health and Human Services (DHHS) are responsible for evaluating and approving on-site wastewater systems and designating those systems as Provisional, Innovative, or Accepted. The Commission can impose conditions on the installation and use of those systems at each designation. The Commission can

designate a nonproprietary wastewater system as Accepted without having received a petition from a manufacturer.

Section 17 of S.L. 2023-63 provides that Accepted system approvals would be limited to the manufacturer who submitted the petition and received Accepted status and the Commission, DHHS, or local health department cannot condition, delay, or deny the approval based on the location of nitrification lines. The section also removes the Commission's authority to designate nonproprietary wastewater systems as Accepted without a manufacturer petition, and prohibits the Commission or DHHS from conditioning, delaying, or denying the approval of a subsurface trench dispersal product based on a non-native backfill material requirement without prior approval of the manufacturer. A technical change was made in Section 10 of S.L. 2023-90, enacted after this act became law, that corrected a mistaken reference to the "Department" instead of the "Commission."

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023, and applies retroactively to any wastewater system approvals issued by the Commission or DHHS.

### **Expedite Water/Wastewater Franchise Transfer.**

SL 2023-67 (H455)

S.L. 2023-67 establishes an expedited approval process for the ownership transfer of certain water or wastewater utilities by the Utilities Commission (Commission).

This act became effective June 30, 2023.

### **Clarify Surplus Property Process for Museums and Aquariums – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 2

Section 2 of S.L. 2023-70 makes various revisions to the laws governing the disposition of historical artifacts, exhibits, and other property owned by the State of North Carolina.

This section became effective June 30, 2023.

### **State Parks Report Consolidation – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 4

Section 4 of S.L. 2023-70 amends the requirements of the State Parks Systems Plan, to add a requirement that the Secretary of Natural and Cultural Resources (Secretary) validate the

number of visitors per car used in the calculation of visitor counts at units of the State Parks System. This section repeals a similar reporting requirement applicable to the Department of Environmental Quality.

This section became effective June 30, 2023.

### **Umstead Act Exemption for Lodging Facilities at State Parks – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 6

Section 6 of S.L. 2023-70 exempts certain lodging facilities at State Parks from the Umstead Act prohibition on State agencies competing with the private commercial activities of North Carolina citizens.

This section became effective June 30, 2023.

### **Clarify Zoological Park Statutes – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 7

Section 7 of S.L. 2023-70 amends the North Carolina Zoological Park statutes in the following ways:

- Provides that the North Carolina Zoological Park Council (Council) can advise the Secretary of Natural and Cultural Resources (Secretary) on concepts for the North Carolina Zoological Park (Zoo) and recommend admission fees for approval by the Secretary.
- Specifies that the Secretary can approve the use of the North Carolina Zoo Fund under certain circumstances without the recommendation of the Council.
- Allows the Council and the Secretary to receive gifts for the Zoo.
- Provides that the Secretary can receive and expend funds for the operation and maintenance of the Zoo.
- Provides that the Secretary can set admission fees as recommended by the Council.
- Authorizes the Secretary to donate any exhibit, exhibit component, or object from the collections of the Zoo.
- Provides that the Department of Natural and Cultural Resources, not the Council, has powers regarding fee negotiations, contracts, and capital improvements.

This section became effective June 30, 2023.

## **Revisions to the North Carolina Land and Water Fund Board of Trustees – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 10

Section 10 of S.L. 2023-70 makes changes to the statutes governing the Board of Trustees (Board) of the North Carolina Land and Water Fund, including:

- Allowing the Council of State to delegate approval authority for land acquisitions proposed by the Board.
- Revising the Attorney General's review of land acquisitions proposed by the Board, to provide that deeds for land in fee simple absolute are subject to Attorney General approval before the acquisition can become effective.

This section became effective June 30, 2023.

## **Clarify Public Records Statute Related to Photographs and Video Recordings of Derelict Vessels and Shipwrecks – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 11

Section 11 of S.L. 2023-70 repeals G.S. 121-25(b), which specifically stated that "all photographs, video recordings, or other documentary materials of a derelict vessel or shipwreck or its contents, relics, artifacts, or historic materials in the custody of any agency of North Carolina government or its subdivisions shall be a public record pursuant to Chapter 132 of the General Statutes."

This section became effective June 30, 2023.

## **State Nature and Historic Preserve Additions and Deletions – Department of Natural and Cultural Resources Agency Bill.**

SL 2023-70 (H168), Sec. 13

Section 13 of S.L. 2023-70 accepts and removes certain properties as part of the State Nature and Historic Preserve.

This section became effective June 30, 2023.

## **On-Site Wastewater Rules Implementation.**

SL 2023-77 (H627)

S.L. 2023-77 directs the Commission for Public Health (Commission) to implement its on-site wastewater rules to amend and clarify the responsibilities of on-site wastewater owners, professionals, and local health departments and to provide additional options for installation,

testing, operation, and maintenance, and readopt those rules consistent with that implementation.

This act became effective January 1, 2024.

### **Amend On-Site Wastewater/Environment Statutes.**

SL 2023-90 (H628)

S.L. 2023-90 does the following:

- Makes various changes to the on-site wastewater statutes.
- Modifies the On-Site Wastewater Contractors and Inspectors Certification Board.
- Directs the Building Code Council to create an on-site wastewater existing systems affidavit.
- Allows for a certified wastewater contractor to perform certain electrical work.
- Eliminates an optional building inspection for private water wells and allows the well contractor to cover exposed pipes once installation is complete.
- Prohibits forced sewer connections in certain situations.
- Establishes a registered environmental health associate certification.

This act has various effective dates. Please see the full summary for details.

### **Movie Sets/Radon/Licensee Experience.**

SL 2023-91 (H782)

S.L. 2023-91 does the following:

- Exempts buildings used for temporary motion picture, television, and theater stage sets and scenery from any use and occupancy classification under the North Carolina State Building Code.
- Directs the Department of Health and Human Services to establish an approval process for radon proficiency programs.
- Allows the Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors to accept a license in good standing for at least 10 years as experience for Class II plumbing and heating qualifications.

Section 3 of this act became effective July 1, 2023. The remainder of the act became effective July 10, 2023.

## **Dam Safety Law Clarification.**

SL 2023-131 (S531)

S.L. 2023-131 prohibits the Department of Environmental Quality (DEQ) from withholding approval of an application for repair or alteration of certain "phased compliance eligible dams" based solely on the fact that the proposed repair or alteration will not bring the dam into full compliance with the requirements of the Dam Safety Law of 1967 and rules adopted to implement that law.

This act became effective September 29, 2023, and applies to applications for repair or alteration received by DEQ on or after that date.

## **Stormwater Retrofit Pilot Cost-Share Program – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 5.6.(h)

Section 5.6.(h) of S.L. 2023-134 directs the North Carolina Coastal Federation, Inc. (Federation), a nonprofit corporation, to establish the Stormwater Retrofit Cost-Share Program (Program) to provide grants to stormwater permittees who demonstrate that they would experience a significant economic hardship in financing upgrades and repairs to their stormwater control measures to meet the more stringent of either (i) current standards if the permittee was building a new system or (ii) the terms of the permit. The Federation must adopt guidelines to administer the Program in consultation with the Department of Environmental Quality (DEQ).

Section 5.6.(f)(17) allocates \$5 million to DEQ to provide directed grants to the Federation to establish and administer the Program. Funds allocated to this Program that are not expended or encumbered by June 30, 2028, revert to the State Emergency Response and Disaster Relief Reserve.

The Federation must report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Cultural Resources by March 1, 2024, on the implementation of this Program. The report must include, at a minimum, the continued need for the Program to operate through the 2024-2025 fiscal year and whether the Program should be expanded or terminated.

This section became effective July 1, 2023.

## **Preemption of Certain Local Government Actions – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 5.9

Section 5.9 of S.L. 2023-134 provides that the North Carolina Wage and Hour Act supersedes and preempts any ordinance, regulation, or policy of a unit of local government or other political subdivision of the State that imposes requirements upon employers pertaining to compensation, including wage levels, hours of labor, payment of wages, benefits, leave, or well-being of minors in the workforce. This does not apply to: a local government regulating, compensating, or controlling its own employees, certain economic development incentives, a requirement of

federal community development block grants, and programs established under the statute dealing with community development programs and activities.

This section also restricts counties and cities from adopting ordinances and rules to: (i) restrict, tax, charge a fee, prohibit, or otherwise regulate the use, disposition, or sale of an auxiliary container (e.g. bags, containers, bottles, merchandise containers, etc.), and (ii) regulate the use of shopping carts, including the imposition of a fee or fine on a business for failure to take possession of a shopping cart that was removed from the premises of the business. This section allows counties and cities to operate recycling programs, composting programs, and solid waste disposal programs and to regulate the use of auxiliary containers on property owned or maintained by the county or city. This section became effective July 1, 2023.

### **Water Safety Act of 2023 – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 8.16

Section 8.16 of S.L. 2023-134 appropriates funds to the North Carolina Collaboratory (Collaboratory) for the following matters related to per- and poly-fluoroalkyl substances (PFAS):

- Programs related to management of aqueous film-forming foams (AFFF) containing PFAS used by local fire departments and for other PFAS-related research, including:
  - To conduct a voluntary buyback program for stocks of PFAS-containing AFFF owned or stored by local fire departments, which can include the purchase and distribution of replacement PFAS-free foams.
  - To develop, acquire, analyze, and deploy facilities and technologies to safely store and destroy PFAS-containing AFFF.
  - To provide competitive research grants for (i) human exposure and other studies intended to assess the long-term health risk to firefighters and other emergency response personnel and their family members from exposure to PFAS-containing AFFF and related PFAS-containing materials and (ii) other research related to PFAS in water and air, PFAS toxicology and human exposure, and the mitigation, removal, or destruction of PFAS and PFAS-containing materials.
  - To fund upgrades to laboratory space at the Textile Protection and Comfort Center at North Carolina State University to accommodate aerosol studies that simulate airborne PFAS particulate exposure.
- Water-related research for emerging compounds, water quality improvements, or other discretionary research deemed important to the State by the Collaboratory.
- Other PFAS research projects, including a multiyear human exposure study related to PFAS in North Carolina counties identified with higher than average PFAS exposure risks from inhalation, ingestion, and dermal exposure.

The Collaboratory must include updates regarding this research in the statutorily required annual report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Joint Legislative Oversight Committee on Health and Human Services, and the Joint Legislative Education Oversight Committee.

This section became effective July 1, 2023.

### **Collaboratory Study Next-Generation Energy and Research Development – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 8.19

Section 8.19 of S.L. 2023-134 directs the North Carolina Collaboratory to use funds allocated to it for next-generation energy and research development for the purpose of developing academic research partnerships with North Carolina businesses working in the field of next-generation energies and leverage those partnerships to perform research and development on next-generation energy technologies. The Collaboratory must report on its activities to the Joint Legislative Education Oversight Committee by March 15, 2024 and annually thereafter.

This section became effective July 1, 2023.

### **Green Industry Economic Impact Study/North Carolina State University – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 8.21

Section 8.21 of S.L. 2023-134 directs the North Carolina State University College of Agriculture and Life Sciences (CALS) to study the statewide, regional, and county-level economic impact of the green industry in the State. CALS must consult with the Department of Agriculture and Consumer Services and the NC Green Industry Council in conducting this study and is required to report the results no later than January 15, 2025 to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. As used in the section, "green industry" refers to the production, design, installation, maintenance, and sale of plants and related goods and services to enhance, beautify, and protect human environments and provide jobs and economic growth.

This section became effective July 1, 2023.

### **Prohibit Cap and Trade Requirements for CO2 Emissions – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.5

Section 12.5 of S.L. 2023-134 creates a new statute that prohibits the Governor, and any agency of the State, from requiring that an electric public utility (or persons who operate an electric generating facility the primary purpose of which is for the person's own use and not for the primary purpose of producing electricity for sale to or for the public for compensation) participate in a program that requires the utility or person to obtain allowances to offset their CO2 emissions, commonly characterized as emissions cap-and-trade programs, CO2 budget trading programs, or cap-and-invest initiatives. In addition, the statute expressly prohibits the Governor and the Department of Environmental Quality from entering into any agreement with

other states obligating North Carolina's participation in any program requiring acquisition of allowances to offset CO2 emissions by such utilities.

This section became effective October 3, 2023.

### **Prohibition on State or Regional Emissions Standards for New Motor Vehicles – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.6

Section 12.6 of S.L. 2023-134 prohibits any agency of the State from adopting and enforcing standards relating to control of emissions from new motor vehicles or new motor vehicle engines, including requirements that mandate the sale or purchase of "zero-emission vehicles," or electric vehicles. These prohibitions, however, do not affect requirements for the State's vehicle emissions testing and maintenance program.

This section became effective October 3, 2023.

### **Reduce Emissions Inspections Requirements – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.7

Section 12.7.(a) of S.L. 2023-134 modifies the age of vehicles subject to emissions inspections requirements by: (i) eliminating the requirement for vehicles older than the three most recent model years to those within 20 years of the current model year; and (ii) requiring inspections for those within 20 years of the current model year and earlier than the 2017 model year.

Section 12.7.(b) eliminates emissions inspection requirements in 18 counties (Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lincoln, New Hanover, Randolph, Rowan, Union, and Wake), and require inspections for Mecklenburg County only.

Section 12.7.(c) requires that, no later than July 1, 2024, the Department of Environmental Quality must prepare and submit to the United States Environmental Protection Agency (USEPA) for approval a proposed North Carolina State Implementation Plan amendment based on the change to the motor vehicle emissions testing program set forth in Sections 12.7.(a) and 12.7.(b).

Section 12.7.(c) became effective July 1, 2023. Sections 12.7.(a) and 12.7.(b) become effective on 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 USEPA has approved an amendment to the SIP submitted as required by Section 12.7.(c).

## **Dam Safety Emergency Fund/Overtopping Studies – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.8

Section 12.8 of S.L. 2023-134 provides that the Dam Safety Emergency Fund within the Department of Environmental Quality (DEQ) can be used to perform overtopping studies for high hazard or intermediate hazard dams for which DEQ has inadequate overtopping risk information.

This section became effective July 1, 2023.

## **Discharges of Highly Treated Wastewater – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.9

Section 12.9 of S.L. 2023-134 establishes a new statutory requirement that the Department of Environmental Quality (DEQ) permit discharges of highly treated domestic wastewater<sup>2</sup> to surface waters of the State where the 7Q10 flow or 30Q2 flow<sup>2</sup> 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. Such discharges, however:

- Must be directed through buffer systems meeting standards as set forth in the section.
- Are generally prohibited to classified shellfish waters or outstanding resource waters.
- Are limited based on the ability of the receiving waters to hydraulically accept the proposed flow as determined through methods established in the section.

The section further provides that:

- Once an applicant has submitted data to demonstrate that a proposed discharge meets the requirements of this section, signed, and sealed by a professional engineer licensed in accordance with the provisions of Chapter 89C of the General Statutes, DEQ must deem the application complete for the purposes of DEQ's review.
- If rules are required in order to implement the requirements of this section, DEQ must adopt temporary rules no later than 60 days after this section becomes law. Any temporary rules adopted will remain in effect until permanent rules that replace the temporary rules become effective. Rules adopted cannot, however, impose additional requirements on permitting of the discharge of highly treated domestic wastewater over that established under this section.

This section became effective October 3, 2023, and applies to permits for new or expanded wastewater discharge facilities issued on or after that date.

## **Right to Apply for and Obtain a Permit – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.10

Section 12.10 of S.L. 2023-134:

- Creates a new statute that prohibits, except to the extent required by federal or State law, the Department of Environmental Quality from refusing to:
  - Accept an application for a permit, authorization, or certification.
  - Issue any permit, authorization, or certificate based solely on the failure of an applicant to obtain another permit, authorization, or certification required for the same project. For purposes of this section, failure to obtain a permit, authorization, or certification does not include denial of the permit, authorization, or certification by the Department based on the standards for approval of the permit, authorization, or certification provided by law.
- Amends the statutes governing approval of draft erosion and sedimentation control (ESC) plans to prohibit the Sedimentation Control Commission, and local governments, with delegated authority to administer ESC programs, from denying a draft ESC plan based solely upon an applicant's need to obtain other environmental permits, authorizations, or certifications for the project (aside from a permit required for stormwater discharges from construction sites pursuant to federal law). The Commission and delegated local programs are authorized, however, to condition approval of a draft ESC plan upon the applicant's receipt of other environmental permits, authorizations, or certifications that can be required for the project.

This section became effective July1, 2023.

## **Air Permitting Revisions – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.11

Section 12.11 of S.L. 2023-134 enacts several changes to statutes governing air quality permitting as follows:

- Modifies statutes governing review and issuance timelines for Title V<sup>2</sup> and other air quality permits as follows:
  - Requires the Environmental Management Commission (Commission) to amend applicable rules to provide that the Department of Environmental Quality (DEQ) must issue, deny, or publish a permit for public notice and comment within 90 calendar days of receipt of an administratively complete application<sup>2</sup> for a minor modification, or within 270 calendar days of receipt of an administratively complete application for a major modification.
  - Provides that if the Commission fails to act on a permit within the required timeframes, a permit applicant, permittee, or other person aggrieved can commence a contested case in accordance with the Administrative Procedure Act (and repeals language that provided that the Commission's failure to act on a

permit within previously prescribed timeframes constituted a final agency decision to deny the permit, at which point a permit applicant, permittee, or other person aggrieved was authorized to seek judicial review of the decision).

- Requires the Commission to begin rulemaking to create a Title V permit exemption for non-major research and development activities consistent with the United States Environmental Protection Agency's (USEPA) position regarding exemption for such activities as set forth in the July 10, 1995, "White Paper for Streamlined Development of Part 70 Permit Applications." The rules must include, at a minimum, allowance levels and minor permit modification thresholds to promote greater flexibility in research and development activities and to allow facilities subject to Title V permit requirements flexibility to work with DEQ and notify them of research activities with a minor permit modification to maintain compliance. The Commission must complete draft rulemaking activities and submit a Title V program amendment request to the USEPA no later than July 1, 2025.
- Expands the activities that can be undertaken prior to obtaining a permit for a new air contaminant source, equipment, or associated air cleaning device at a site or facility, to authorize the construction, but not operation, of such source, equipment, or devices prior to permit issuance upon determination that an application for a permit or permit modification is administratively complete. This exception only applies only, however, to an application for the addition or modification of an emissions source that is not subject to: (i) permit limits set pursuant to programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas, (ii) a residual risk-based hazardous air pollutant standard, or (iii) a case-by-case maximum achievable control technology (MACT) permit requirement issued by DEQ. The section provides that the undertaking of these pre-permitting activities does not entitle an applicant to operate any air contaminant source, equipment, or associated air cleaning or emissions control devices prior to permit issuance.

This section became effective July 1, 2023.

### **Stormwater Permitting Revisions – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.12

Section 12.12 of S.L. 2023-134 makes various changes to statutes governing review and approval of applications for stormwater permits. Specifically, the section:

- Establishes a variety of deadlines, including:
  - 10 days for the Environmental Management Commission (Commission) to perform a review of a new application to determine if the information is administratively complete, and notify the applicant accordingly. The deadline is also applicable to resubmittal of applications previously determined to be incomplete.
  - A 70-calendar day technical review period, which can be extended if the Commission determines that additional information is required to continue

processing the application. Upon receipt of additional information from an applicant, the Commission has 30 calendar days to complete the technical review and issue the permit, issue the permit with modifications, deny the permit, or request additional information.

- Prohibits the Commission, once it has requested additional information, from subsequently requesting additional information that was not previously identified as missing or required, except if required for the technical review based on any new information, changed circumstances, or changed designs provided by the applicant. Where the Commission identifies information that should have been requested, but was not, the Commission can include conditions in or modifications to the permit upon issuance addressing this information but cannot deny the permit because of the missing information.
- Requires the Commission to develop an application package checklist identifying the items and information required for an application to be considered administratively complete.
- Provides that all permits for which an expiration date is specified must be issued for a term not to exceed eight years.

This section becomes effective July 1, 2024.

### **Flow Allocation Limit Clarification for Wastewater Treatment System Permittees – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.15

Section 12.15 of S.L. 2023-134 amends Section 1 of S.L. 2023-55, to clarify that if a permittee for a wastewater treatment system exceeds its currently permitted monthly flow more than once in any 12-month period, the permittee cannot allocate more than 100% of the existing system's hydraulic capacity until the permittee complies with the permitted monthly flow for at least 12 consecutive months.

S.L. 2023-55 allows a permittee for a wastewater treatment system to allocate more than 100% of its existing hydraulic capacity where the permittee meets certain location, expansion, and discharge conditions.

This section became effective July 1, 2023.

### **Regional Water/Wastewater Planning – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.16

Section 12.16 of S.L. 2023-134 allocates, from funds appropriated to the North Carolina Megasite Fund, \$1 million in nonrecurring funds for the 2023-2024 fiscal year to the Department of Environmental Quality (DEQ) to develop a Regional Water and Wastewater Infrastructure Master Plan (Plan) in the geographic area surrounding US Route 421 between I-85 in Greensboro and I-95 in Dunn, which was designated a high-priority corridor in the federal Infrastructure Investment

and Jobs Act of 2021. DEQ is authorized to contract with a third party for all or part of the development of the Plan, which must prioritize a study of options for the regionalization of water and wastewater systems in the region. This report is due to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than May 1, 2024. In contracting with a third party, DEQ is exempt from the requirements of Articles 3 and 3C of Chapter 143, governing public purchasing, contracting, and obtaining consultant services.

This section became effective July 1, 2023.

### **Title V Air Permit Bonus Pilot Program – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.17

Section 12.17 of S.L. 2023-134 directs the Environmental Management Commission to establish a Permit Bonus Pilot Program for qualifying employees who process applications for Title V Air Permits.

Except as otherwise provided, this section became effective January 1, 2024. The Permit Bonus Pilot Program expires on June 30, 2025.

### **Eliminate Fast-Track Stormwater Permit Option – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 12.14(q)

Sec. 12.14(q) of S.L. 2023-134 repeals a statute that required the Environmental Management Commission to establish a fast-track permitting process that allowed for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department of Environmental Quality and (ii) submits a permit application prepared by a qualified professional.

This section became effective October 1, 2023, and applies to permit applications filed on or after that date.

### **Saluda Grade Rail Corridor – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 14.5

Section 14.5 of S.L. 2023-134 appropriates funds to the Department of Natural and Cultural Resources (DNCR) to provide a grant to the Saluda Grade Trails Conservancy (Conservancy) for the purchase of the Saluda Grade rail corridor in Henderson and Polk Counties. DNCR must enter into a Memorandum of Understanding with the Conservancy regarding the long-term ownership structure, management, and improvement of the rail corridor. DNCR also must provide an interim report and a final report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division regarding the acquisition of the

Saluda Grade rail corridor. DNCR can add the trail established on the Saluda Grade rail corridor to the State Parks System as a State trail.

This section became effective July 1, 2023.

### **Great Trails State Program – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 14.6

Section 14.6 of S.L. 2023-134 (i) establishes the Great Trails State Program as a special fund within the Department of Natural and Cultural Resources (DNCR) to provide matching grants to eligible entities for new trail development and extension of existing trails, and (ii) allocates \$12.5 million in nonrecurring funds to be used by DNCR in each year of the 2023-2025 fiscal biennium for the Great Trails State Program.

This section became effective July 1, 2023.

### **Complete the Trails Fund – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 14.7

Section 14.7 of S.L. 2023-134 directs the Department of Natural and Cultural Resources (DNCR) to use \$5 million of the funds transferred from the State Fiscal Recovery Reserve for trails to be allocated to the Complete the Trails Fund for specific purposes. DNCR must provide an initial report regarding the process for awarding grants and an annual report regarding the use of allocated funds. This section establishes the Saluda Grade Conservation and Development Council to advise and partner with DNCR on the study of the Saluda Grade rail corridor.

This section became effective on July 1, 2023.

### **Capital Improvement and Repairs and Renovations Appropriations – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 40.1.(v)

Section 40.1.(v) of S.L. 2023-134 directs North Carolina State University to use funds appropriated to conduct a feasibility study concerning establishment of an advanced nuclear research reactor at the University. The study may include the following:

- Assessment of site selection for a reactor.
- Study and analysis of potential environmental impacts.
- Analysis of licensing requirements for a reactor.
- Engineering and construction evaluation of a reactor and associated laboratories, including cost estimates.
- Utilization analysis, including capability development for advanced nuclear power generation in the State.

- Vendor and contractor evaluation.
- Identification of the potential for collaboration with industry, other academic institutions, and State and federal entities.

This section became effective July 1, 2023.

### **Roadside Environmental – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 41.8

Section 41.8 of S.L. 2023-134 specifies the amounts the North Carolina Department of Transportation must spend on Roadside Environmental for the 2023-2025 fiscal biennium, and enacts laws that regulate the use of plants and seeds in State Parks and on State highway right-of-way.

This section has various effective dates. Please see the full summary for more detail.

### **Stormwater Permitting Modifications – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 1-4

Sections 1–4 of S.L. 2023-137:

- Make various changes to stormwater permitting regarding development in excess of the allowable density under applicable water supply watershed rules.
- Make various changes to development in the vegetative buffer for Department of Transportation (NCDOT) projects.
- Make various changes to requirements for stormwater permit submittal.
- Create prohibitions on requiring stormwater permit applicants to take action on unaffiliated adjacent property.
- Authorize the Department of Environmental Quality (DEQ) to rescind a stormwater permit in certain circumstances.
- Allow local governments to consider existing stormwater control measures when determining stormwater fees.
- Direct the Environmental Management Commission to implement a post-construction stormwater rule to allow an exemption for certain public linear transportation projects undertaken by a non-DOT entity.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. These sections became effective October 10, 2023.

## **Modify Certain Rules Related to Development Density in Water Supply Watersheds, as Applicable in Iredell County and the Town of Mooresville – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 5

Section 5 of S.L. 2023-137 directs the Environmental Management Commission to implement 15A NCAC 02B .0624 to authorize Iredell County and the Town of Mooresville to regulate development in water supply watersheds within their planning jurisdiction so that a maximum of 20% of the land area of a water supply watershed outside of the critical areas can be developed up to 70% built upon area.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. These sections became effective October 10, 2023.

## **Phased in Mandatory Commercial and Recreational Reporting of Certain Fish Harvests – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 6

Section 6 of S.L. 2023-137 creates a phased in reporting requirement for certain commercial and recreational fish harvests, to be managed by the Division of Marine Fisheries of the Department of Environmental Quality and the Wildlife Resources Commission.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section has a staggered effective date, with the first date being December 1, 2024. See the full summary for the detailed effective dates.

## **Establish Certain Requirements for Issuance of 401 Certifications by the Department of Environmental Quality for Certain Dredging Projects or for Projects Involving the Distribution or Transmission of Energy or Fuel – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 7

Section 7 of S.L. 2023-137 establishes statutory requirements for the Department of Environmental Quality's (DEQ) handling of applications for 401 certifications for maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund and projects involving the distribution or transmission of energy or fuel, including natural gas, diesel, petroleum, or electricity. These requirements pertain largely to timelines and permit conditions.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective October 10, 2023, and applies to applications for 401 Certification pending or submitted on or after that date.

## **Environmental Management Commission to Study Narrative Water Quality Standards – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 8

Section 8 of S.L. 2023-137 requires the Environmental Management Commission (EMC) to review its rules to determine if the standards and methodologies for establishment of numeric water quality standards for specific pollutants included in the rule are scientifically sound, protective of human health and the environment, and result in water quality criteria that are technologically achievable without placing undue economic burdens on publicly-owned treatment works and their ratepayers.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023. The EMC's report is due to the General Assembly no later than June 1, 2024.

## **Direct Department of Environmental Quality to Prepare a Human Health Risk Assessment for 1,4-Dioxane in Drinking Water and Evaluate Commercially Available Technology to Remove 1,4-Dioxane from Wastewater Effluent – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 9

Section 9 of S.L. 2023-137 requires the Department of Environmental Quality (DEQ) to prepare a human health risk assessment of 1,4-dioxane in drinking water supported by peer-reviewed scientific studies and requires the North Carolina Collaboratory to evaluate the technologies that are commercially available to remove 1,4 dioxane from wastewater effluent at facilities at various flow volumes, including at flow volumes of greater than 1 million gallons per day.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023. The reports required by this section are due to the General Assembly no later than May 1, 2024.

## **Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund Changes – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 10

Section 10 of S.L. 2023-137 makes changes to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund to prohibit the use of funds being used for siting and acquisition of dredged disposal easement sites, require that invoices submitted to the Secretary of Environmental Quality (Secretary) be signed by the sponsoring local government's representative, and clarifies the term "shallow draft navigation channel."

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Prohibit Dredging Moratorium Periods Not Otherwise Required by Federal Law – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 10.5

Section 10.5 of S.L. 2023-137 prohibits the Department of Environmental Quality, with respect to permits issued for dredging activities under the Coastal Area Management Act, from including any condition that restricts dredging activities to a specified timeframe, except those timeframes, or moratorium periods, that are required pursuant to the federal Clean Water Act and Endangered Species Act, regulations promulgated thereunder, or other applicable federal law.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Flotation Device Requirements – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 11

Section 11 of S.L. 2023-137 requires that any polystyrene flotation devices installed on a dock, buoy, or float must be encapsulated by a protective covering to prevent the polystyrene from disintegrating. This provision does not apply to polystyrene used in the construction, maintenance, or operation of boats or vessels, but requires that such polystyrene be effectively contained and lawfully disposed of. This section also prohibits the sale of polystyrene flotation devices unless encapsulated in compliance with this provision.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section becomes effective January 1, 2025, and applies to any polystyrene foam flotation sold or used in the State after that date.

## **Add New Procedural Requirements for Coastal Area Management Act Guidelines – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 12

Section 12 of S.L. 2023-137 requires the Department of Environmental Quality (DEQ) to make available to the public on DEQ's website either (i) the entirety of any State guidelines for the coastal area or (ii) a link to those guidelines in the Administrative Code on the Office of Administrative Hearings' website. The guidelines must include a citation to the law under which the rule was adopted, consistent with existing administrative law requirements.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Require Statutory or Regulatory Citation for Any Conditions in a Permit Issued by the Department of Environmental Quality – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 13

Section 13 of S.L. 2023-137 requires the Department of Environmental Quality (DEQ) to include in any permit issued by DEQ the statutory or regulatory authority for any permit conditions required in the permit.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Revise 2020 Farm Act TMDL Transport Factor Calculation Applicability – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 14

Section 14 of S.L. 2023-137 makes certain changes to the 2020 Farm Act (S.L. 2020-18) regarding the application of nutrient offset credits to a wastewater treatment permit by applying the total maximum daily load (TMDL) transport factor as specified in the 1999 Phase I TMDL and makes changes to a modeling requirement in the 2020 Farm Act.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Clarify Certain Environmental Permitting Laws Applicable to Agricultural Activities – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 15

Section 15 of S.L. 2023-137 clarifies which State permit a person constructing an animal waste management system needs to apply for, in addition to the required federal NPDES permit, and makes additional changes to the animal waste management system permitting regarding conditions and compliance boundaries.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Prohibit Sale of Nutrient Offsets from Municipal Nutrient Offset Banks to any Entity other than a Government Entity or a Unit of Local Government – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 16

Section 16 of S.L. 2023-137 prohibits nutrient offset banks approved by the Department of Environmental Quality (DEQ) and owned by a unit of local government from selling nutrient offset credits to any entity other than a government entity or unit of local government

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective October 10, 2023, and applies to nutrient offset banks owned by a unit of local government and approved by DEQ on or after that date, except that it does not apply to a unit of local government that has a nutrient offset banking instrument approved by DEQ prior to October 10, 2023.

## **Shorten Septage Management Permitting Review and Clarify Pumper Truck Fee – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 17

Section 17 of S.L. 2023-137 shortens the permit review period for septage management firm permit applications and clarifies how the septage truck fee is calculated.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Wastewater Design Flow Rate Modifications – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 18-18.2

Sections 18, 18.1, and 18.2 of S.L. 2023-137 make further clarifications to statutes and rules concerning the wastewater design daily flow rate for new dwelling units, amended earlier in this session by S.L. 2023-55 to reduce the design flow rate from 120 gallons per day per dwelling to 75 gallons per day per dwelling. Section 18.1 directs the Environmental Management Commission (EMC) to implement its existing rules consistent with the clarification made by Section 18, and Section 18.2 directs the EMC to study whether it is appropriate to change the design flow rates for other buildings.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Prohibit Disposal of Lithium-Ion Batteries in Landfills; Limit Disposal of Solar Panels to Lined Landfills and Other Approved Facilities – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 19

Section 19 of S.L. 2023-137 prohibits the disposal of a lithium-ion battery in a landfill or incinerator. This section also prohibits the disposal of a photovoltaic (PV) module, or components thereof, in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other unlined landfill. A PV module, or components thereof, not shipped for reuse or not recyclable must properly be disposed of in an industrial landfill or a municipal solid waste landfill. Any PV modules that meet the definition of hazardous waste must comply with applicable hazardous waste requirements for disposal and recycling.

The Department of Environmental Quality (DEQ) must study proper handling of end-of-life lithium-ion batteries, and specifically whether any size-based exceptions to the disposal ban are appropriate. DEQ must report on its findings, including any recommendations for legislative action, to the Environmental Review Commission no later than May 1, 2024.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023. The bans on disposal will become effective December 1, 2026, and apply to offenses committed on or after that date.

## **Clarify Brownfield Program Construction – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 20

Section 20 of S.L. 2023-137 amends the brownfields statute to provide that the law must not be construed to limit or preclude a prospective developer from performing an investigation of a brownfields property without prior approval from the Department of Environmental Quality.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Modify the Application of Riparian Buffer Rules Regarding Airport Facilities; Modify Certain Provisions of the Floodplain Regulation Statutes to Direct the Department of Public Safety to Issue Floodplain Permits for Certain Airport Projects – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 21-22

Sections 21 and 22 of S.L. 2023-137 modify the application of riparian buffer rules and modify certain provisions of the floodplain regulation statutes to allow certain airport projects to receive necessary permits and authorizations to proceed.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. These sections became effective on October 10, 2023.

### **Commissioner of Agriculture/Supply Chain Powers – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 25

Section 25 of S.L. 2023-137, notwithstanding any other provision of law, authorizes the Commissioner of Agriculture (Commissioner) to develop and implement any emergency measures and procedures needed to mitigate an imminent threat to or a disruption of the agricultural supply chain or food supply chain with respect to poultry due to a lack of capacity at rendering facilities or landfills when the Commissioner determines that such a threat exists and convenes a meeting of the Board of Agriculture and the Board votes to concur with the Commissioner's determination. Any emergency measures implemented pursuant to this power are deemed permitted pursuant to G.S. 143-215.1(b) and G.S. 130A-294 and do not require the Department of Environmental Quality to issue individual permits. No further permitting will be required for composting, and composting conducted pursuant to this emergency authorization will be supervised by Commissioner-determined subject matter experts. The Commissioner is required to record the responses from the Board and release the response along with any emergency orders issued by the Commissioner. Emergency measures and procedures developed and implemented pursuant to this authority are exempt from the Administrative Procedure Act, and no emergency measure or procedures can last for more than 90 days, except that the Commissioner can renew any measure or procedure once for an additional 90 days.

This section also grants the Commissioner the same authority for supply chain disruptions with respect to livestock, except that the Commissioner also needs to submit any emergency measures or procedures relating to the composting of livestock to the Governor for approval before it could be implemented.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

### **Restore 2009 Building Code Standards for Piers and Docks Constructed in Estuarine Waters – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 35

Section 35 of S.L. 2023-137 directs the North Carolina Building Code Council to implement the Building Code so that no building requirements for piers or docks built in estuarine waters are inconsistent with the requirements of the applicable "Docks, Piers, Bulkheads, and Water Structures" Chapter in the 2009 North Carolina Building Code.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

## **Clean Energy/Other Changes.**

SL 2023-138 (S678)

S.L. 2023-138 does all of the following:

- Changes the State's "Renewable Energy Portfolio Standard" to a "Clean Energy Portfolio Standard," and establishes a definition of "clean energy" to include renewable, nuclear, and fusion energy.
- Modifies a provision governing issuance of certificates of public convenience and necessity (CPCN) for electric generating facilities to:
- Eliminate a heightened Utilities Commission (Commission) analysis for coal or nuclear facilities to be constructed, including whether energy efficiency measures; demand side management; renewable energy resource generation; combined heat and power generation; or any combination thereof, would not establish or maintain a more cost effective and reliable generation system.
- Establish a requirement that a generating facility to be constructed by an electric public utility must, in addition to being in the public interest: (i) be part of the least cost path to achieve compliance with authorized carbon reduction goals enacted in 2021; and (ii) maintain or improve upon the adequacy and reliability of the existing grid.
- Extends closure deadlines for certain coal combustion residuals surface impoundments.
- Increases application fees for dam construction, repair, alteration, or removal under the Dam Safety Act.
- Requires approval by the Local Government Commission for local governments to enter into agreements to cede or transfer control over a public enterprise to a non-governmental entity.
- Prohibits local governments from entering non-disclosure agreements in order to restrict access to public records subject to disclosure under the Public Records Act.
- Establishes employee classification and compensation exemptions for the Commission and the Commission's Public Staff.

This bill was vetoed by the Governor on October 2, 2023, and the veto was overridden by the General Assembly on October 10, 2023. Except as otherwise provided, this act became effective October 10, 2023.