

March 15, 2007

S 845. AMEND NATURAL RESOURCES LAWS 2007 (=H 820). Filed 3/15/07. *TO AMEND CERTAIN NATURAL RESOURCES LAWS TO CLARIFY THAT DRAFT FISHERY MANAGEMENT PLANS ARE NOT SUBMITTED FOR REVIEW TO THE ENVIRONMENTAL REVIEW COMMISSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.*

Identical to H 820, filed 3/14/07.

Intro. by Albertson.

GS 113

July 15, 2008

S 845. AMEND ENV. LAWS/ENV. TECH. CORRECTIONS 2008 (NEW). Filed 3/15/07. House committee substitute deletes all provisions of 1st edition and replaces it with *AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) PROVIDE THAT PRIVATE DRINKING WATER WELLS ARE TO BE TESTED FOR CERTAIN ADDITIONAL PARAMETERS; (2) AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT RULES GOVERNING EUTHANASIA OF ANIMALS; (3) RENAME THE BLUE CRAB RESEARCH PROGRAM THE BLUE CRAB AND SHELLFISH RESEARCH PROGRAM; (4) CLARIFY THAT THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER UNIT OF GOVERNMENT SHALL MAKE OYSTER SHELLS AVAILABLE TO THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITHOUT REMUNERATION; (5) SPECIFY THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY NOT BEGIN THE PROCEDURE TO ADOPT A TEMPORARY OR PERMANENT RULE GOVERNING THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES PRIOR TO 1 OCTOBER 2011 AND TO SPECIFY THAT ANY SUCH ADDITIONAL RULES SHALL NOT BECOME EFFECTIVE PRIOR TO 1 OCTOBER 2013; (6) CLARIFY THE PROCEDURE FOR RECORDATION OF RESTRICTIONS AND PROTECTIVE COVENANTS THAT SPECIFY CERTAIN COASTAL STORMWATER MANAGEMENT REQUIREMENTS; (7) ESTABLISH, CONSOLIDATE, AMEND OR REPEAL CERTAIN ENVIRONMENTAL REPORTING REQUIREMENTS; AND (8) CORRECT TECHNICAL ERRORS IN VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES; AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.* Effective January 1, 2009, amends GS 87-97(h) to require specified additional parameters when testing private water wells.

Amends GS 19A-24 by enacting a new subsection to authorize the Board of Agriculture to adopt additional rules related to certification of euthanasia technicians and the euthanasia of animals. Establishes that the Board of Agriculture had sufficient statutory authority to adopt specified rules governing euthanasia of animals on February 13, 2008. Effective retroactively to November 1, 2007.

Renames the Blue Crab Research Program, administered by the NC Sea Grant Program, as the Blue Crab and Shellfish Research Program. Provides that funds appropriated for this program may be used for research on blue crabs, oysters, scallops, clams, and other shellfish.

Amends GS 136-123(b) to require that any government unit that *possesses* (was, comes into possession of) oyster shells must make them available to the Division of Marine Fisheries for oyster bed revitalization programs or any programs using those shells, *without remuneration*.

Creates a new section in S 1967, if it becomes law, that imposes a limit on initiating procedures for additional rulemaking by the Environmental Management Commission (EMC) related to the management of stormwater runoff in the coastal counties until October 1, 2011, except as required by federal law. Requires that, prior to initiating procedures for temporary or permanent rules governing management of stormwater runoff in the coastal counties, the EMC must submit a report to the Environmental Review Commission (ERC) that details the impact of the implementation of Section 2 of the act on coastal water quality. Requires that any such additional rules adopted by EMC do not become effective until October 1, 2013.

Amends proposed Section 2.(c) of S 1967, if it becomes law, by clarifying that a one-time nonrenewable stormwater management permit in coastal counties requires recorded restrictions or protective covenants *to be recorded on the property in the Office of the Register of Deeds in*

the county where the property is located prior to the issuance of a certificate of occupancy. Makes a conforming change to subsection (f) of SL 2006-246, Section 9. Effective October 1, 2008.

Repeals GS 143B-279.12(e) (one-stop permits reporting) and GS 143B-279.13(c) (express permit and certifications reviews reporting). Instead, enacts a new GS 143B-279.15 that provides for reporting by the Department of Environment and Natural Resources to the Fiscal Research Division and the ERC on the one-stop permits and the express permit and certification review programs by March 1 of each year. Sets forth the information to be included in reports.

Makes technical corrections to GS 143-64.12(a) and GS 143-215.3A(a). Makes technical changes to proposed revised GS 143-215.22L(c) in H 821, if it becomes law, including correcting the list of areas denoted by eight-digit cataloging units as organized by the US Geological Survey.

Makes a technical correction to proposed GS 130A-309.91(9) in H 819, if it becomes law.

July 18, 2008

S 845. AMEND ENV. LAWS/ENV. TECH. CORRECTIONS 2008. Filed 3/15/07. Conference report recommends the following changes to 2nd edition to reconcile matters in controversy. Makes technical changes to proposed GS 19A-24(b)(9) and proposed GS 143B-279.15.

Reorganizes proposed new Section 4.(b) of S 1967 and inserts specific references to GS 143-214.7(b)(1) and (b)(3) (related to Environmental Management Commission (EMC) rules and programs for management of stormwater runoff in coastal counties). Provides that, if the EMC adopts a temporary or permanent rule that governs the management of stormwater runoff in coastal counties under the authority of a state law other than GS 143-214.7(b)(1) and (b)(3), then the provisions of that rule will not apply within coastal counties until October 1, 2011, with exceptions.

Amends GS 143-215.94B to allow reimbursement to an owner or operator of an underground storage tank (UST) from the Commercial Fund for payment of annual operating fees, paid under protest pursuant to GS 143-215.94C(f), to the extent the Department of Environment and Natural Resources (DENR) recovered the fees from the previous responsible owner or operator. Provides that reimbursement is only available to eliminate an accrued, unpaid annual operating fees balance that was the obligation of the previous owner or operator. Amends GS 143-215.94C to make a conforming change by adding a new subsection to allow the UST owner operator to pay the unpaid annual operating fees under protest and request reimbursement from the Fund. Requires DENR to diligently seek to collect unpaid annual operating fees from the original responsible owner or operator notwithstanding the fact that those fees have been paid under protest according to this subsection.

Repeals Section 6.22 of SL 2007-323, which amended GS 143-214.7 to impose limits on the amount of impervious surface of vehicular surface areas and authorized the Environmental Review Commission to study the issues and costs related to the use of pervious surfaces. Effective April 1, 2009, and applies to building permits issued pursuant to GS 153A-357 and GS 160A-417 for which applications were received on or after that date, enacts new Article 4A of GS Chapter 113A to define key terms such as *impervious surface* and *vehicular surface area*. Requires any development that results in an increase in vehicular surface area of more than one acre of land to either: (a) limit the amount of impervious surface in a vehicular surface area to 80% or (b) require that stormwater runoff generated by the first two inches of rain on at least 20% of the vehicular surface area during a storm event flow to an appropriately sized bioretention area in accordance with DENR standards. Prohibits cities and counties from issuing building permits to any development that does not meet that standard. Creates exemptions for specified programs. Makes conforming changes to GS 153A-357 and 160A-417.

If S 1967 becomes law, amends proposed GS 113A-72(c)(11) by substituting *Requirements: Coastal Counties 15A NCAC 02H .1005 with Coastal Stormwater Management – Section 2 of SL 2008-XXX* in the list of exempted programs. Directs the Revisor of Statutes to substitute the correct session law chapter number.

Defines *contamination of drinking water* as any exceedance of the drinking water standards adopted by the US Environmental Protection Agency pursuant to the federal Safe Drinking Water Act or by the drinking water standards adopted by the Commission for Health Services pursuant to GS 130A, Article 10. Provides that the intent of the General Assembly is that DENR

aggressively compel persons who are responsible for contamination of groundwater that results in contamination of drinking water to assess and remediate groundwater contamination as required by law.

Makes a technical change to proposed revised GS 130A-309.91(9).

If H 819 becomes law, makes a technical change to Section 7.

If H 2499 becomes law, amends proposed GS 143-215.22H(d) to clarify that a *civil penalty* (was, late registration fee) may be assessed if a person required to register a water withdrawal or transfer under this section does not submit updated information as required.

If S 1339 becomes law, makes a technical change to proposed GS 75-90(a)(4).

Changes the effective date of the amendment to GS 87-97(h) (testing of private drinking water wells) from January 1, 2009, to October 1, 2009.

Changes title to *AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) PROVIDE THAT PRIVATE DRINKING WATER WELLS ARE TO BE TESTED FOR CERTAIN ADDITIONAL PARAMETERS; (2) AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT RULES GOVERNING EUTHANASIA OF ANIMALS; (3) RENAME THE BLUE CRAB RESEARCH PROGRAM THE BLUE CRAB AND SHELLFISH RESEARCH PROGRAM; (4) CLARIFY THAT THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER UNIT OF GOVERNMENT SHALL MAKE OYSTER SHELLS AVAILABLE TO THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITHOUT REMUNERATION; (5) SPECIFY THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY NOT BEGIN THE PROCEDURE TO ADOPT A TEMPORARY OR PERMANENT RULE THAT GOVERNS THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES PURSUANT TO SUBDIVISIONS (1) AND (3) OF GS 143-214.7(B) PRIOR TO 1 OCTOBER 2011, SPECIFY THAT ANY SUCH ADDITIONAL RULES SHALL NOT BECOME EFFECTIVE PRIOR TO 1 OCTOBER 2013, AND SPECIFY THAT RULES ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION PURSUANT TO ANY OTHER STATE STATUTORY AUTHORITY THAT GOVERN THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES SHALL NOT BECOME EFFECTIVE IN THE COASTAL COUNTIES PRIOR TO 1 OCTOBER 2011; (6) CLARIFY THE PROCEDURE FOR RECORDATION OF RESTRICTIONS AND PROTECTIVE COVENANTS THAT SPECIFY CERTAIN COASTAL STORMWATER MANAGEMENT REQUIREMENTS; (7) PROVIDE THAT A PERSON WHO BECOMES THE OWNER OR OPERATOR OF A COMMERCIAL PETROLEUM UNDERGROUND STORAGE TANK MAY PAY, UNDER PROTEST, UNPAID ANNUAL OPERATING FEES THAT WERE THE OBLIGATION OF A PREVIOUS OWNER OR OPERATOR FOR THE PURPOSE OF OBTAINING AN OPERATING PERMIT FOR THE UNDERGROUND STORAGE TANKS, REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DILIGENTLY SEEK TO COLLECT UNPAID FEES FROM THE PERSON WHO WAS ORIGINALLY RESPONSIBLE FOR PAYMENT, AND PROVIDE THAT A PERSON WHO PAYS FEES UNDER PROTEST MAY BE REIMBURSED TO THE EXTENT THAT THE FEES ARE COLLECTED FROM ANOTHER PERSON; (8) IMPROVE WATER QUALITY AND PROMOTE GROUNDWATER RECHARGE IN AREAS OF THE STATE THAT ARE NOT SUBJECT TO THE STORMWATER MANAGEMENT REQUIREMENTS OF CERTAIN WATER QUALITY PROGRAMS BY REQUIRING EITHER THAT NO MORE THAN EIGHTY PERCENT OF CERTAIN AREAS USED FOR VEHICULAR PARKING BE IMPERVIOUS OR, IN THE ALTERNATIVE, THAT RUNOFF FROM AT LEAST TWENTY PERCENT OF CERTAIN IMPERVIOUS VEHICULAR PARKING AREAS FLOW TO BIORETENTION AREAS; (9) DECLARE THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AGGRESSIVELY COMPEL PERSONS WHO ARE RESPONSIBLE FOR CONTAMINATION OF DRINKING WATER TO ASSESS AND REMEDIATE GROUNDWATER CONTAMINATION AS REQUIRED BY LAW; (10) CONSOLIDATE CERTAIN ENVIRONMENTAL REPORTING REQUIREMENTS; AND (11) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CORRECTIONS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.*

August 20, 2008

SL 2008-198 (S 845). AMEND ENVIRONMENTAL LAWS/ENVIRONMENTAL TECHNICAL CORRECTIONS 2008. AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) PROVIDE THAT PRIVATE DRINKING WATER WELLS ARE TO BE TESTED FOR CERTAIN ADDITIONAL PARAMETERS; (2) AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT RULES GOVERNING EUTHANASIA OF ANIMALS; (3) RENAME THE BLUE CRAB RESEARCH PROGRAM THE BLUE CRAB AND SHELLFISH RESEARCH PROGRAM; (4) CLARIFY THAT THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER UNIT OF GOVERNMENT SHALL MAKE OYSTER SHELLS AVAILABLE TO THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITHOUT REMUNERATION; (5) SPECIFY THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY NOT BEGIN THE PROCEDURE TO ADOPT A TEMPORARY OR PERMANENT RULE THAT GOVERNS THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES PURSUANT TO SUBDIVISIONS (1) AND (3) OF G.S. 143-214.7(B) PRIOR TO 1 OCTOBER 2011, SPECIFY THAT ANY SUCH ADDITIONAL RULES SHALL NOT BECOME EFFECTIVE PRIOR TO 1 OCTOBER 2013, AND SPECIFY THAT RULES ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION PURSUANT TO ANY OTHER STATE STATUTORY AUTHORITY THAT GOVERN THE MANAGEMENT OF STORMWATER RUNOFF IN THE COASTAL COUNTIES SHALL NOT BECOME EFFECTIVE IN THE COASTAL COUNTIES PRIOR TO 1 OCTOBER 2011; (6) CLARIFY THE PROCEDURE FOR RECORDATION OF RESTRICTIONS AND PROTECTIVE COVENANTS THAT SPECIFY CERTAIN COASTAL STORMWATER MANAGEMENT REQUIREMENTS; (7) PROVIDE THAT A PERSON WHO BECOMES THE OWNER OR OPERATOR OF A COMMERCIAL PETROLEUM UNDERGROUND STORAGE TANK MAY PAY, UNDER PROTEST, UNPAID ANNUAL OPERATING FEES THAT WERE THE OBLIGATION OF A PREVIOUS OWNER OR OPERATOR FOR THE PURPOSE OF OBTAINING AN OPERATING PERMIT FOR THE UNDERGROUND STORAGE TANKS, REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DILIGENTLY SEEK TO COLLECT UNPAID FEES FROM THE PERSON WHO WAS ORIGINALLY RESPONSIBLE FOR PAYMENT, AND PROVIDE THAT A PERSON WHO PAYS FEES UNDER PROTEST MAY BE REIMBURSED TO THE EXTENT THAT THE FEES ARE COLLECTED FROM ANOTHER PERSON; (8) IMPROVE WATER QUALITY AND PROMOTE GROUNDWATER RECHARGE IN AREAS OF THE STATE THAT ARE NOT SUBJECT TO THE STORMWATER MANAGEMENT REQUIREMENTS OF CERTAIN WATER QUALITY PROGRAMS BY REQUIRING EITHER THAT NO MORE THAN EIGHTY PERCENT OF CERTAIN AREAS USED FOR VEHICULAR PARKING BE IMPERVIOUS OR, IN THE ALTERNATIVE, THAT RUNOFF FROM AT LEAST TWENTY PERCENT OF CERTAIN IMPERVIOUS VEHICULAR PARKING AREAS FLOW TO BIORETENTION AREAS; (9) DECLARE THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AGGRESSIVELY COMPEL PERSONS WHO ARE RESPONSIBLE FOR CONTAMINATION OF GROUNDWATER THAT RESULTS IN CONTAMINATION OF DRINKING WATER TO ASSESS AND REMEDIATE THE GROUNDWATER CONTAMINATION AS REQUIRED BY LAW; (10) CONSOLIDATE CERTAIN ENVIRONMENTAL REPORTING REQUIREMENTS; AND (11) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CORRECTIONS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Summarized in *Daily Bulletin* 7/15/08 and 7/18/08. Enacted August 8, 2008. Section 1 is effective October 1, 2009. Section 2 is retroactive to November 1, 2007. Section 6 is effective October 1, 2008. Subsections (b), (c), and (d) of Section 8 are effective April 1, 2009. Sections 3–5, 7, 9–12, and subsections (a), (e), and (f) of Section 8 are effective August 8, 2008.