

April 6, 2009

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/6/09. *TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (2) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (3) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (4) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; AND (5) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY.*

Repeals GS 113-35.1, directing the Department of Environment and Natural resources to design and adopt a distinguishing uniform vest for seasonal state park employees.

Current law requires all laboratories doing business in the state to report blood lead test results to the Department of Health and Human Services (DHHS) for children under the age of six and for individuals whose ages are unknown at the time of testing. Amends GS 130A-131.8 to require (1) all laboratories doing business in the state to also report environmental lead test results for children under six and individuals whose age is not known; (2) reports of blood lead results to include the ethnicity of the reported children; and (3) electronic submission of environmental lead test results and blood lead test results. Specifies what information must be contained in the reports of environmental lead test results. Amends Section 5 of SL 2007-248 to revise the sunset provision for nutrient offset payments so that such payments expire on the effective date of the rules adopted by the Environmental Management Commission pursuant to Section 2 of SL 2007-248, (providing that such rules must be adopted no later than September 1, 2009). Makes technical and conforming changes. Effective July 1, 2009, amends GS 130A-248(d) to clarify that the \$50 fee for food and lodging establishment permits apply for each permit issued. Requires that the fee be annually reassessed for permits that do not expire.

Effective July 1, 2009, amends GS 105-87.63 to remove the exception that allowed the receipt of tax distribution proceeds by a city or county if it was served by a regional solid waste management authority even if it did not provide solid waste management programs and services or was not responsible by contract for payment of those services and programs, with the funds received forwarded to the solid waste management authority.

Effective when the act becomes law unless otherwise indicated.

Intro. by Allen, Gibson.

GS 105, 113, 130A

May 7, 2009

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/6/09. House committee substitute makes the following changes to 1st edition.

Amends GS 130A-131.8 to clarify that reports of blood lead test results and of environmental lead results must contain all of the statutorily specified information.

Amends Section 3(c) of SL 2005-190, as amended, to direct the Environmental Management Commission (EMC) to develop a nutrient management strategy for drinking water supply reservoirs to which the section applies by November 30, 2011 (was, July 1, 2009). Amends Section 3(e) of SL 2005-190 as amended to direct the EMC to adopt permanent rules to implement the nutrient management strategies by November 30, 2011 (was, July 1, 2009). Effective July 1, 2009.

Amends Section 5 of SL 2007-438 to provide that the fee schedule set out in Section 1 of SL 2007-438, as amended, expires September 1, 2010 (was, on the effective date of the rules adopted by the EMC pursuant to Section 2 of SL 2007-438, as amended).

Makes technical changes. Makes conforming changes to the title.

Except as otherwise indicated, effective when the act becomes law.

May 12, 2009

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/6/09. House committee substitute makes the following changes to 2nd edition. Amends Section 2 of SL 2007-438 to extend until September 1, 2010 (was, September 1, 2009) the Department of Environment and Natural

Resources deadline for developing and implementing a plan to transition the NC Ecosystem Enhancement Program as required. Amends Sections 3(c) and (e) of SL 2005-190 to set the date as July 1, 2010 (was, November 30, 2011, in previous edition) for the Environmental Management Commission's deadlines for developing the required strategy and rules.

August 4, 2009

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/7/2009. Senate committee substitute of 3rd edition will be digested in tomorrow's *Daily Bulletin*.

August 5, 2009

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/6/09. Senate committee substitute makes the following changes to the 3rd edition.

Deletes the repeal of GS 113-35.1. Deletes amendments to GS 130A-131.8, GS 130A-248(d), GS 105-187.63, and SL 2007-438.

Modifies proposed amended Section 3 of SL 2005-190, as amended by Section 31 of SL 2006-259, to extend the deadline to January 15, 2011 (was, July 1, 2010, in 3rd edition) for the Environmental Management Commission (Commission) to develop nutrient management strategy for drinking water supply reservoirs. Adds that the Commission must consider the effectiveness of measures previously implemented in the watershed, in addition to the cost of proposed measures in relation to their effectiveness, when developing a nutrient management strategy. Also adds that measures may include (1) addressing nutrient inputs from on-site wastewater treatment systems, (2) control of atmospheric deposition, (3) allowing the sale and purchase of nutrient offsets, and (4) allowing trading of nutrient loading allocations and credits for nutrient reductions. Extends the deadline to January 15, 2011 (was, July 1, 2010, in 3rd edition) for the Commission to adopt permanent rules to implement required nutrient management strategies. Specifies that the rules require a stormwater management program to reduce nutrient loading from new development to be implemented no later than 30 months after the rules become effective.

Enacts three new subsections in Section 3 of SL 2005-190, as amended, as follows. Requires that (1) compensatory mitigation for riparian buffer loss in the watershed of a drinking water supply to which the section applies must be performed in that watershed and (2) any nutrient offset purchased to offset loading in the watershed of a drinking water supply may only be obtained from an offset project located in that watershed. Allows the Commission to further limit the area in which the mitigation must be performed or from which nutrient offsets may be obtained. As applied to land-disturbing activities beginning on or after January 1, 2010, enumerates four required design standards for sedimentation and erosion control, in addition to those required by state, federal, or local law, that must be met for land-disturbing activity in the watershed of a water supply reservoir to which the statute applies, until the rules required by Section 6(b) of this act are adopted. Requires the Department of Environment and Natural Resources (DENR), in consultation with the Commission, to identify improvements needed in the design, operation, and siting of septic systems in order to reduce excess nutrient loading from septic tank systems in the watershed of a drinking water supply to which the section applies, with a report to the Commission for Public Health and to the Environmental Review Commission (ERC) by March 1, 2010.

Requires the Commission to adopt temporary rules, concurrently with permanent rule making required by Section 3, by January 15, 2011. Requires the Sedimentation Control Commission to adopt rules of statewide applicability for the control of erosion and sedimentation resulting from land-disturbing activities in the watersheds of water supply reservoirs by December 31, 2011, and take into consideration the standards established in Section 3(h) of SL 2005-190, as amended.

Defines *Upper Neuse River Basin* as that portion of the Neuse River Basin upstream of the Falls Dam, including Falls Lake. Requires the Commission, in its permanent rules, to provide credit for the early implementation of the nutrient management strategy for the Upper Neuse River Basin and the turbidity strategy for Falls Lake to local governments, landowners, and others who implement policies and practices after January 1, 2007, to reduce runoff and discharge of nitrogen, phosphorous, and sediment in the Upper Neuse River Basin. Requires the Commission

to report its progress in implementing this section to the ERC as part of its required quarterly report.

Directs the Revenue Laws Study Committee and the ERC to jointly study revenue generating opportunities associated with entities in the state that are large-scale users of certain natural resources. Specifies issues to be included in the study. Requires the Utilities Commission, the Department of Revenue, and DENR to provide technical expertise and assistance as requested to conduct the study. Requires a joint report to the General Assembly by April 1, 2010.

Prohibits Concord and Kannapolis from transferring water from the Catawba River Basin pursuant to a certain certificate approved by the Commission on January 10, 2007, and signed into effect on January 25, 2007, unless DENR determines that certain conditions are met.

Amends Section 21 of SL 2008-143 to change the effective date of Section 9 (enacts GS 143-355.4, *Water system efficiency*) of that act to July 1, 2010 (was, July 1, 2009).

States that the General Assembly determines that it is in the public interest to prohibit the use of glass beads containing more than 75 parts per million inorganic arsenic used to reflect light when applied to markings on roadways because of the health risks for road workers and the public from the potential release of inorganic arsenic into the environment. Enacts new GS 136-30.2 to prohibit pavement markers from being placed on or along any road in the state highway system, the municipal street system, or any public vehicular area that is made from paint that has been mixed, in whole or in part, with reflective glass beads containing more than 75 parts per million inorganic arsenic, as determined by US Environmental Protection Agency specific test methods. Effective for contracts for road projects entered into, or any pavement remarking that takes place, on or after October 1, 2009.

Amends GS 87-98 to provide that the Bernard Allen Memorial Emergency Drinking Water Fund (Fund) may be used to pay the personnel and other direct costs associated with developing regional groundwater quality assessments based on groundwater quality from water supply wells, additional testing data indicated by emerging contamination issues, and other sources of groundwater data (was, to pay for notification of residents and business officials that use a drinking water well or improved spring located near known groundwater contamination). Provides that the purpose of groundwater quality assessments is to improve public policy for groundwater protection, develop groundwater quality plans, and to increase public awareness of groundwater quality and the occurrence of contamination. Specifies that up to 50% of available funds may be allocated each year for developing groundwater quality assessments and groundwater quality plans. Requires DENR to disburse monies from the Fund *for covering the costs of alternative drinking water supplies* based *only* on financial need and risk to public health posed by groundwater contamination and must give priority to the provision of services under the statute to instances when an alternative source of funds are not available. Clarifies that DENR must give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replace contaminated wells over the provision of temporary water supplies in disbursing monies from the Fund *for alternative drinking water supplies*. Adds that no more than one-third of the total cost of a project providing an alternative drinking water supply by extension of a waterline may be paid from the Fund *for any project totaling more than \$50,000*. Adds that DENR, in consultation with the Commission for Public Health and local health departments, must include in its required annual report the progress of regional groundwater quality assessments and groundwater quality plans, as well as recommendations for additional testing parameters for private drinking water wells indicated by regional groundwater assessments.

Amends GS 153A-357(d) (counties) and GS 160A-417(c) (cities and towns) to provide that, for the purposes of those statutes, an inspector may rely upon a third-party certification provided by the applicant that the parking lot and stormwater bioretention area are properly designed and constructed to comply with GS 133A-71 in accordance with guidelines developed by DENR. Specifies requirements for acceptable certification. Effective retroactively to April 1, 2009.

Effective when the act becomes law unless otherwise noted [was, amendments to Section 3(c) of SL 2005-190, as amended, were effective July 1, 2009].

Changes the title to *AN ACT TO AMEND CERTAIN ENVIRONMENTAL LAWS TO: (1) EXTEND BY ONE YEAR THE IMPLEMENTATION OF WATER SYSTEM EFFICIENCY CRITERIA FOR ELIGIBILITY FOR STATE WATER INFRASTRUCTURE FUNDS; (2) PROHIBIT*

THE USE OF HIGH ARSENIC CONTENT GLASS BEADS WHEN MARKING STATE OR MUNICIPAL ROADS OR PUBLIC VEHICULAR AREAS; (3) AMEND THE BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND; (4) PROVIDE THAT CITY AND COUNTY BUILDING INSPECTORS MAY RELY UPON A THIRD-PARTY CERTIFICATION FOR PARKING LOTS AND ANY BIORETENTION AREAS DESIGNED AND CONSTRUCTED TO COMPLY WITH G.S. 113A-71; (5) MODIFY THE NUTRIENT MANAGEMENT STRATEGY AND ADOPT A SEDIMENTATION STRATEGY FOR CERTAIN DRINKING WATER SUPPLY RESERVOIRS; (6) PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED; (7) DIRECT THE REVENUE LAWS STUDY COMMITTEE AND THE ENVIRONMENTAL REVIEW COMMISSION TO CONDUCT A STUDY OF REVENUE GENERATING OPPORTUNITIES ASSOCIATED WITH ENTITIES USING CERTAIN NATURAL RESOURCES OF THE STATE IN ORDER TO FUND ACTIVITIES THAT WILL PROTECT AND ENHANCE PUBLIC HEALTH AND THE ENVIRONMENT; AND (8) LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE.

H 1099. AMEND ENVIRONMENTAL LAWS 2009. Filed 4/6/09. Senate amendments make the following changes to 4th edition.

Amendment #1 changes the effective date of SL 2008-143, Section 9, to July 1, 2010, except that GS 143-355.4, as enacted by Section 9, becomes effective July 1, 2010.

Amendment #2 adds new Article 9, *Yadkin River Trust*, to GS Chapter 77, establishing the Yadkin River Trust (Trust) as a public agency, creating the Trust's board of directors and its duties and operating procedures. Authorizes Trust to acquire the federal license for the Yadkin River Dam (Yadkin Project) and, if so acquired, to seek permission from the General Assembly to issue revenue bonds or other financing to enable acquisition and operation of the Yadkin Project. Directs Trust, if it acquires the Yadkin Project, to comply with the terms of the Relicensing Settlement Agreement with the Federal Energy Regulatory Commission dated May 7, 2007, to evaluate the environmental risks posed by certain properties in the Yadkin River Valley, to apportion up to 25% of the proceeds from the Yadkin Project's electrical output for a regional "Power for Jobs" fund administered by the Department of Commerce, to make operational changes to retain more water for certain local lakes and to provide consistent water flow, to utilize up to 25% of the remaining net revenue to make grants to the Community College System Office, and to use any remaining net revenues to fund projects to protect and improve the health of the Yadkin River. Creates reporting procedures and conflict of interest provisions for the Trust and its officers, directors, and employees. Requires the Department of Justice to report by July 1, 2010, on discussions between the State and Alcoa, Inc., and other parties concerning the Yadkin Project. Requires the Secretary of Commerce to present a detailed business plan for the operation of the Trust on or before March 1, 2010. Makes corresponding changes to other statutes and to the bill's title.

Amendment #3 amends SL 2005-190, Section 3, as amended by SL 2006-259, by excluding from the applicable definition of *land-disturbing activity* any activities described in GS 113A-542.01. Makes same change to rules to be promulgated by the Sedimentation Control Commission.

Amendment #4 amends SL 2005-190, Section 3, as amended by SL 2006-259, to provide details regarding the required temporary groundcover in areas of land-disturbing activities where grading activities have not been completed.

July 9, 2010

H 1099. CLARIFY EFFECTIVE DATE FOR SEPA EXEMPTION (NEW). Filed 4/6/09.

Conference report recommends the following changes to 5th edition to reconcile matters in controversy.

Deletes all the provisions of the 5th edition and replaces it with *AN ACT TO CLARIFY THE EFFECTIVE DATE OF A PROVISION LIMITING THE APPLICABILITY OF THE STATE ENVIRONMENTAL POLICY ACT TO PROJECTS RECEIVING ECONOMIC INCENTIVE PAYMENTS.*

Provides that if Senate Bill 778 becomes law, then Section 2 of the bill is amended to provide that the act becomes effective June 1, 2010; however, it does not apply to any project subject to pending litigation or court orders before that date which involved the application of the State Environmental Policy Act to projects receiving economic incentives.

August 12, 2010

SL 2010-188 (H 1099). CLARIFY EFFECTIVE DATE FOR STATE ENVIRONMENTAL POLICY ACT EXEMPTION. *AN ACT TO CLARIFY THE EFFECTIVE DATE OF A PROVISION LIMITING THE APPLICABILITY OF THE STATE ENVIRONMENTAL POLICY ACT TO PROJECTS RECEIVING ECONOMIC INCENTIVE PAYMENTS.* Summarized in *Daily Bulletin* 7/9/10. Enacted August 3, 2010. Effective August 3, 2010.