

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 1942

Short Title: Env. Permitting Reform.

(Public)

Sponsors: Representative B. Miller.

Referred to: Judiciary III.

June 1, 1994

A BILL TO BE ENTITLED

1 AN ACT TO REFORM AND EXPEDITE THE PROCESS BY WHICH
2 APPLICATIONS FOR PERMITS UNDER CERTAIN ENVIRONMENTAL
3 REGULATORY PROGRAMS ARE CONSIDERED, TO REFORM AND
4 EXPEDITE ADMINISTRATIVE AND JUDICIAL REVIEW OF PERMIT
5 DECISIONS, AND TO INCREASE THE MAXIMUM AMOUNT OF THE FEE
6 THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY
7 ASSESS FOR PROCESSING AN APPLICATION FOR A PERMIT UNDER THE
8 WATER QUALITY PROGRAM, AS RECOMMENDED BY THE
9 ENVIRONMENTAL REVIEW COMMISSION.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 143-213 is amended by adding the following three new
13 subdivisions to read:

14 "(13a) 'Person affected' means a person aggrieved, as defined in G.S. 150B-2,
15 except that, if notice and opportunity for comment are provided by the
16 Department, 'person affected' means a person aggrieved, as defined in
17 G.S. 150B-2 who either:

- 18 a. Submits to the Department in a timely manner, either
19 individually or jointly with other persons, written comment
20 containing a specific recommendation on a permit application
21 or a draft permit.
22 b. Presents oral comment at a public hearing on a permit
23 application that makes a specific recommendation on the permit

- 1 application or draft permit, if a public hearing is conducted by
2 the Department.
- 3 c. Makes a good cause showing that comment was not submitted
4 or presented because there was no reason to have anticipated
5 being adversely affected by the qualifying permit decision.
- 6 (13b) 'Qualifying permit' means a permit, other than a general permit or a
7 temporary permit for:
- 8 a. An outlet, point source, treatment works, or disposal system
9 discharging to the surface waters of the State other than an
10 individual permit for a stormwater discharge issued pursuant to
11 33 U.S.C. § 1342(p)(2).
- 12 b. Recurring land application involving:
- 13 1. Petroleum-contaminated soil;
14 2. Residuals management involving a total application area
15 of more than 1,000 acres; or
16 3. An expansion of residuals management involving an
17 increase in the application area of 500 acres or more.
- 18 (13c) 'Qualifying permit decision' means any of the following actions by the
19 Department:
- 20 a. The approval or denial of an application for a qualifying permit
21 or to renew a qualifying permit.
- 22 b. The approval or denial of an application for a modification of a
23 qualifying permit, other than a minor modification."

24 Sec. 2. G.S. 143-215.1 reads as rewritten:

25 **"§ 143-215.1. Control of sources of water pollution; permits required.**

26 (a) Activities for Which Permits Required. – No person shall do any of the
27 following things or carry out any of the following activities until or unless such person
28 shall have applied for and shall have received from the ~~Commission~~ Department a permit
29 therefor and shall have complied with such conditions, if any, as are prescribed by such
30 permit:

- 31 (1) Make any outlets or otherwise discharge any waste into the waters of
32 the State;
- 33 (2) Construct or operate any sewer system, treatment works, or disposal
34 system within the State;
- 35 (3) Alter, extend, or change the construction or method of operation of any
36 sewer system, treatment works, or disposal system within the State;
- 37 (4) Increase the quantity of waste discharged through any outlet or
38 processed in any treatment works or disposal system to any extent
39 which would result in any violation of the effluent standards or
40 limitations established for any point source or which would adversely
41 affect the condition of the receiving waters to the extent of violating
42 any of the standards applicable to such water;
- 43 (5) Change the nature of the waste discharged through any disposal
44 system in any way which would exceed the effluent standards or

1 limitations established for any point source or which would adversely
2 affect the condition of the receiving waters in relation to any of the
3 standards applicable to such waters;

4 (6) Cause or permit any waste, directly or indirectly, to be discharged to or
5 in any manner intermixed with the waters of the State in violation of
6 the water quality standards applicable to the assigned classifications or
7 in violation of any effluent standards or limitations established for any
8 point source, unless allowed as a condition of any permit, special order
9 or other appropriate instrument issued or entered into by the
10 ~~Commission-Department~~ under the provisions of this Article;

11 (7) Cause or permit any wastes for which pretreatment is required by
12 pretreatment standards to be discharged, directly or indirectly, from a
13 pretreatment facility to any disposal system or to alter, extend or
14 change the construction or method of operation or increase the
15 quantity or change the nature of the waste discharged from or
16 processed in such facility;

17 (8) Enter into a contract for the construction and installation of any outlet,
18 sewer system, treatment works, pretreatment facility or disposal
19 system or for the alteration or extension of any such facilities;

20 (9) Dispose of sludge resulting from the operation of a treatment works,
21 including the removal of in-place sewage sludge from one location and
22 its deposit at another location, consistent with the requirement of the
23 Resource Conservation and Recovery Act and regulations promulgated
24 pursuant thereto;

25 (10) Cause or permit any pollutant to enter into a defined managed area of
26 the State's waters for the maintenance or production of harvestable
27 freshwater, estuarine, or marine plants or animals;

28 (11) Cause or permit discharges regulated under G.S. 143-214.7 which
29 result in water pollution.

30 (a1) In the event that both effluent standards or limitations and classifications and
31 water quality standards are applicable to any point source or sources and to the waters to
32 which they discharge, the more stringent among the standards established by the
33 Commission shall be applicable and controlling.

34 (a2) In connection with the above, no such permit shall be granted for the disposal
35 of waste in waters classified as sources of public water supply where the head of the
36 agency which administers the public water supply program pursuant to Article 10 of
37 Chapter 130A of the General Statutes, after review of the plans and specifications for
38 the proposed disposal facility, determines and advises the ~~Commission-Department~~ that
39 such disposal is sufficiently close to the intake works or proposed intake works of a
40 public water supply as to have an adverse effect on the public health.

41 (a3) In any case where the ~~Commission-Department~~ denies a permit, it ~~shall~~ shall
42 within the time periods prescribed in this section, state in writing the reason-specific
43 reasons for such denial and shall also state the Commission's estimate the denial, including a
44 description of the changes in the applicant's proposed activities or plans which will

1 application, plans, or proposed activities that would be required in order that the
2 applicant may obtain a ~~permit~~-permit, if a permit could be issued for the proposed
3 activity under the provisions of all applicable federal and State laws, regulations, and
4 rules.

5 ~~(a1)~~ (a4) The Department shall regulate wastewater systems under rules adopted by
6 the Commission for Health Services pursuant to Article 11 of Chapter 130A of the
7 General Statutes except as otherwise provided in this subsection. No permit shall be
8 required under this section for a wastewater system regulated under Article 11 of
9 Chapter 130A of the General Statutes. The following wastewater systems shall be
10 regulated by the Department under rules adopted by the Commission:

- 11 (1) Wastewater systems designed to discharge effluent to the land surface
12 or surface waters.
- 13 (2) Wastewater systems designed for groundwater remediation,
14 groundwater injection, or landfill leachate collection and disposal.
- 15 (3) Wastewater systems designed for the complete recycle or reuse of
16 industrial process wastewater.

17 (b) ~~Commission's Power of the Department~~ as to Permits. –

- 18 (1) The ~~Commission~~-Department shall act on all permits so as to prevent,
19 so far as reasonably possible, considering relevant standards under
20 State and federal laws, any significant increase in pollution of the
21 waters of the State from any new or enlarged sources. No permit shall
22 be denied and no condition shall be attached to the permit, except
23 when the Commission finds such denial or such conditions necessary
24 to effectuate the purposes of this Article.
- 25 (2) The ~~Commission~~-Department shall also act on all permits so as to
26 prevent violation of water quality standards due to the cumulative
27 effects of permit decisions. Cumulative effects are impacts
28 attributable to the collective effects of a number of projects and
29 include the effects of additional projects similar to the requested
30 permit in areas available for development in the vicinity. All permit
31 decisions shall require that the practicable waste treatment and
32 disposal alternative with the least adverse impact on the environment
33 be utilized.
- 34 (3) General permits may be issued under rules adopted pursuant to
35 Chapter 150B of the General Statutes. Such rules may provide that
36 minor activities may occur under a general permit issued in accordance
37 with conditions set out in such rules. All persons covered under
38 general permits shall be subject to all enforcement procedures and
39 remedies applicable under this Article.
- 40 (4) The ~~Commission~~-Department shall have the power:
 - 41 a. To grant a permit with such conditions attached as the
42 ~~Commission~~-Department believes necessary to achieve the
43 purposes of this Article.

- 1 b. To require that an applicant satisfy the Department that the
2 applicant, or any parent, subsidiary, or other affiliate of the
3 applicant or parent:
- 4 1. Is financially qualified to carry out the activity for which
5 the permit is required under subsection (a) of this
6 section; and
 - 7 2. Has substantially complied with the effluent standards
8 and limitations and waste management treatment
9 practices applicable to any activity in which the
10 applicant has previously engaged, and has been in
11 substantial compliance with other federal and state laws,
12 regulations, and rules for the protection of the
13 environment.
- 14 As used in this subdivision, the words 'affiliate,' 'parent,' and
15 'subsidiary' have the same meaning as in 17 Code of Federal
16 Regulations § 240.12b-2 (1 April 1990 Edition).
- 17 c. To modify or revoke any permit upon not less than 60 days'
18 written notice to any person affected.
- 19 d. To designate certain classes of minor activities for which a
20 general permit may be issued, after considering:
- 21 1. The environmental impact of the activities;
 - 22 2. How often the activities are carried out;
 - 23 3. The need for individual permit oversight; and
 - 24 4. The need for public review and comment on individual
25 permits.
- 26 e. To designate certain classes of minor activities for which:
- 27 1. Performance conditions may be established by rule; and
 - 28 2. Individual or general permits are not required.

29 (b1) Repealed by Session Laws 1991, c. 156, s. 1, effective October 1, 1991.

30 **(b2) The Commission shall adopt rules regarding information required to be**
31 **included in applications for qualifying permits and shall prepare and publish a checklist**
32 **for applicants that lists all items of information required for a complete application.**

33 **(b3) For the purpose of computing all dates and times with respect to an action on**
34 **an application for a qualifying permit under this section, time shall be computed as**
35 **provided in G.S. 1A-1, Rule 6. Unless otherwise specifically provided, periods of time**
36 **shall commence, or actions shall be deemed complete, when an application, notice, or**
37 **comment is deposited enclosed in a first-class postpaid, properly addressed wrapper in a**
38 **post office or official depository under the exclusive care and custody of the Postal**
39 **Service.**

40 (c) ~~Applications for Permits and Renewals for Facilities Discharging to the Surface~~
41 ~~Waters-Qualifying Permits. -~~

- 42 (1) a. All applications for qualifying permits and for renewal of existing
43 qualifying permits ~~for outlets and point sources and for treatment~~
44 ~~works and disposal systems discharging to the surface waters of the~~

1 ~~State~~ shall be in writing, and the ~~Commission~~ Department may
2 prescribe the form of such applications. All applications shall be filed
3 with the Commission at least 180 days in advance of the date on which
4 it is desired to commence the discharge or land application of wastes
5 or the date on which an existing qualifying permit expires, as the case
6 may be. Not more than 30 days before the date that an application is
7 filed but prior to the date on which the application is filed, the
8 applicant shall (i) publish notice of application at least once in a
9 newspaper having general circulation within the county where the
10 discharge, source, treatment works, disposal system, or land
11 application is located; (ii) file the notice of application with the office
12 of the manager of each incorporated city and county having
13 jurisdiction over the location of the discharge, source, treatment works,
14 disposal system, or land application; (iii) prominently post the notice
15 of application at the public entrance to the facility for which the
16 qualifying permit is sought. The notice of application shall be
17 continuously posted until the qualifying permit is issued or denied.
18 The notice of application shall state, at a minimum, the name of the
19 applicant; the activity for which a qualifying permit is sought; the
20 receiving body of water, if any; the location of the discharge, source,
21 treatment works, disposal system, or land application; the name and
22 telephone number of a contact person for the applicant; and the name
23 and location of the office of the Department to which application will
24 be made. The ~~Commission~~ Department shall act on a qualifying
25 permit application as quickly as possible. The ~~Commission~~
26 ~~Department~~ may conduct any inquiry or investigation it considers
27 necessary before acting on an application and may require an applicant
28 to submit plans, specifications, and other information the ~~Commission~~
29 ~~Department~~ considers necessary to evaluate the application.

30 b. An applicant for a qualifying permit shall request each local
31 government having jurisdiction over any part of the land on
32 which the facility and its appurtenances are located or to be
33 located to issue a determination as to whether the local
34 government has in effect a zoning or subdivision ordinance
35 applicable to the facility and whether the proposed activity
36 would be consistent with the ordinance. The request to the
37 local government shall be accompanied by a copy of the permit
38 application and shall be delivered to the clerk of the local
39 government personally or by certified mail. The determination
40 shall be verified or supported by affidavit signed by the official
41 designated by the local government to make the determination
42 and, if the local government states that the activity is
43 inconsistent with a zoning or subdivision ordinance, shall
44 include a copy of the ordinance and the specific reasons for the

1 determination of inconsistency. A copy of any such
2 determination shall be provided to the applicant when the
3 determination is submitted to the Department. The Department
4 shall not act upon an application for a permit under this section
5 until it has received a determination from each local
6 government requested to make a determination by the applicant.
7 Unless the local government makes a subsequent determination
8 of consistency with all ordinances cited in the determination or
9 the proposed activity is determined by a court of competent
10 jurisdiction to be consistent with the cited ordinances, the
11 Department shall attach as a condition of the permit a
12 requirement that the applicant, prior to commencing the activity
13 for which the qualifying permit is sought, comply with all
14 lawfully adopted local ordinances, including those cited in the
15 determination, that apply to the activity. If a local government
16 fails to submit a determination to the Department as provided
17 by this subsection within 15 days after receipt of the request,
18 the Department may proceed to consider the application for a
19 qualifying permit without regard to local zoning and
20 subdivision ordinances. This subsection shall not be construed
21 to limit any opportunity a local government may have to
22 comment on a permit application under any other law or rule.
23 This subsection shall not apply to any facility with respect to
24 which local ordinances are subject to review under either G.S.
25 104E-6.2 or G.S. 130A-293.

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

37 ~~The notice required herein shall be given at least 45 days~~
38 ~~prior to any proposed final action granting or denying the~~
39 ~~permit. Public notice notices under this subsection shall be~~
40 ~~given by publication of the notice one time in a newspaper~~
41 ~~having general circulation within the county.~~

42 As soon after receiving the application as possible, and in any
43 event within 20 days of the receipt of an application under this
44 subsection, the Department shall determine whether the

1 application is complete by comparing the information provided
2 in the application with the checklist prepared pursuant to
3 subsection (b2) of this section.

4 1. If the application is not complete as provided in this
5 subdivision, the Department shall promptly return the
6 application to the applicant, and in any event within 20
7 days of the receipt of the application, notify the applicant
8 in writing of all deficiencies of the application,
9 specifying the items that need to be included, modified,
10 or supplemented in order to make the application
11 complete in comparison with the checklist. The
12 applicant may provide the additional information
13 requested by the Department and resubmit the
14 application without further notice of its intent to apply
15 for a permit or for the renewal of a permit within 90
16 days. The time limits for the notice of intent to issue or
17 deny the qualifying permit and for the issuance or denial
18 of the qualifying permit shall exclude time prior to
19 receipt by the Department of an application that is
20 deemed to be complete.

21 2. If the Department fails to notify the applicant that an
22 application is not complete within the time period set
23 forth in this paragraph, the application shall be deemed
24 to be complete.

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

26 c. The Department shall refer each application for qualifying
27 permit or renewal of an existing qualifying permit to its staff for
28 written evaluation and proposed determination with regard to
29 issuance or denial of the qualifying permit. The Department
30 shall give notice of intent to issue or deny the qualifying permit,
31 along with any other data that the Department may determine
32 appropriate, to the appropriate state, interstate, and federal
33 agencies, to the applicant, to interested persons, and to the
34 public. The Department shall issue or deny the qualifying
35 permit within the time limits set out in this subsection unless the
36 Department and the applicant agree to stay the time for the
37 issuance or denial of the permit.

38 1. If no public hearing is held regarding the application for
39 a qualifying permit or renewal of an existing qualifying
40 permit, the Department shall issue or deny the qualifying
41 permit within 180 days of the receipt of the complete
42 application.

43 2. If notice of a public hearing regarding the application for
44 a qualifying permit or renewal of an existing qualifying

- 1 permit is given at the same time as the Department issues
2 a notice of its intent to issue or deny the qualifying
3 permit, the Department shall issue or deny the qualifying
4 permit within 225 days of the receipt of the complete
5 application.
- 6 3. If notice of a public hearing regarding the application for
7 a qualifying permit or renewal of an existing qualifying
8 permit is given after the Department has received public
9 comment in response to a notice of intent to issue or
10 deny the qualifying permit, the Department shall issue or
11 deny the qualifying permit within 270 days of the receipt
12 of the complete application.
- 13 4. The Department may request additional information
14 from the applicant if the Department determines during
15 the review of the application that additional information
16 is necessary in order for the Department to make a
17 qualifying permit decision. If the Department requests
18 additional information with respect to an application that
19 has been deemed complete, the date on which the
20 Department must give notice of its intent to issue or deny
21 the qualifying permit is extended by the time that elapses
22 between the time the Department requests the additional
23 information and the time the additional information is
24 provided by the applicant. An applicant from whom the
25 Department requests additional information may either
26 provide the information or may seek review as provided
27 in G.S. 143-215.5.
- 28 (3) a. If any person desires a public ~~meeting-hearing~~ on any application
29 for a qualifying permit or renewal of an existing qualifying permit,
30 ~~permit provided for in this subsection,~~ he shall so request in writing to the
31 ~~Commission-Department~~ within 30 days following date of the notice of
32 intent. The ~~Commission-Department~~ shall consider all such requests for
33 ~~meeting, such hearings,~~ and if the ~~Commission-Department~~ determines
34 that there is a significant public interest in holding such ~~meeting,~~
35 hearing, at least 30 days' notice of such ~~meeting-hearing~~ shall be given
36 to all persons to whom notice of intent was sent and to any other
37 person requesting notice. At least 30 days prior to the date of ~~meeting,~~
38 such hearings, the ~~Commission-Department~~ shall also cause a copy of
39 the notice ~~thereof~~ of the hearing to be published at least one time in a
40 newspaper having general circulation in such county. In any county in
41 which there is more than one newspaper having general circulation in
42 that county, the ~~Commission-Department~~ shall cause a copy of ~~such~~
43 ~~notice~~ the notice of the hearing to be published in as many newspapers
44 having general circulation in the county as the ~~Commission-Department~~

1 in its discretion determines may be necessary to assure that such notice
2 is generally available throughout the county. The Commission shall
3 prescribe the form and content of the ~~notices.~~ notice of the public
4 hearing.

5 b. The Commission shall prescribe the procedures to be followed
6 in such ~~meetings.~~ If the meeting-hearings. is not conducted by the
7 ~~Commission,~~ detailed-Detailed minutes of the ~~meeting-hearing~~
8 shall be kept ~~and shall be submitted,~~ and, along with any other
9 written comments, ~~exhibits~~ exhibits, or documents presented at
10 the ~~meeting,~~ to the Commission for its consideration prior to final
11 ~~action granting or denying the permit.~~ hearing, shall be made a part
12 of the record of decision on the application.

13 c. Any person, including the applicant, who believes that any
14 aspect of a proposed qualifying permit decision is incorrect
15 must raise all reasonably ascertainable issues and submit all
16 supporting arguments not later than the close of the public
17 comment period. The Department is not required to consider
18 written or oral comment unless the comment is accompanied by
19 the name and current mailing address of the person making the
20 comment. Other than federal or State laws, regulations, or
21 rules, any supporting materials that are submitted shall be
22 included in full and may not be incorporated by reference
23 unless the supporting materials are a part of the administrative
24 record in the same proceeding.

25 (4) ~~Not later than 60 days following notice of intent or, if a public hearing~~
26 ~~is held, within 90 days following consideration of the matters and~~
27 ~~things presented at such hearing, the Commission shall grant or deny~~
28 ~~any application for issuance of a new permit or for renewal of an~~
29 ~~existing permit. All permits or renewals issued by the Commission~~
30 ~~and all decisions denying application for permit or renewal shall be in~~
31 ~~writing. All qualifying permit decisions shall be in writing and shall~~
32 ~~include a concise written statement explaining, in light of timely~~
33 ~~comments received, why the Department issued or denied the~~
34 ~~qualifying permit.~~

35 (5) Within five days of its decision to grant or deny any application for a
36 qualifying permit, the Department shall give notice of its decision,
37 along with any other data that the Department may require, to the
38 appropriate state, interstate, and federal agencies, to the applicant, to
39 interested persons, and to the public.

40 (6) If the Department fails to act within any of the time periods set out in
41 this subsection, the applicant may seek administrative review as
42 provided in G.S. 143-215.5. In addition, an applicant for renewal or
43 modification of an existing qualifying permit may operate the facility
44 for which the existing qualifying permit was issued without

1 modification pending the renewal or modification of the existing
2 qualifying permit so long as the waste discharged from the facility
3 does not violate the effluent limitations set out in the existing
4 qualifying permit.

5 ~~(5)(7) No permit issued pursuant to this subsection (e) qualifying permit shall be~~
6 ~~issued or renewed for a term exceeding five years.~~

7 ~~(6) The Commission shall not act upon an application for a new~~
8 ~~nonmunicipal domestic wastewater discharge facility until it has~~
9 ~~received a written statement from each city and county government~~
10 ~~having jurisdiction over any part of the lands on which the proposed~~
11 ~~facility and its appurtenances are to be located which states whether~~
12 ~~the city or county has in effect a zoning or subdivision ordinance and,~~
13 ~~if such an ordinance is in effect, whether the proposed facility is~~
14 ~~consistent with the ordinance. The Commission shall not approve a~~
15 ~~permit application for any facility which a city or county has~~
16 ~~determined to be inconsistent with its zoning or subdivision ordinance~~
17 ~~unless it determines that the approval of such application has statewide~~
18 ~~significance and is in the best interest of the State. An applicant for a~~
19 ~~permit shall request that each city and county government having~~
20 ~~jurisdiction issue the statement required by this subdivision by mailing~~
21 ~~by certified mail, return receipt requested, a written request for such~~
22 ~~statement and a copy of the draft permit application to the clerk of the~~
23 ~~city or county. If a local government fails to mail the statement~~
24 ~~required by this subdivision, as evidenced by a postmark, within 15~~
25 ~~days after receiving and signing for the certified mail, the Commission~~
26 ~~may proceed to consider the permit application notwithstanding this~~
27 ~~subdivision.~~

28 (8) The record of the decision on an application for a qualifying permit or
29 renewal of an existing qualifying permit shall consist of:

30 a. The complete application and any supporting materials
31 requested by the Department and submitted by the applicant.

32 b. The checklist issued to determine that the application is
33 complete.

34 c. All notices required under this section.

35 d. The qualifying permit decision, including any draft permit on
36 which the Department requested comment.

37 e. All requests for a public hearing.

38 f. If a public hearing is held on the application, a list of persons
39 who presented oral comment at the public hearing.

40 g. A list of persons who submitted written comment containing a
41 specific recommendation regarding the application.

42 h. All comment received, including oral and written comment
43 submitted at the public hearing, if one is held, and written

1 comment received at any time prior to the close of the comment
2 period.

3 i. An explanation by the Department of the qualifying permit
4 decision along with any supporting material on which the
5 Department relied.

6 j. Any other material that the Commission by rule requires or
7 allows.

8 (9) The Department shall report on or before 1 October of each year to the
9 Environmental Review Commission on its implementation of this
10 section, including the time required to make qualifying permit
11 decisions, any delays in the processing of permit applications, statistics
12 on administrative and judicial review of actions by the Department and
13 the Commission on permit applications, and any recommendations to
14 improve the efficiency of the permitting process.

15 (c1) Minor Modification of Permits. – The Commission shall adopt rules
16 providing for minor modification of a permit required by this section in order to correct
17 clerical mistakes or similar errors arising from oversight or omission, to change
18 monitoring or reporting requirements, to change compliance schedules not in excess of
19 120 days, to change construction schedules, to delete a point source outlet, to reflect a
20 name change or change in ownership of a facility for which a permit has been issued
21 when no other change in the permit is indicated, to incorporate pretreatment program or
22 other program requirements, or to make similar unsubstantial changes that do not result
23 in an increase in the discharge of waste. An applicant for a minor modification to
24 reflect a change in ownership shall comply with the requirements relating to financial
25 qualification and compliance history under subsection (b) of this section. An
26 application for a minor modification of a permit is not subject to the notice and
27 comment requirements of this section. If the Department has not acted on an
28 application for a minor modification within 30 days after receipt of all required
29 information, the permit shall be deemed modified and issued as requested in the
30 application.

31 (c2) Expedited process of certified applications for permits. – The Commission
32 may adopt rules that provide for the expedited processing of an application that is
33 certified by relevant licensed professionals to conform to design standards or other
34 criteria specified by the Commission.

35 (d) Applications and Renewals for Permits Other Than Qualifying Permits. ~~for~~
36 ~~Sewer Systems, Sewer System Extensions and Pretreatment Facilities, Land Application~~
37 ~~of Waste, and for Wastewater Treatment Facilities Not Discharging to the Surface~~
38 ~~Waters of the State. (1) All applications for new permits and for renewals of existing~~
39 ~~permits for sewer systems, sewer system extensions and for disposal systems, and for~~
40 ~~land application of waste, or treatment works which do not discharge to the surface~~
41 ~~waters of the State, and all permits or renewals and decisions denying any application~~
42 for permit or renewal shall be in writing. The ~~Commission~~ Department shall act on a
43 permit application as quickly as possible. The ~~Commission~~ Department may conduct
44 any inquiry or investigation it considers necessary before acting on an application and

1 may require an applicant to submit plans, specifications, and other information the
 2 ~~Commission-Department~~ considers necessary to evaluate the application. If the
 3 ~~Commission-Department~~ fails to act on an application for a permit, including a renewal
 4 of a permit, within 90 days after the applicant submits all information required by the
 5 ~~Commission, Department,~~ the application is considered to be approved. Permits and
 6 renewals issued in approving such facilities pursuant to this subsection shall be effective
 7 until the date specified therein or until rescinded unless modified or revoked by the
 8 ~~Commission-Department.~~ Local governmental units to whom pretreatment program
 9 authority has been delegated shall establish, maintain, and provide to the public, upon
 10 written request, a list of pretreatment applications received.

11 (d1) Within 90 days after the issuance of a qualifying permit or after the receipt
 12 from the permittee of the construction plans for the facility for which the qualifying
 13 permit is issued, whichever is later, the Department shall determine whether the
 14 construction plans are approved and, if the plans are approved, shall issue authorization
 15 for the permittee to begin construction. If the construction plans are not approved, the
 16 Department shall promptly return the construction plans to the applicant with a detailed
 17 explanation of the deficiencies of the plans, specifying the items that need to be
 18 modified or supplemented in order to make the plans acceptable. A request for
 19 administrative review of an action by the Department on an application for a qualifying
 20 permit or renewal of an existing qualifying permit shall not affect the issuance of an
 21 authorization for the permittee to begin construction unless the effective date of the
 22 permits stayed by an order of an administrative law judge or a judge of the General
 23 Court of Justice.

24 (d2) ~~(2)(1)~~ An applicant for a permit under subsections (c) or (d)
 25 of this section to dispose of petroleum contaminated soil by
 26 land application shall give written notice that he intends to
 27 apply for such a permit to each city and county government
 28 having jurisdiction over any part of the land on which
 29 disposal is proposed to occur. The ~~Commission-Department~~
 30 shall not accept such a permit application unless it is
 31 accompanied by a copy of the notice and evidence that the
 32 notice was sent to each such government by certified mail,
 33 return receipt requested. The ~~Commission-Department~~ may
 34 consider, in determining whether to issue the permit, the
 35 comments submitted by local governments.

36 ~~(d1)~~ (2) Each applicant under subsections (c) or (d) for a permit ~~(or~~
 37 ~~the renewal thereof)~~ or renewal of an existing permit for the operation
 38 of a treatment works for a private multi-family or single family
 39 residential development, in which the owners of individual
 40 residential units are required to organize as a lawfully constituted
 41 and incorporated homeowners' association of a subdivision,
 42 condominium, planned unit development, or townhouse complex,
 43 shall be required to enter into an operational agreement with the
 44 ~~Commission-Department~~ as a condition of any such permit granted.

1 The agreement shall address, as necessary, construction, operation,
2 maintenance, assurance of financial solvency, transfers of ownership
3 and abandonment of the plant, systems, or works, and shall be
4 modified as necessary to reflect any changed condition at the
5 treatment plant or in the development. Where the ~~Commission~~
6 Department finds appropriate, it may require any other private
7 residential subdivision, condominium, planned unit development or
8 townhouse complex which is served by a private treatment works
9 and does not have a lawfully constituted and incorporated
10 homeowners' association, and for which an applicant applies for a
11 permit or the renewal thereof under subsections (c) or (d), to
12 incorporate as a lawfully constituted homeowners' association, and
13 after such incorporation, to enter into an operational agreement with
14 the ~~Commission-Department~~ and the applicant as a condition of any
15 permit granted under subsections (c) or (d). The local government
16 unit or units having jurisdiction over the development shall receive
17 notice of the application within an established comment period and
18 prior to final decision.

19 (e) ~~Administrative Notice and Review. — A permit applicant or permittee who is~~
20 ~~dissatisfied with a decision of the Commission may commence a contested case by~~
21 ~~filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the~~
22 ~~applicant or permittee of its decision. If the permit applicant or permittee does not file a~~
23 ~~petition within the required time, the Commission's decision is final and is not subject to~~
24 ~~review. G.S. 143-215.5 governs public notice of a permit decision and administrative~~
25 ~~and judicial review of a permit decision.~~

26 (f) Local Permit Programs for Sewer Extension. — Municipalities, counties, local
27 boards or commissions, water and sewer authorities, or groups of municipalities and
28 counties may establish and administer within their utility service areas their own general
29 permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and (8)
30 above, for construction, operation, alteration, extension, change of proposed or existing
31 sewer system, subject to the prior certification of the Commission. For purposes of this
32 subsection, the service area of a municipality shall include only that area within the
33 corporate limits of the municipality and that area outside a municipality in its
34 extraterritorial jurisdiction where sewer service is already being provided by the
35 municipality to the permit applicant or connection to the municipal sewer system is
36 immediately available to the applicant; the service areas of counties and the other
37 entities or groups shall include only those areas where sewer service is already being
38 provided to the applicant by the permitting authority or connection to the permitting
39 authority's system is immediately available. No later than the 180th day after the receipt
40 of a program and statement submitted by any local government, commission, authority,
41 or board the Commission shall certify any local program that:

- 42 (1) Provides by ordinance or local law for requirements compatible with
43 those imposed by this Part and the rules implementing this Part;

- 1 (2) Provides that the Department receives notice and a copy of each
2 application for a permit and that it receives copies of approved permits
3 and plans upon request by the Commission;
- 4 (3) Provides that plans and specifications for all construction, extensions,
5 alterations, and changes be prepared by or under the direct supervision
6 of an engineer licensed to practice in this State;
- 7 (4) Provides for the adequate enforcement of the program requirements by
8 appropriate administrative and judicial process;
- 9 (5) Provides for the adequate administrative organization, engineering
10 staff, financial and other resources necessary to effectively carry out its
11 plan review program;
- 12 (6) Provides that the system is capable of interconnection at an appropriate
13 time with an expanding municipal, county, or regional system;
- 14 (7) Provides for the adequate arrangement for the continued operation,
15 service, and maintenance of the sewer system; and
- 16 (8) Is approved by the Commission as adequate to meet the requirements
17 of this Part and the rules implementing this Part.

18 The Commission may deny, suspend, or revoke certification of a local program upon
19 a finding that a violation of the provisions in subsection (f) of this section has
20 occurred. A denial, suspension, or revocation of a certification of a local program shall
21 be made only after notice and a public hearing. If the failure of a local program to carry
22 out this subsection creates an imminent hazard, the Commission may summarily revoke
23 the certification of the local program. Chapter 150B of the General Statutes does not
24 apply to proceedings under this subsection.

25 Notwithstanding any other provision of this subsection, if the Commission
26 determines that a sewer system, treatment works, or disposal system is operating in
27 violation of the provisions of this Article and that the appropriate local authorities have
28 not acted to enforce those provisions, the Commission may, after written notice to the
29 appropriate local government, take enforcement action in accordance with the
30 provisions of this Article.

31 (g) Any person who is required to hold a permit under this section shall submit to
32 the Department a written description of his current and projected plans to reduce the
33 discharge of waste and pollutants under such permit by source reduction or recycling.
34 The written description shall accompany the payment of the annual permit fee. The
35 written description shall also accompany any application for a new permit, or for
36 modification of an existing permit, under this section. The written description required
37 by this subsection shall not be considered part of a permit application and shall not
38 serve as the basis for the denial of a permit or permit modification."

39 Sec. 3. G.S. 143-215.2(b) reads as rewritten:

40 "~~(b) Procedure to Contest Certain Orders.—A special order that is issued without~~
41 ~~the consent of the person affected may be contested by that person by filing a petition~~
42 ~~for a contested case under G.S. 150B-23 within 30 days after the order is issued. If the~~
43 ~~person affected does not file a petition within the required time, the order is final and is~~

1 ~~not subject to review.~~ Review. – G.S. 143-215.5 governs administrative and judicial
2 review of an order issued under this section."

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

4 "(b) ~~(1)~~ Procedures for Public Input. –

5 (1) The Commission or Department may, on its own motion or when
6 required by federal law, request public comments on or hold public
7 hearings on matters within the scope of its authority under this Article
8 or Articles 21A or 21B of this Chapter. Before making a qualifying
9 permit decision, the Department shall consider all relevant oral
10 comment presented at any public hearing conducted by the Department
11 and all relevant written comment submitted in a timely manner.
12 Written comment is submitted in a timely manner if it is postmarked
13 prior to the expiration of the comment period stated in the newspaper
14 notice or during any period that the Department holds the application
15 or special order open for receipt of additional information from the
16 applicant.

17 (2) To request public comments on a matter, the Commission or
18 Department shall notify appropriate agencies of the opportunity to
19 submit written comments to the Commission or Department on the
20 matter and shall publish a notice in a newspaper having general
21 circulation in the affected area, stating the matter under consideration
22 by the Commission or Department and informing the public of its
23 opportunity to submit written comments to the Commission or
24 Department on the matter. A public comment period shall extend for
25 at least 30 days after the notice is published.

26 ~~(2)~~(3) To hold a public hearing on a matter, the Commission or Department
27 shall ~~notify, by personal service or certified mail, persons directly affected~~
28 ~~by the matter under consideration~~ notify the applicant or permit holder by
29 first class mail and shall publish a notice in a newspaper having
30 general circulation in the affected area, stating the matter under
31 consideration by the Commission or Department and the time, date,
32 and place of a public hearing to be held on the matter. A public
33 hearing shall be held no sooner than 20 days after the notice is
34 published. The proceedings at a public hearing held under this
35 subsection shall be recorded. Upon payment of a fee established by
36 the Commission, any person may obtain a copy of the record of the
37 public hearing. After a public hearing, the Commission or Department
38 shall accept written comments for the time period prescribed by the
39 ~~Commission.~~ Commission or Department.

40 ~~(3)~~(4) This subsection does not apply to rule-making proceedings, contested
41 case hearings, or the issuance of permits required under Title V. The
42 Commission shall establish procedures for public hearings, public
43 notice, and public comment respecting permits required by Title V as
44 provided by G.S. 143-215.111(4)."

1 Sec. 5. G.S. 143-215.5 reads as rewritten:

2 "**§ 143-215.5. Judicial review. Public notice of qualifying permit decisions;**
3 **administrative and judicial review of decisions.**

4 (a) Public Notice. – The Department shall give notice of a qualifying permit
5 decision by publishing the notice in a newspaper having general circulation in the area
6 affected by the decision and by either publishing the notice in the North Carolina
7 Register or mailing a copy of the notice to each person who submitted comment on the
8 application for a qualifying permit in a timely manner. If the Department has not given
9 notice within 20 days after it makes the decision, the applicant may give the required
10 notice by publishing the notice in a newspaper having general circulation in the area
11 affected by the decision and by submitting the notice for publication in the North
12 Carolina Register. At a minimum, the notice shall:

13 (1) Identify the application, including the name of the applicant and the
14 date the application was submitted.

15 (2) Clearly identify the location of the activity, including each county in
16 which the activity is located.

17 (3) State the decision on the application.

18 (4) State the last date on which a contested case petition may be filed in
19 the Office of Administrative Hearings.

20 (5) State the name and address of the agency that made the decision.

21 (b) Effect. – Notice of a qualifying permit decision given in accordance with
22 subsection (a) of this section satisfies G.S. 150B-23(f).

23 (c) Notice by Mail. – In addition to notice as provided in subsection (a) of this
24 section, the Department shall, to the extent practicable, mail a copy of the notice
25 described in subsection (a) of this section to persons who provide the Department with a
26 self-addressed envelope with sufficient postage affixed.

27 (d) Applicants and Permit Holders. – A permit applicant or permit holder may
28 contest a qualifying permit decision by filing a petition for a contested case under G.S.
29 150B-23 within 30 days after notice of the decision is given as provided in subsection
30 (a) of this section. A permit applicant or permit holder may contest any other permit
31 decision by filing a petition for a contested case under G.S. 150B-23 within 30 days
32 after receiving written notice of the decision.

33 (e) Persons Affected. – A person affected may contest a qualifying permit
34 decision, but may not contest any other permit decision, by filing a petition for a
35 contested case under G.S. 150B-23 within 30 days after notice of the decision is given
36 as provided in subsection (a) of this section. When a person affected contests a
37 qualifying permit decision, the assigned administrative law judge shall by order make
38 the permit holder a party to the contested case proceeding. In the contested case, the
39 person affected may not contest an issue that was not raised, either by the person
40 affected or another person, with the Department when the contested decision was
41 pending before the Department unless the administrative law judge assigned to the
42 contested case makes an exception for good cause shown. The assigned administrative
43 law judge may allow a person affected to be heard on a new issue only if the
44 administrative law judge finds that the issue could not reasonably have been raised

1 while the contested decision was pending before the Commission. If the contested case
2 concerns the approval of an application to renew a permit, the person affected may
3 contest only a difference between the renewed permit and the former permit unless there
4 is substantial evidence in the administrative record that the conditions set out in the
5 former permit allow significant environmental damage. If a person is denied
6 administrative review of any aspect of a qualifying permit decision under this
7 subsection, and the person has submitted oral or written comment within the comment
8 period on the aspect of the qualifying permit for which the person is denied
9 administrative review, the right of judicial review shall be fully preserved.

10 (f) Other Persons. – A person aggrieved by a permit decision who is not a permit
11 applicant, a permit holder, or a person affected may not contest the decision by filing a
12 petition for a contested case but may petition to intervene in any contested case on the
13 decision.

14 (g) Stay. – If a permit holder or a person affected files a petition for a contested
15 case proceeding to challenge a qualifying permit decision, the permit holder or person
16 affected may seek a stay of the qualifying permit decision under G.S. 1A-1, Rule 65.
17 Qualifying permit decisions shall be effective 10 days after the qualifying permit is
18 issued or denied, unless stayed under this provision or another provision of State or
19 federal law.

20 (h) Procedure in Contested Case. –

21 (1) In any contested case proceeding regarding a qualifying permit
22 decision, the procedure shall be as provided in Article 3 of Chapter
23 150B of the General Statutes, except that no formal evidentiary
24 hearing shall be held and the recommended decision shall be made on
25 the basis of the Department's record, along with any exceptions to such
26 record and arguments concerning such record raised by parties to the
27 contested case, unless:

- 28 a. A party, in its initial filing with the Office of Administrative
29 Hearings, requests a formal evidentiary hearing; and
30 b. The administrative law judge assigned to the case determines,
31 in a timely manner, that the contested case presents genuine
32 issues of material fact under G.S. 1A-1, Rule 56.

33 (2) In any contested case proceeding regarding a qualifying permit
34 decision and unless altered by agreement of all the parties:

- 35 a. A petition for contested case must be filed with the Office of
36 Administrative Hearings within 30 days after notice of a
37 qualifying permit decision is given.
38 b. The petition shall include, at a minimum:
39 1. An indication that the petitioner seeks review of a
40 qualifying permit decision.
41 2. A statement of the reasons supporting the request for
42 review and the permit conditions or other aspects of the
43 qualifying permit decision being challenged.

- 1 3. If the petitioner seeks a formal evidentiary hearing,
2 including sworn testimony and cross-examination of
3 witnesses to supplement the administrative record, a
4 statement of the disputed issues of material fact on which
5 the petitioner seeks a formal evidentiary hearing.
- 6 c. The Office of Administrative Hearings shall issue a notice of
7 contested case and assignment and an order for a prehearing
8 statement within five days after the filing of a petition for
9 administrative review of a qualifying permit decision. The
10 Department shall transmit the official administrative record
11 within 10 days after the Office of Administrative Hearings
12 issues the notice of contested case and assignment for a
13 qualifying permit decision.
- 14 d. Each party shall file a prehearing statement within 30 days after
15 the order for a prehearing statement is issued.
- 16 e. A motion to intervene shall be filed within 30 days after the
17 order for a prehearing statement is issued.
- 18 f. A determination that a formal evidentiary hearing will be held
19 must be made within 75 days after the petition for contested
20 case is filed.
- 21 g. If a formal evidentiary hearing is determined to be necessary
22 and properly requested, such hearing shall be concluded and a
23 recommended decision proposed and served within 150 days
24 after the petition for contested case is filed.
- 25 h. If no formal evidentiary hearing is determined to be necessary
26 or properly requested, a recommended decision shall be
27 prepared and served within 120 days after the petition for
28 contested case is filed.
- 29 (3) Pursuant to Article 3 of Chapter 150B of the General Statutes, the
30 assigned administrative law judge may:
- 31 a. Approve, reverse, or modify the decision of the Department to
32 grant or deny the qualifying permit.
- 33 b. Issue an interlocutory order requiring the Department or
34 Commission to act pursuant to any of the time limits set forth in
35 G.S. 143-215.1(c).
- 36 (4) If a recommended decision is not prepared and served in the time
37 provided in this subsection, the petitioner may elect to treat the petition
38 as denied and may request a final agency decision based solely on the
39 original qualifying permit decision and any additional materials filed
40 with the Office of Administrative Hearings concerning such decision.
- 41 (i) Final Decision. – The Commission shall make the final decision in a
42 contested case under this section. Notwithstanding G.S. 150B-44, if the Commission
43 fails to make a final decision within 45 days of its receipt of the recommended decision
44 and record from the Office of Administrative Hearings, the recommended decision

1 becomes the final decision and any party to the proceedings before the Office of
2 Administrative Hearings may seek judicial review as provided in subsection (j) of this
3 section. If a permit applicant, permit holder, or person affected does not file a petition
4 for a contested case within the required time, the decision by the Commission is final
5 and is not subject to administrative or judicial review.

6 (a)(j) Judicial Review. – Except as provided in this subsection, Article 4 of
7 Chapter 150B of the General Statutes governs judicial review of a final agency decision
8 or order of the Secretary ~~or of the Commission under this Article and Articles 21A and 21B~~
9 of this Chapter. ~~in a contested case and of a final decision for which the administrative~~
10 remedy of a contested case is not available. Any person who seeks judicial review of a
11 final decision in a contested case must file a petition for review within 30 days after the
12 parties to the case are served with a written copy of the decision or within 30 days after
13 the recommended decision becomes a final decision as a result of the failure of the
14 Commission to make a final decision. Any person aggrieved by a final decision for
15 which the administrative remedy of a contested case is not available may obtain judicial
16 review of the decision by filing a petition for review within 30 days after the final
17 decision is issued. A person aggrieved by a final decision for which the administrative
18 remedy of a contested case is not available may obtain judicial review of the decision by
19 filing a petition in accordance with Article 4 of Chapter 150B of the General Statutes.
20 A petition for judicial review of a qualifying permit decision shall be dismissed unless
21 the petitioner is either:

22 (1) A person affected who either filed a contested case petition on the
23 decision or was a party to a contested case on the decision.

24 (2) A person aggrieved only as a result of the final decision in a contested
25 case on the decision.

26 (k) Bond on Appeal. – If a case that concerns an action of the Secretary or of the
27 Commission under this Article or Article 21A or 21B of this Chapter is appealed from
28 the superior court to the Appellate Division of the General Court of Justice, no bond
29 shall be required of the Secretary or of the Commission.

30 (b)(l) Judicial Review of Title V Permit Decisions. – A person aggrieved, as
31 defined in G.S. 150B-2, other than the applicant or permittee, who seeks judicial review
32 of a final agency decision on an application for a permit required under Title V shall file
33 a petition for judicial review under G.S. 150B-45 within 30 days after public notice of
34 the final agency decision is given as provided in rules adopted by the Commission
35 pursuant to G.S. 143-215.4(b)(3). A permit applicant, permittee, or other person
36 aggrieved who seeks judicial review of a failure of the Commission to act within the
37 time specified in rules adopted pursuant to G.S. 143-215.108(d)(2) on an application for
38 a permit required by Title V or G.S. 143-215.108 shall file a petition for judicial review
39 under G.S. 150B-45 within 30 days after the expiration of the time specified for action
40 on the application."

41 Sec. 6. G.S. 143-215.1(b)(4)c. reads as rewritten:

42 "c. To modify or revoke any permit upon not less than 60 days'
43 written notice to ~~any person affected.~~ the permit holder."

44 Sec. 7. G.S. 143-215.15(c) reads as rewritten:

1 "(c) In all cases in which sufficient evidence of a nonconsumptive use is not
2 ~~presented~~presented, the Department shall notify each person required by this Part to
3 secure a permit of the ~~Commission's~~proposed action concerning ~~such~~the permit, and
4 shall transmit with ~~such~~the notice a copy of any permit it proposes to issue to ~~such~~
5 ~~persons, which~~those persons. The permit will become final unless a request for a
6 hearing is made within 15 days from the date of service of ~~such~~the notice. If sufficient
7 evidence of a nonconsumptive use is not presented, the Commission may: (i) grant ~~such~~
8 the permit with those conditions as the Commission deems necessary to implement the
9 rules adopted pursuant to G.S. 143-215.14; (ii) grant any temporary permit for such
10 period of time as the Commission shall specify where conditions make ~~such~~a temporary
11 permit essential, even though the action allowed by ~~such~~the permit may not be
12 consistent with the Commission's rules applicable to ~~such~~the capacity use area; (iii)
13 modify or revoke any permit upon not less than 60 days' written notice to ~~any person~~
14 ~~affected;~~the permit holder; and (iv) deny ~~such~~the permit if the application therefor or
15 the effect of the water use proposed or described therein upon the water resources of the
16 area is found to be contrary to public interest. Before issuing a permit under this
17 subsection, the Commission shall notify the permit applicant of its proposed action by
18 sending the permit applicant a copy of the permit the Commission proposes to issue.
19 Unless the permit applicant contests the proposed permit, the proposed permit shall
20 become effective on the date set in the proposed permit. A water user who is
21 dissatisfied with a decision of the Commission concerning that user's or another user's
22 permit application or permit may commence a contested case under G.S. 150B-23."

23 Sec. 8. G.S. 143-215.32(a) reads as rewritten:

24 "(a) The Department may at any time inspect any dam, including a dam that is
25 otherwise exempt from this Part, upon receipt of a written request of any ~~affected~~person
26 or agency, or upon a motion of the Environmental Management Commission. Within
27 the limits of available funds the Department shall endeavor to provide for inspection of
28 all dams at intervals of approximately five years."

29 Sec. 9. G.S. 143-215.108(c)(3) reads as rewritten:

30 "(3) To terminate, modify, or revoke and reissue any permit upon not less
31 than 60 days' written notice to ~~any person affected;~~the permit holder;".

32 Sec. 10. G.S. 143-215.3(a)(1b) reads as rewritten:

33 "(1b) The fee to be charged pursuant to G.S. 143-
34 215.3(a)(1a) for processing ~~of~~an application for a
35 permit under G.S. 143-215.1 ~~of Article 21 and G.S. 143-~~
36 ~~215.108 and G.S. 143-215.109 of Article 21B of this~~
37 ~~Chapter may not exceed four hundred dollars (\$400.00)-~~
38 one thousand dollars (\$1,000). The fee to be charged
39 pursuant to G.S. 143-215.3(a)(1a) for processing an
40 application for a permit under G.S. 143-215.108 and
41 G.S. 143-215.109 may not exceed four hundred dollars
42 (\$400.00). The fee to be charged pursuant to G.S.
43 143-215.3(a)(1a) for processing a registration under
44 Part 2A of this Article or Article 38 of this Chapter

1 may not exceed fifty dollars (\$50.00) for any single
2 registration. An additional fee of twenty percent
3 (20%) of the registration processing fee may be
4 assessed for a late registration under Article 38 of this
5 Chapter. The fee for administering and compliance
6 monitoring under G.S. 143-215.1 of Article 21 and
7 G.S. 143-215.108 and G.S. 143-215.109 of Article
8 21B shall be charged on an annual basis for each year
9 of the permit term and may not exceed one thousand
10 five hundred dollars (\$1,500) per year. Fees for
11 processing all permits under Article 21A and all other
12 sections of Articles 21 and 21B shall not exceed one
13 hundred dollars (\$100.00) for any single permit.
14 Notwithstanding any other provision of this
15 subdivision, the total payment for fees required for all
16 permits under this subsection for any single facility
17 shall not exceed seven thousand five hundred dollars
18 (\$7,500) per year, which amount shall include all
19 application fees and fees for administration and
20 compliance monitoring. A single facility is defined to
21 be any contiguous area under one ownership and in
22 which permitted activities occur. For all permits
23 issued under these Articles where a fee schedule is not
24 specified in the statutes, the Commission, or other
25 commission specified by statute shall adopt a fee
26 schedule in a rule following the procedures established
27 by the Administrative Procedure Act. ~~Such fee~~ Fee
28 schedules shall be established to reflect the size of the
29 emission or discharge, the potential impact on the
30 environment, the staff costs involved, relative costs of
31 the issuance of new permits and the reissuance of
32 existing permits, and shall include adequate safeguards
33 to prevent unusual fee assessments which would result
34 in serious economic burden on an individual applicant.
35 A system shall be considered to allow consolidated
36 annual payments for persons with multiple permits. In
37 its rulemaking to establish fee schedules, the
38 Commission is also directed to consider a method of
39 rewarding facilities which achieve full compliance
40 with administrative and self-monitoring reporting
41 requirements, and to consider, in those cases where the
42 cost of renewal or amendment of a permit is less than
43 for the original permit, a lower fee for ~~such~~ the renewal
44 or amendment."

1 Sec. 11. This act becomes effective 1 January 1995, and applies to an
2 application for a new permit, a modification of an existing permit, or a reissuance or
3 renewal of an existing permit filed on or after that date.