

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1138

Short Title: Water Quality Amendments.

(Public)

Sponsors: Representative Warner.

Referred to: Environment.

April 19, 1993

A BILL TO BE ENTITLED

1 AN ACT TO IMPROVE PROGRAM IMPLEMENTATION AND CLARIFY
2 AUTHORITIES OF THE ENVIRONMENTAL MANAGEMENT COMMISSION
3 IN AREAS OF PERMIT ISSUANCE, PUBLIC MEETINGS, WATER SUPPLY
4 PROTECTION, AND LABORATORY CERTIFICATION AND TO AMEND
5 PROVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE
6 PROCEDURES ACT FOR DECLARATORY RULINGS, RULE NOTICES AND
7 FISCAL NOTES.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 143-215.1(a) reads as rewritten:

11 "(a) Activities for Which Permits Required. – No person shall do any of the
12 following things or carry out any of the following activities until or unless such person
13 shall have applied for and shall have received from the Commission a permit therefor
14 and shall have complied with such conditions, if any, as are prescribed by such permit:

- 15 (1) Make any outlets or otherwise discharge any waste into the waters of
16 the State;
- 17 (2) Construct or operate any sewer system, treatment works, or disposal
18 system within the State;
- 19 (3) Alter, extend, or change the construction or method of operation of any
20 sewer system, treatment works, or disposal system within the State;
- 21 (4) Increase the quantity of waste discharged through any outlet or
22 processed in any treatment works or disposal system to any extent
23 which would result in any violation of the effluent standards or
24 limitations established for any point source or which would adversely

- 1 affect the condition of the receiving waters to the extent of violating
2 any of the standards applicable to such water;
- 3 (5) Change the nature of the waste discharged through any disposal
4 system in any way which would exceed the effluent standards or
5 limitations established for any point source or which would adversely
6 affect the condition of the receiving waters in relation to any of the
7 standards applicable to such waters;
- 8 (6) Cause or permit any waste, directly or indirectly, to be discharged to or
9 in any manner intermixed with the waters of the State in violation of
10 the water quality standards applicable to the assigned classifications or
11 in violation of any effluent standards or limitations established for any
12 point source, unless allowed as a condition of any permit, special order
13 or other appropriate instrument issued or entered into by the
14 Commission under the provisions of this Article;
- 15 (7) Cause or permit any wastes for which pretreatment is required by
16 pretreatment standards to be discharged, directly or indirectly, from a
17 pretreatment facility to any disposal system or to alter, extend or
18 change the construction or method of operation or increase the
19 quantity or change the nature of the waste discharged from or
20 processed in such facility;
- 21 (8) Enter into a contract for the construction and installation of any outlet,
22 sewer system, treatment works, pretreatment facility or disposal
23 system or for the alteration or extension of any such facilities;
- 24 (9) Dispose of sludge resulting from the operation of a treatment works,
25 including the removal of in-place sewage sludge from one location and
26 its deposit at another location, consistent with the requirement of the
27 Resource Conservation and Recovery Act and regulations promulgated
28 pursuant thereto;
- 29 (10) Cause or permit any pollutant to enter into a defined managed area of
30 the State's waters for the maintenance or production of harvestable
31 freshwater, estuarine, or marine plants or animals; or
- 32 (11) Cause or permit discharges regulated under G.S. 143-214.7 which
33 result in water pollution.

34 In the event that both effluent standards or limitations and classifications and water
35 quality standards are applicable to any point source or sources and to the waters to
36 which they discharge, the more stringent among the standards established by the
37 Commission shall be applicable and controlling.

38 In connection with the above, no such permit shall be granted for the disposal of
39 waste in waters classified as sources of public water supply where the head of the
40 agency which administers the public water supply program pursuant to Article 10 of
41 Chapter 130A of the General Statutes, after review of the plans and specifications for
42 the proposed disposal facility, determines and advises the Commission that such
43 disposal is sufficiently close to the intake works or proposed intake works of a public
44 water supply as to have an adverse effect on the public health.

1 In any case where the Commission denies a permit, it shall state in writing the
2 reason for such denial and shall also state the Commission's estimate of the changes in
3 the applicant's proposed activities or plans which will be required in order that the
4 applicant may obtain a permit."

5 Sec. 2. G.S. 143-215.1(c) reads as rewritten:

6 "(c) Applications for Permits and Renewals for Facilities Discharging to the
7 Surface Waters.

8 (1) All applications for permits and for renewal of existing permits for
9 outlets and point sources and for treatment works and disposal systems
10 discharging to the surface waters of the State shall be in writing, and
11 the Commission may prescribe the form of such applications. All
12 applications shall be filed with the Commission at least 180 days in
13 advance of the date on which it is desired to commence the discharge
14 of wastes or the date on which an existing permit expires, as the case
15 may be. The Commission shall act on a permit application as quickly
16 as possible. The Commission may conduct any inquiry or investigation
17 it considers necessary before acting on an application and may require
18 an applicant to submit plans, specifications, and other information the
19 Commission considers necessary to evaluate the application.

20 (2) a. The Department shall refer each application for permit, or renewal
21 of an existing permit, for outlets and point sources and treatment
22 works and disposal systems discharging to the surface waters of the
23 State to its staff for written evaluation and proposed determination
24 with regard to issuance or denial of the permit. If the Commission
25 concurs in the proposed determination, it shall give notice of intent to
26 issue or deny the permit, along with any other data that the
27 Commission may determine appropriate, to be given to the appropriate
28 State, interstate and federal agencies, to interested persons, and to the
29 public. The Commission shall prescribe the form and content of the
30 notice.

31 The notice required herein shall be given at least 45 days
32 prior to any proposed final action granting or denying the
33 permit. Public notice shall be given by publication of the notice
34 one time in a newspaper having general circulation within the
35 county.

36 b. Repealed by Session Laws 1987, c. 734.

37 (3) If any person desires a public ~~meeting-hearing~~ on any application for
38 permit or renewal of an existing permit provided for in this subsection,
39 he shall so request in writing to the Commission within 30 days
40 following date of the notice of intent. The Commission shall consider
41 all such requests for ~~meeting,~~ hearing, and if the Commission
42 determines that there is a significant public interest in holding such
43 ~~meeting,~~ hearing, at least 30 days' notice of such ~~meeting-hearing~~
44 be given to all persons to whom notice of intent was sent and to any

1 other person requesting notice. At least 30 days prior to the date of
2 ~~meeting, hearing,~~ the Commission shall also cause a copy of the notice
3 thereof to be published at least one time in a newspaper having general
4 circulation in such county. In any county in which there is more than
5 one newspaper having general circulation in that county, the
6 Commission shall cause a copy of such notice to be published in as
7 many newspapers having general circulation in the county as the
8 Commission in its discretion determines may be necessary to assure
9 that such notice is generally available throughout the county. The
10 Commission shall prescribe the form and content of the notices.

11 The Commission shall prescribe the procedures to be followed in
12 such ~~meetings, hearings.~~ If the ~~meeting-hearing~~ is not conducted by the
13 Commission, detailed ~~minutes-records~~ of the ~~meeting-hearing~~ shall be
14 kept and shall be submitted, along with any other written comments,
15 exhibits or documents presented at the ~~meeting, hearing,~~ to the
16 Commission for its consideration prior to final action granting or
17 denying the permit.

- 18 (4) Not later than 60 days following notice of intent or, if a public hearing
19 is held, within 90 days following consideration of the matters and
20 things presented at such hearing, the Commission shall grant or deny
21 any application for issuance of a new permit or for renewal of an
22 existing permit. All permits or renewals issued by the Commission and
23 all decisions denying application for permit or renewal shall be in
24 writing.
- 25 (5) No permit issued pursuant to this subsection (c) shall be issued or
26 renewed for a term exceeding five years.
- 27 (6) The Commission shall not act upon an application for a new
28 nonmunicipal domestic wastewater discharge facility until it has
29 received a written statement from each city and county government
30 having jurisdiction over any part of the lands on which the proposed
31 facility and its appurtenances are to be located which states whether
32 the city or county has in effect a zoning or subdivision ordinance and,
33 if such an ordinance is in effect, whether the proposed facility is
34 consistent with the ordinance. The Commission shall not approve a
35 permit application for any facility which a city or county has
36 determined to be inconsistent with its zoning or subdivision ordinance
37 unless it determines that the approval of such application has statewide
38 significance and is in the best interest of the State. An applicant for a
39 permit shall request that each city and county government having
40 jurisdiction issue the statement required by this subdivision by mailing
41 by certified mail, return receipt requested, a written request for such
42 statement and a copy of the draft permit application to the clerk of the
43 city or county. If a local government fails to mail the statement
44 required by this subdivision, as evidenced by a postmark, within 15

1 days after receiving and signing for the certified mail, the Commission
2 may proceed to consider the permit application notwithstanding this
3 subdivision."

4 Sec. 3. G.S. 143-215.3(a)(10) reads as rewritten:

5 "(10) To require a laboratory facility ~~to be certified~~ and laboratory
6 employees to meet and maintain certification standards issued by
7 the Department before performing any tests, analyses,
8 measurements, or monitoring required under this Article or Article
9 21B of this Chapter and to establish fees therefor. All monies
10 collected pursuant to this subdivision shall be credited to the Water
11 and Air Quality Account and shall be used to administer the
12 laboratory and laboratory employees certification program."

13 Sec. 4. G.S. 143-215.4(b) reads as rewritten:

14 "(b) Procedures for Public Input. –

15 (1) The Commission may, on its own motion or when required by
16 federal law, request public comments on or hold public hearings on
17 matters within the scope of its authority under this Article or
18 Articles 21A or 21B of this Chapter. To request public comments
19 on a matter, the Commission shall notify appropriate agencies of
20 the opportunity to submit written comments to the Commission on
21 the matter and shall publish a notice in a newspaper having general
22 circulation in the affected area, stating the matter under
23 consideration by the Commission and informing the public of its
24 opportunity to submit written comments to the Commission on the
25 matter. A public comment period shall extend for at least 30 days
26 after the notice is published.

27 (2) To hold a public hearing on a matter, the Commission shall notify,
28 by personal service or certified mail, persons directly affected by
29 the matter under consideration and shall publish a notice in a
30 newspaper having general circulation in the affected area, stating
31 the matter under consideration by the Commission and the time,
32 date, and place of a public hearing to be held on the matter. A
33 public hearing shall be held no sooner than 20 days after the notice
34 is published. The proceedings at a public hearing held under this
35 subsection shall be recorded. Upon payment of a fee established
36 by the Commission, any person may obtain a copy of the record of
37 the public hearing. After a public hearing, the Commission shall
38 accept written comments for the time period prescribed by the
39 Commission.

40 (3) The Commission may hold a public meeting on any matter within
41 its scope of authority. A public meeting may be held in addition to
42 any public hearing that is required under any provision of law.
43 Except as may otherwise be provided by law, the Commission may
44 determine the procedures for any public meeting it holds.

