

March 24, 2009

S 836. ENV./NAT. RES. REPORTS CONSOLIDATION 2009 (=H 713). Filed 3/24/09. TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS.

Identical to H 713, filed 3/19/09.

Intro. by Albertson.

GS 106, 113, 143

August 6, 2009

S 836. RECYCLE PRODUCTS CONTAINING MERCURY (NEW). Filed 3/24/09. House committee substitute makes the following changes to 1st edition. Deletes contents of the previous edition and replaces it with *AN ACT TO 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.*

Enacts new Part 7 in Article 9 of GS Chapter 130A, *Management of Certain Products That Contain Mercury*. Enacts new GS 130A-310.60 to require that each state agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using state funds (collectively, state entities) to establish a program in cooperation with the Department of Environment and Natural Resources (DENR) and the Department of Administration (DOA) for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. Requires state entities and the Department of Public Instruction, on behalf of public schools, to report on their compliance with this statute to DENR and DOA by February 1, 2010. Also requires that DENR and DOA submit a compiled report of this information to the Environmental Review Commission by May 1, 2010, and that the information be included in DENR's required report under GS 130A-309.06(c). Provides that the recycling program for state entities be established and implemented by December 1, 2009.

Enacts new GS 130A-310.61 to require the contractor responsible for the demolition of any building or structure in the state to first remove all fluorescent lights and thermostats containing mercury from the building or structure. Effective on an unspecified date other than the date the act becomes law (may intend to make this section effective on December 1, 2009).

Amends GS 130A-309.10 by adding a new subsection (m) to prohibit a person from knowingly disposing of fluorescent lights and thermostats that contain mercury in any landfill that is unlined. Effective for offenses committed on or after December 1, 2009.

June 10, 2010

S 836. REMOVE DAMAGE CAP/REVIEW OFFSHORE OIL SPILLS (NEW). Filed 3/24/09. House committee substitute deletes all provisions of 2nd edition and replaces with *AN ACT TO: (1) REMOVE THE CAP ON THE TOTAL RECOVERY BY THE STATE FOR DAMAGE TO THE PUBLIC RESOURCES AND FOR THE COST OF ANY OIL OR OTHER HAZARDOUS SUBSTANCES CLEANUP ARISING FROM A DISCHARGE, CLARIFY THAT THE LIABILITY FOR ALL CLEANUP AND REMOVAL COSTS AND ALL DIRECT AND INDIRECT DAMAGES INCURRED WITHIN THE JURISDICTION OF THE STATE INCLUDES DISCHARGES FROM FACILITIES LOCATED IN THE STATE'S COASTAL FISHING WATERS, AND CLARIFY THE EXCEPTIONS FOR LIABILITY TO AN INJURED PARTY FOR SUCH DAMAGES; (2) PROVIDE FOR A REVIEW OF INFORMATION REQUIRED FOR A PROPOSED OFFSHORE FOSSIL FUEL FACILITY IN ORDER TO DETERMINE CONSISTENCY WITH STATE GUIDELINES FOR THE COASTAL AREA; (3) DIRECT THE COASTAL RESOURCES COMMISSION TO REVIEW EXISTING LAWS AND REGULATIONS THAT PERTAIN TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION IN LIGHT OF THE EXPLOSION, SINKING, AND SUBSEQUENT OIL RELEASES FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG; AND (4) DIRECT THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO IMMEDIATELY REVIEW AND UPDATE THE STATE OIL SPILL AND CONTINGENCY PLAN IN ORDER TO PREPARE THE STATE IN THE EVENT PRODUCT*

RELEASED FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG IS SWEEPED TO THE NORTH CAROLINA COAST.

Amends GS 143-215.89 to remove existing limits on the total amount the State may recover for damage to public resources and for the cost of cleanup arising from the discharge of oil or other hazardous substances.

Amends GS 143-215.94BB (definitions for Offshore Oil and Gas Activities: Adverse Environmental Impact Protection), expanding the definition of *Exploration* to include any technique employed to assess and evaluate the presence of subterranean oil and natural gas deposits.

Amends GS 143-215.94CC to clarify that the liability for all cleanup and removal costs and all direct or indirect damages incurred within the jurisdiction of the State include the discharge or leaking of natural gas, oil, or drilling waste from facilities located in the State's coastal fishing waters (removes references to offshore facilities). Clarifies that a responsible person is excepted from liability under the section for (1) damages from a discharge authorized by, *and in compliance with*, a State or federal permit; and (2) damages that could have been *reasonably* mitigated by the injured party. The provisions above are effective when the act becomes law, and apply to any damages that occur on or after that date.

Enacts new GS 113A-119.2 to provide for information required for the review of a proposed offshore fossil fuel facility. Defines *offshore fossil fuel facility* as facilities that have the potential to affect any land or water use or natural resource of the coastal area because of their size, magnitude, or scope of impacts. Provides, without limitation, examples of offshore fossil fuel facilities. Tabulates detailed information required for the review of an offshore fossil fuel facility located in coastal fishing waters, as related to instances of unauthorized discharge.

Directs the Coastal Resources Commission, in light of the recent events of the British Petroleum Deepwater Horizon offshore drilling rig, to review existing statutes and modify existing rules pertaining to offshore energy exploration and production, and to make any recommendations to the Environmental Review Commission by October 1, 2011.

Directs the Department of Crime Control and Public Safety (Department) to immediately review the potential impacts of oil leaking from the BP Deepwater Horizon offshore drilling rig on the State's coast, and to update the Oil Spill Contingency Plan as necessary to ensure the State's preparedness. Directs the Department, during the update, to assess any mitigating and management actions previously implemented, to determine any successful solutions, to identify the best management practices, and to identify the resources necessary to carry out the plan.

June 22, 2010

S 836. OIL SPILL LIABILITY, RESPONSE, & PREPAREDNESS (NEW). Filed 3/24/09. House committee substitute makes the following changes to 3rd edition.

Amends GS 143-215.89 to reinstate limits on the total amount the state may recover for damage to public resources and for the cost of cleanup arising from the discharge of oil or other hazardous substances; however, provides that the limits on recovery do not apply to damages that may be recovered under GS 143-215.94CC (regarding offshore oil spills). Amends GS 143-215.94JJ to provide that the federal liability limits established under the Oil Pollution Act of 1990, 33 USC §§ 2701 to 2762, do not apply to discharges or pollution by oil within the state's territorial jurisdiction. Clarifies that in addition to the definitions set out in GS 143-215.77, the definitions in GS 143-215.94BB also apply to Part 2C of Chapter 143, Article 21A. Clarifies that the term *offshore waters* includes the territorial sea extending from North Carolina's coastline or any other coastal state bordering the Atlantic Ocean, including the Gulf of Mexico, as well as the exclusive economic zone that extends seaward from the territorial sea of each such state. Defines *coastal fishing waters* as having the same meaning as in GS 113-129. Defines *exclusive economic zone* as having the same meaning as in section 1001(8) of the Oil Pollution Act of 1990, 33 USC § 2701(8).

Amends GS 143-215.94CC to clarify that strict liability for cleanup and removal costs and direct and indirect damages that arise from the discharge as defined in GS 143-215.77 (was, discharge or leaking) of natural gas, oil, or drilling waste may apply regardless of the location of the source of the discharge (was, located in coastal fishing waters). Also provides that damages

include damages caused (1) by any exploration in or upon coastal waters and (2) by cleanup and removal techniques such as chemical dispersants.

The above provisions apply to any damages as defined in GS 143-94BB that occur on or after the date that the act becomes law.

Amends proposed GS 113A-119.2 (regarding information required for the review of a proposed offshore fossil fuel facility). Amends the required information for the review of an offshore fossil fuel facility located in coastal fishing waters to now consist of (1) all information that is required to be in an Exploration Plan under Subpart B of Part 250 of 30 CFR (July 1, 2009 edition), (2) all information required to be in an Oil-Spill Response Plan required under Subpart B of Part 254 of 30 CFR (July 1, 2009), (3) an assessment of alternatives to the proposed facility that would minimize the likelihood of an unauthorized discharge, (4) an assessment of the potential for the discharge to cause temporary or permanent violations of the state and federal water quality standards, and (5) any other information that the Coastal Resources Commission determines necessary for consistency review.

Directs the Department of Environment and Natural Resources to review and make recommendations on current liability caps related to the discharge of oil and other hazardous circumstances and to report its findings and recommendations to the Environmental Review Commission on or before December 1, 2010.

Makes conforming changes to the title. Also makes additional organizational, stylistic, and technical changes.

June 23, 2010

S 836. OIL SPILL LIABILITY, RESPONSE, & PREPAREDNESS. Filed 3/24/09. House amendment makes the following changes to 4th edition.

Changes the reporting date by which the Coastal Resources Commission must make recommendations concerning offshore energy exploration and production to the Environmental Review Commission on or before April 1, 2011 (was, October 1, 2011).

August 12, 2010

SL 2010-179 (S 836). OIL SPILL LIABILITY, RESPONSE, AND PREPAREDNESS. AN ACT TO: (1) CLARIFY LIABILITY FOR DAMAGES CAUSED BY THE DISCHARGE OF NATURAL GAS, OIL, OR DRILLING WASTE INTO STATE COASTAL FISHING WATERS OR OFFSHORE WATERS; (2) PROVIDE FOR THE REVIEW OF INFORMATION REQUIRED FOR A PROPOSED OFFSHORE FOSSIL FUEL FACILITY IN ORDER TO DETERMINE CONSISTENCY WITH STATE GUIDELINES FOR THE COASTAL AREA; (3) DIRECT THE COASTAL RESOURCES COMMISSION TO REVIEW EXISTING LAWS AND REGULATIONS THAT PERTAIN TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION IN LIGHT OF THE EXPLOSION, SINKING, AND SUBSEQUENT DISCHARGE OF OIL FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG; (4) DIRECT THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO IMMEDIATELY REVIEW AND UPDATE THE STATE OIL SPILL CONTINGENCY PLAN IN ORDER TO PREPARE THE STATE IN THE EVENT THAT OIL DISCHARGED FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG IS TRANSPORTED BY CURRENTS OR OTHER MECHANISMS TO THE NORTH CAROLINA COAST; AND (5) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REVIEW LIMITATIONS ON RECOVERY BY THE STATE FOR DAMAGE TO PUBLIC RESOURCES AND FOR THE COST OF OIL OR OTHER HAZARDOUS SUBSTANCE CLEANUP ESTABLISHED PURSUANT TO G.S. 143-215.89. Summarized in *Daily Bulletin* 6/10/10, 6/22/10, and 6/23/10. Enacted August 2, 2010. Effective August 2, 2010.