

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2022-43
HOUSE BILL 219**

AN ACT TO MAKE VARIOUS CHANGES TO THE ENVIRONMENTAL LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

DIRECTED INFRASTRUCTURE PROJECTS DEADLINE FOR REVERSION

SECTION 1.(a) Definition. – The following definitions apply to this section:

- (1) Directed infrastructure grant recipient. – An entity receiving a direct allocation of funds from the State Fiscal Recovery Fund under subsection 12.13(d), 12.13(e), 12.13(f), or 12.14(b) of S.L. 2021-180.
- (2) Applicable reversion provision. – Section 12.13(c) of S.L. 2021-180 for directed water and sewer allocations under subsections (d), (e), and (f) of that section, or Section 12.14(i) of S.L. 2021-180 for directed stormwater allocations from the Local Assistance for Stormwater Infrastructure Investments Fund established by that section.

SECTION 1.(b) Submission Requirement. – Directed infrastructure grant recipients must provide a complete Request for Funding form with a project budget describing a project that is eligible for funding under applicable federal and State law no later than June 30, 2023.

SECTION 1.(c) Full Reversion. – Directed allocations shall fully revert on July 1, 2023, and be reallocated as set forth in the applicable reversion provision if the directed infrastructure grant recipient (i) fails to provide a form by the deadline set forth in this subsection or (ii) provides a form describing a project ineligible for funding.

SECTION 1.(d) Partial Reversion. – If a directed infrastructure grant recipient submits a project budget by the deadline specified in subsection (b) of this section, but the budget is less than the direct allocation provided to them by S.L. 2021-180, then the portion of the directed allocation not required for the project shall revert on July 1, 2023, and be reallocated as set forth in the applicable reversion provision.

AMEND SCIF RIVER DEBRIS FUNDING AUTHORIZATION

SECTION 2.(a) Section 40.7(a) of S.L. 2021-180 reads as rewritten:

"**SECTION 40.7.(a)** Funds transferred from the State Capital and Infrastructure Fund to the Department of Environmental Quality (Department) for stream debris removal shall be used for the removal and disposal of waterway debris from waters of the State located in a targeted river basin. basin or other flood mitigation strategies prioritized through the Flood Resiliency Blueprint developed under the directive set forth in Section 5.9(c) of this act. The Department shall develop a schedule for the removal and disposal of waterway debris from waters of the State located in a targeted river basin and shall contract with one or more appropriate and qualified private entities to carry out the debris removal and disposal activities."

SECTION 2.(b) Section 40.7(b) of S.L. 2021-180 is repealed.

SECTION 2.(c) This section is effective when it becomes law and applies retroactively to July 1, 2021.



FLOOD RESILIENCY BLUEPRINT TECHNICAL CORRECTION

SECTION 3.(a) Section 5.9(c) of S.L. 2021-180 reads as rewritten:

"SECTION 5.9.(c) Flood Resiliency Blueprint. – Of the funds allocated in subdivision ~~(a)(4)~~ (a)(7) of this section, the Department of Environmental Quality, Division of Mitigation Services (DMS), shall contract with an organization to develop a statewide Flood Resiliency Blueprint for major watersheds impacted by flooding, including, among others, the Cape Fear River and the Neuse River Basins. The watershed blueprint shall form the backbone of a State flood planning process that increases community resiliency to flooding, shall be a resource for riverine and stream management to reduce flooding, and should support the establishment and furtherance of local government stormwater maintenance programs. The blueprint shall identify the major watersheds affected by flooding and direct these funds toward the activities which are central to the creation of an actionable blueprint, namely flood risk assessment, identification of data gaps, and recommendations to reduce flood risk for each target watershed. When developing the blueprint with the organization selected, DMS shall ensure the blueprint incorporates local knowledge, community goals, projections of future flood risk, and the best available science and hydrologic modeling to create a decision tool for flood mitigation investments and strategies from local watersheds up to whole river basins. A successful blueprint should ultimately lead to a prioritized set of projects and funding strategies that the State can implement. DMS and the organization selected are encouraged to examine examples from other states such as the Louisiana Coastal Master Plan or the flood resiliency planning processes in South Carolina and Virginia. The organization shall send all necessary information to DMS on the implementation of the blueprint upon request by DMS. The organization shall submit an initial draft of the blueprint to DMS no later than December 31, 2023. DMS shall report by July 1, 2022, and annually thereafter to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the implementation of this subsection."

SECTION 3.(b) This section is effective when it becomes law and applies retroactively to July 1, 2021.

PROVIDE THE DIVISION OF MARINE FISHERIES FLEXIBILITY IN MAINTAINING DIVISION AIRCRAFT

SECTION 4. Section 13.16 of S.L. 2010-31 is repealed.

ALIGN COASTAL AREA MANAGEMENT ACT PUBLIC NOTICE REQUIREMENTS FOR LAND-USE PLAN HEARINGS WITH EXISTING LOCAL GOVERNMENT NOTICE REQUIREMENTS

SECTION 5. G.S. 113A-110(e) reads as rewritten:

"(e) Prior to adoption or subsequent amendment of any land-use plan, the body charged with its preparation and adoption (whether the county or the Commission or a unit delegated such responsibility) shall hold a public hearing at which public and private parties shall have the opportunity to present comments and recommendations. Notice of the hearing shall be ~~given not less than 30 days before the date of the hearing and published at least one time, not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Notice of the hearing shall state the date, time, and place of the hearing; the subject of the hearing; the action which is proposed; and that copies of the proposed plan or amendment are available for public inspection at a designated office in the county courthouse county or local government office during designated hours. Any such notice shall be published at least once in a newspaper of general circulation in the county area.~~"

DEQ STUDY OF THE EXPRESS PERMIT AND CERTIFICATION REVIEW PROGRAM AND THE FAST-TRACK STORMWATER PERMITTING PROGRAM

SECTION 6. The Department of Environmental Quality shall study approaches to expedite permit issuance under the following programs: (i) the express permit and certification review program established pursuant to G.S. 143B-279.13 and (ii) the fast-track permitting for the stormwater management systems program established pursuant to G.S. 143-214.7B and 15A NCAC 02H .1043 and .1044. The Department shall report its findings, including any recommendations for legislative action to improve permitting efficiencies under the programs, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2022.

AUTHORIZE DEQ TO ALLOW LIMITED WASTEWATER DISCHARGE TO WATERS WITH NATURALLY OCCURRING LOW DISSOLVED OXYGEN LEVELS

SECTION 7.(a) G.S. 143-215.1 is amended by adding a new subsection to read:

"(c7) For surface waters of the State that have naturally occurring low dissolved oxygen levels, as determined by the Department, permitted wastewater discharges to such surface waters shall not cause a reduction in the dissolved oxygen levels of such surface waters of more than 0.10 mg/l below the approved modeled in-stream dissolved oxygen level for the surface waters at total permitted capacity for all discharges to such surface waters."

SECTION 7.(b) This section is effective when it becomes law. G.S. 143-215.1(c7), as enacted by subsection (a) of this section, applies only to permits for a new or expanded wastewater discharge facility issued on or after that date.

MINING PERMIT NOTICE AND APPEAL CHANGES

SECTION 8.(a) G.S. 74-50 reads as rewritten:

"§ 74-50. Permits – General.

...

(b) As used in subsection (b1) of this section:

(1) "Land adjoining" means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either:

a. ~~(i) any~~ Any parcel or tract that includes the permitted area.

b. ~~area or (ii) any~~ Any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, ~~taken together,~~ when combined, are contiguous to the permitted area.

(2) "Permit boundaries" means the boundaries of a permitted area.

(3) "Permitted area" means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(b1) At the time of an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify:

(1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.

(2) The owners of record of land adjoining that lies within 1,000 feet of the proposed permit boundaries; boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining permit to add land to a permitted area, with notice required for only that land to be added.

(3) The owners of record of land that meets both of the following criteria:

- a. ~~Lies~~Lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public ~~right-of-way and that lies right-of-way.~~ For purposes of this sub-subdivision, "highway" means a highway, as defined in G.S. 20-4.01(13), that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.
- b. Lies within 1,000 feet of the permit boundaries. For purposes of this subdivision, "highway" means a highway, as defined in G.S. 20-4.01(13) that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining permit to add land to a permitted area, with notice required for only that land to be added.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed new or modified mining operation that adds land to the permitted area and the opportunity to request a public hearing regarding the proposed new or modified mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

...."

SECTION 8.(b) G.S. 74-61 reads as rewritten:

"§ 74-61. **Administrative and judicial review of decisions.**

An applicant, permittee, or affected person may contest a decision of the Department to grant, deny, suspend, modify, or revoke a permit or a reclamation plan, to refuse to release part or all of a bond or other security, or to assess a civil penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after the Department makes the decision. For purposes of this section, the date of the decision to grant, deny, suspend, modify, or revoke a permit application shall be when the Department posts the decision on a publicly available website. Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision of the Commission."

SECTION 8.(c) This section is effective when it becomes law. Subsection (a) of this section applies to permit applications submitted on or after that date. Subsection (b) of this section applies to permit decisions made on or after that date.

EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2022.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:55 p.m. this 7th day of July, 2022