

May 17, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. *TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (2) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (3) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (4) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (5) AMEND REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; AND (7) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.*

Amends GS 120-70.42(b) to provide that the Speaker of the House of Representatives and the President Pro Tempore of the Senate may designate multiple members of their respective bodies to serve as co-chairs of the Environmental Review Commission.

Amends GS 130A-310.4(b) to delete the requirement that a copy of a proposed remedial action plan for dealing with an inactive hazardous substance or waste disposal site must be filed with the register of deeds in the county or counties where the site is located. Also deletes the requirement that a copy of the remedial action plan be provided to each public library located in the county or counties in which the site is located and instead requires that a copy of the plan be provided to each public library located in closest proximity to the site in the county or counties where the site is located.

Enacts new GS 143-214.25A to direct the Division of Water Quality of the Department of Environment and Natural Resources (DENR) to establish the Surface Water Identification Training and Certification Program as a component of the riparian buffer protection program. Provides guidelines regarding the training and certification requirements to be applied. Directs the Division of Water Quality (1) to give priority to training and certifying the most highly qualified and experienced personnel in each agency, and (2) to submit an annual report of any findings to the Environmental Review Commission on or before October 1 of each year. Provides that the first report is due on or before October 1, 2011. Provides that this section does not obligate the General Assembly to appropriate any funds to implement the provisions of the act.

Amends GS 143-215.112(d)(1a), effective October 1, 2010, to increase the amount of the maximum civil penalty allowed for certain air quality violations from \$10,000 to \$25,000 per day for as long as the violation continues.

Amends GS 143-215.1.C(a) to specify that the reporting requirements to wastewater system customers apply to wastewater systems having an average annual flow greater than 200,000 gallons per day.

Amends GS 143-355.6 regarding enforcement and the assessment of civil penalties for violations under the water resources provisions of GS Chapter 143, Article 38. Provides criteria for filing requests for remission of civil penalties. Directs that remission requests are not to be considered unless the request is made within 30 days of receipt of the notice of assessment. Requires that the remission request be accompanied by a waiver of the right to a contested hearing under GS Chapter 150B and a stipulation of the facts on which the assessment was based. Provides additional criteria for the resolution of remission requests. Also provides guidelines for the institution of a civil action in Superior Court by the Secretary with regards to any civil penalty that has not been paid within 30 days after the assessment has been served on the violator. Directs that the clear proceeds of civil penalties assessed under the section are to be remitted to the Civil Penalty and Forfeiture Fund in accordance with GS 115C-457.2.

Provides that the prohibition restricting the Environmental Management Commission from making any new or increased nutrient loading allocation to persons required to obtain a permit under GS 143-215 applies to any *impaired* drinking water supply reservoir.

Intro. by Gibson.

GS 120, 130A, 143

July 1, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. House committee substitute makes the following changes to 1st edition.

Adds new section amending GS 47-30(f)(9), to change the location of horizontal control monument files for plat and subdivision mapping requirements to the North Carolina Geodetic Survey Section in the Division of Land Resources of the Department of Environment and Natural Resources (DENR) (was, the Office of State Budget and Management). Also makes a technical change.

Adds new section amending various sections of Part 17A of Article 7 of GS Chapter 143B as follows: (1) changes the title to *Western North Carolina Public Lands Council* (was, North Carolina National Park, Parkway and Forests Development Council) and makes conforming changes throughout; (2) clarifies that one member each on the Council shall be resident in Buncombe, Haywood, Jackson, Swain, and (*new*) Cherokee counties, and that two members (was, three) must be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests. Makes other technical and clarifying changes and makes a conforming change to GS 153B-3(d).

Adds new section amending GS 143-355.2(h1) to clarify that implementation of a voluntary water conservation and water use efficiency program used by commercial car washes must be considered when determining compliance with local government water shortage response plans as follows: (1) a water conservation and use efficiency certification may only be issued to a person demonstrating full implementation of an approved voluntary water conservation and use efficiency program (was, who demonstrates that water use from its water consuming processes is reduced by and maintained at 20% or more below the yearly average water use for the calendar year before certification application), and (2) to qualify for certification, DENR must determine that the program achieves year-round reductions in water use and results in a reduction of 20% or more in average water use per vehicle, and (3) other considerations in current law.

Adds new section to make technical and clarifying changes to GS 143B-299(a).

Adds new section to amend the notice requirements for new fees and fee increases in the following statutes: GS 153A-102.1 (pertaining to counties), GS 160A-4.1 (pertaining to cities), GS 130A-64.1 (pertaining to sanitary districts), and GS 162A-9 (pertaining to water and sewer authorities). Requires the entity to employ at least two of the four listed means of communication (including Web site, prominent physical location, electronic mail, or by facsimile) to provide the required notice. Also provides guidelines for posting notice on the entity's Web site, or requesting that notice be posted by another entity if applicable. Makes additional technical and clarifying changes. Makes above requirements effective February 1, 2011.

Adds new section establishing the Wood and Crop Biomass Strategic Working Group (Working Group), a joint convention of several entities, and details the list of 20 members comprising the Working Group. Directs the Working Group to meet monthly or upon the call of the conveners beginning no later than August 1, 2010. Provides additional administrative information for the Working Group. Instructs the Working Group to submit an interim report to specified parties no later than February 1, 2011, and to submit a final report with findings, recommendations, and legislative proposals no later than May 1, 2011.

Adds new section requiring certain, listed state agencies to review their plans and regulatory programs to determine whether those programs currently consider the impacts of global climate change and related topics. Instructs each agency to report its results to DENR by September 1, 2011. DENR will subsequently consolidate the results and report to the Environmental Review Commission and other applicable commissions by November 1, 2011.

Adds new section to enact proposed Part 7, *Management of Certain Products that Contain Mercury*, in Article 9 of GS Chapter 130A. Directs all state agencies using state funds to establish a program to collect and recycle all spent fluorescent lights and thermostats that contain mercury

generated in public buildings, including procedures for collection and storage. Instructs all affected agencies to report on compliance to DENR and the Department of Administration by December 1, 2011. The reports will be compiled and submitted to the Environmental Review Commission on or before January 15, 2012. New GS 130A-310.61 requires any owner or contractor responsible for demolishing a building or structure to, before demolition, remove all fluorescent lights and thermostats that contain mercury. Prohibits a person from knowingly disposing of the mercury-containing lights or thermostats in an improper landfill. Amends GS 130A-22 to authorize DENR to assess penalties as follows: not to exceed \$100 for the first violation; \$200 for a second violation within any 12-month period; and \$500 for each additional violation within any 12-month period. Amends GS 130A-25 to make a violation a Class 3 misdemeanor, and makes a clarifying change. Effective December 1, 2010.

Adds new section authorizing the Environmental Review Commission to study the penalties applicable to violations of GS 130A-309.10 (prohibited acts related to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited) and to report findings and recommendations to the 2011 Regular Session of the 2011 General Assembly upon its convening.

Adds new section amending GS 143-355.4(a) to clarify that local government water systems and large community water systems require separate meters for new in-ground irrigations only *on lots platted after July 1, 2009*, that are connected to their systems.

Makes additional technical, conforming, and organizational changes. Changes the title to reflect added contents.

July 6, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. House committee substitute makes the following changes to 2nd edition.

Decreases the number of members in the Wood and Crop Biomass Strategic Working Group from 20 to 18, by removing one farmer member appointed by the President of the North Carolina Farm Bureau Federation, and one forest landowner member appointed by the President of the North Carolina Forestry Association (Working Group previously included two members from each category).

Amends GS 143-355.4(a) to clarify that local government water systems and large community water systems require separate meters for new in-ground irrigations only *on lots platted and recorded in the office of the register of deeds in the county or counties in which the real property is located after July 1, 2009*, that are connected to their systems (adds to previously amended language).

Adds a new section declaring that inorganic arsenic is a hazardous substance and recognized as a human carcinogen, and that exposure may cause enumerated harms. Enacts new GS 136-30.2 to prohibit the placement of pavement markings 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, on any specified area. Effective October 1, 2010 and applicable to any contracts for road projects entered into, or any pavement remarking that takes place on or after that date.

Adds a new section enacting GS 130A-250(13) to exempt from food facilities regulations traditional country stores that sell uncooked sandwiches or similar food items involving minimal preparation, when the minimal preparation is the only activity that would otherwise subject the establishments to regulation. Defines traditional country stores as for-profit establishments that sell an assortment of goods, including pre-packaged foods and beverages, and have been in continuous operation for at least 75 years.

Adds a new section to establish an experimental program in which the City of Greensboro may relocate beavers that have been taken alive under a Greensboro-issued depredation permit along Buffalo Creek to a suitable alternative habitat along Buffalo Creek with the landowner's consent. Makes the experimental program effective when the act becomes law, with the expiration date of July 1, 2011.

Changes the effective date for the provisions requiring and regulating the recycling of certain mercury-containing products to July 1, 2011 (was, December 1, 2010).

Makes conforming changes to the title.

July 7, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. House amendments make the following changes to 3rd edition. Amendment #1 amends the membership of the Wood and Crop Biomass Strategic Working Group to clarify that one member is the president of Duke Energy NC (was, Duke Power) or the president's designee and that another member is the president of Progress Energy Carolinas (was, Progress Energy) or the president's designee.

Amendment #2 amends the proposed language in GS 130A-22 to provide that for violations of Part 7 of Article 9 of GS Chapter 130A, only a warning is to be issued for a first violation (was, the penalty for a first violation was a penalty not to exceed \$100); also amends the penalty provision to remove the limitation that the penalties for second and additional violations attach to second and additional violations occurring within any 12 month period.

July 8, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. Senate committee substitute makes the following changes to 4th edition.

Increases the number of members in the Wood and Crop Biomass Strategic Working Group from 18 to 19, by adding the Executive Director, or designee, of the NC Association of Professional Loggers, Inc., as the new member.

Adds new section amending Section 5 of SL 2007-438, as amended, to extend the fee schedule for nutrient offset payments to September 1, 2011 (was, September 1, 2010).

Adds new section providing that if Senate Bill 887 (amending the Electronics Recycling law), 2009 Regular Session, becomes law, then GS 130A-309.131(11), as enacted by Section 2(a) of that act, makes a technical change to the definition of *notebook computer* therein. Effective August 1, 2010.

Adds new section amending GS 77-131 to state that the provisions of the Clean Coastal Water and Vessel Act only apply to a vessel in coastal waters that is designated as a no-discharge zone by the US Environmental Protection Agency (current law contains alternative applicability also to a vessel in coastal waters included in a petition to the EPA for no-discharge zone designation), and as further indicated in current law. Also amends Section 3 of SL 2009-345 to delay the effective date of the Clean Coastal Water and Vessel Act until April 1, 2011 (was, July 1, 2010).

Deletes the section that established an experimental program under which Greensboro could relocate beavers taken along Buffalo Creek.

Makes another conforming change, and makes conforming changes to the title.

July 9, 2010

H 1766. AMEND ENVIRONMENTAL LAWS 2010. Filed 5/17/10. Senate amendments make the following changes to 5th edition.

Amendment #1 deletes sections establishing and explaining the Wood and Crop Biomass Strategic Working Group. Makes a conforming change to the title, and makes other conforming changes.

Amendment #2 adds a new section amending Section 9.10(a) of SL 2010-31 (creating the Coastal Wave Energy Research and Prototype Project) to clarify that the effort to study wave and physical processes in the oceans and associated water bodies to develop alternative energy resources will be interdisciplinary and will consider the health of the ocean so that efforts to extract ecosystem services will also consider ecosystem functions and health of the ocean including, but not limited to, carbon budget, acidification, mercury, and nutrient issues. Makes a conforming change to the title.

Amendment #3 amends (which was replaced with the western North Carolina Public Lands Council in the 5th edition) GS 143B-433 to remove the North Carolina National Park, Parkway and Forests Development Council from inclusion as a Department of Commerce agency.

Amendment #4 adds a new section amending GS 143B-344.35 (creating the NC Sustainable Communities Task Force), as enacted by Section 13.5(a) of SL 2010-31, to provide

that the Task Force must take into account the resources and infrastructure in smaller communities and rural areas, as compared to urban areas, when developing its common local government sustainable practices scoring system, to ensure that all communities and areas may compete for grants on an equal basis. Also amends GS 143B-344.38 to require the Task Force to report to specified committees regarding the scoring system, before awarding any funding. Adds new subsection to Section 13.5 of SL 2010-31 to provide that the section will not be construed to grant the Task Force any authority to regulate or supersede any action of any state agency or local government.

Makes a conforming change to the title, and makes other conforming changes.

August 12, 2010

SL 2010-180 (H 1766). AMEND ENVIRONMENTAL LAWS 2010. AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS; (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7) CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES, SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS; (13) DIRECT CERTAIN STATE AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (14) REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS, REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION, AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS; (15) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); (16) PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND IRRIGATION SYSTEMS FOR LOTS PLATTED AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AFTER JULY 1, 2009, THAT ARE CONNECTED TO THEIR SYSTEMS; (17) PROHIBIT THE USE OF HIGH ARSENIC CONTENT GLASS BEADS WHEN MARKING STATE OR MUNICIPAL ROADS OR PUBLIC VEHICULAR AREAS; (18) ENABLE TRADITIONAL COUNTRY STORES TO SELL UNCOOKED SANDWICHES, PREPARED ON PREMISES BY STORE EMPLOYEES; (19) REVISE THE

SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; (20) MAKE A TECHNICAL CORRECTION TO THE DEFINITION OF "NOTEBOOK COMPUTER"; AND (21) DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO APRIL 1, 2011, TO LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AND (22) CLARIFY THE SCOPE OF RESEARCH FOR THE COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT AUTHORIZED IN THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2010; AND (23) TO AMEND THE NC SUSTAINABLE COMMUNITIES TASK FORCE. Summarized in *Daily Bulletin* 5/17/10, 7/1/10, 7/6/10, 7/7/10, 7/8/10, and 7/9/10. Enacted August 2, 2010. Sections 6, 9, 17(a), and 17(b) are effective October 1, 2010. Sections 11(a)–(d) are effective February 1, 2011. Sections 14(a)–(d) are effective July 1, 2011. Section 20 is effective August 1, 2010. The remainder is effective August 2, 2010.