

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 461
HOUSE BILL 807

AN ACT TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO CONSIDER THE FINANCIAL CAPABILITY AND PERFORMANCE HISTORY OF APPLICANTS FOR AIR AND WATER DISCHARGE PERMITS PRIOR TO GRANTING SUCH PERMITS AND TO AMEND THE REQUIREMENTS APPLICABLE TO HAZARDOUS WASTE FACILITY PERMITS.

The General Assembly of North Carolina enacts:

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

"(b) Environmental Management Commission's Power as to Permits. The Environmental Management Commission shall act on all permits so as to prevent, so far as reasonably possible, considering relevant standards under State and federal laws, any significant increase in pollution of the waters of the State from any new or enlarged sources.

The Environmental Management Commission shall have the power:

- (1) To grant a permit with such conditions attached as the Environmental Management Commission believes necessary to achieve the purposes of this Article;
- (1a) To require that an applicant satisfy the Commission that the applicant, or any parent or subsidiary corporation if the applicant is a corporation:
 - a. Is financially qualified to carry out the activity for which the permit is required under subsection (a); and
 - b. Has substantially complied with the effluent standards and limitations and waste management treatment practices applicable to any activity in which the applicant has previously engaged, and has been in substantial compliance with other federal and state laws, regulations, and rules for the protection of the environment;
- (2) Repealed by Session Laws 1975, c. 583, s. 4.
- (3) To modify or revoke any permit upon not less than 60 days' written notice to any person affected.

No permit shall be denied and no condition shall be attached to the permit, except when the Environmental Management Commission finds such denial or such conditions necessary to effectuate the purposes of this Article."

Sec. 2. G.S. 143-215.108(b) reads as rewritten:

"(b) The Environmental Management Commission shall act upon all applications for permits so as to effectuate the purpose of this section, by reducing existing air pollution and preventing, so far as reasonably possible, any increased pollution of the air from any additional or enlarged sources.

The Environmental Management Commission shall have the power:

- (1) To grant and renew a permit with such conditions attached as the Environmental Management Commission believes necessary to achieve the purposes of this section;
- (2) To grant and renew any temporary permit for such period of time as the Environmental Management Commission shall specify even though the action allowed by such permit may result in pollution or increase pollution where conditions make such temporary permit essential;
- (3) To modify or revoke any permit upon not less than 60 days' written notice to any person affected;
- (4) To require all applications for permits and renewals to be in writing and to prescribe the form of such applications;
- (5) To request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary and to require the submission of plans and specifications prior to acting on any application for a permit; ~~and~~
- (5a) To require that an applicant satisfy the Commission that the applicant, or any parent or subsidiary corporation if the applicant is a corporation:
 - a. Is financially qualified to carry out the activity for which a permit is required under subsection (a); and
 - b. Has substantially complied with the air quality and emission control standards applicable to any activity in which the applicant has previously engaged, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment;
- (6) To adopt rules, as it deems necessary, establishing the form of applications and permits and procedures for the granting or denial of permits and renewals pursuant to this section; and all permits, renewals and denials shall be in ~~writing~~ writing;
- (7) To prohibit any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other state of any national ambient air quality standard, or interference with measures required to be included in the applicable implementation plan for any other state to prevent deterioration of air quality or protect visibility.

The Environmental Management Commission shall act on all applications for permits as rapidly as possible, but it shall have the power to request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary

prior to acting on any application for a permit. Failure of the Environmental Management Commission to take action on an application for a permit within 90 days after all data, plans, specifications and other required information have been furnished by the applicant shall be deemed as approval of such application.

Any person whose application for a permit or renewal thereof is denied or is granted subject to conditions which are unacceptable to such person or whose permit is modified or revoked shall have the right to a hearing before the Environmental Management Commission upon making demand therefor within 30 days following the giving of notice by the Environmental Management Commission as to its decision upon such application. Unless such a demand for a hearing is made, the decision of the Environmental Management Commission on the application shall be final and binding. If demand for a hearing is made, the procedure with respect thereto and with respect to all further proceedings shall be as specified in G.S. 143-215.4 and in any applicable rules of procedure of the Environmental Management Commission."

Sec. 3. G.S. 130A-295(a) reads as rewritten:

"(a) An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

- (1) Any hazardous waste facility constructed or operated by the applicant, or any parent or subsidiary corporation if the applicant is a corporation, has been operated in accordance, with sound waste management practices and in substantial compliance with federal and ~~State~~state laws, regulations and rules; and
- (2) The applicant, or any parent or subsidiary corporation if the applicant is a corporation, is financially qualified to operate the proposed hazardous waste facility."

Sec. 4. This act is effective upon ratification and shall apply to any application for a permit made after the date of ratification.

In the General Assembly read three times and ratified this the 24th day of June, 1987.