

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 767
HOUSE BILL 94

AN ACT TO INCREASE FEES FOR POLLUTION CONTROL PERMITS TO
IMPROVE PERMITTING EFFICIENCY AND COMPLIANCE AND TO
CREATE THE WASTEWATER TREATMENT WORKS EMERGENCY
MAINTENANCE, OPERATION AND REPAIR FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.3(a) is amended by deleting subdivision (1) and substituting the following subdivisions to read:

"(1) To make rules implementing Articles 21, 21A, 21B, or 38 of this Chapter.

(1a) To charge fees for the following:

- a. processing of applications for permits or registrations issued under Articles 21, 21A, 21B, and 38 of this Chapter;
- b. administering permits or registrations issued under Articles 21, 21A, 21B, or 38 of this Chapter including monitoring compliance with the terms of those permits; and
- c. reviewing, processing, and publicizing applications for construction grant awards under the Federal Water Pollution Control Act.

No fee may be charged under this provision, however, to a farmer who submits an application that pertains to his farming operations.

(1b) The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing of an application for a permit under G.S. 143-215.1 of Article 21 and G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this Chapter may not exceed four hundred dollars (\$400.00). The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing an application for a registration under Article 38 of this Chapter may not exceed fifty dollars (\$50.00) for any single application, except that a penalty of as much as twenty percent (20%) of the fee may be assessed for late registration. The fee for administering and compliance monitoring under G.S. 143-215.1 of Article 21 and G.S. 143-215.108 and G.S. 143-215.109 of Article 21B shall be charged on an annual basis for each year of the permit term and may not exceed one thousand five hundred dollars (\$1,500) per year. Fees for processing all permits under Article 21A and all other Sections of Articles 21 and 21B shall not exceed one hundred dollars (\$100.00) for any single permit.

Notwithstanding any other provision of this subdivision, the total payment for fees required for all permits under this subsection for any single facility shall not exceed seven thousand five hundred dollars (\$7,500) per year, which amount shall include all application fees and fees for administration and compliance monitoring. A single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. For all permits issued under these Articles where a fee schedule is not specified in the statutes, the Environmental Management Commission, or other commission specified by statute shall adopt a fee schedule in a rule following the procedures established by the Administrative Procedures Act. Such fee schedules shall be established to reflect the size of the emission or discharge, the potential impact on the environment, the staff costs involved, relative costs of the issuance of new permits and the reissuance of existing permits, and shall include adequate safeguards to prevent unusual fee assessments which would result in serious economic burden on an individual applicant. A system shall be considered to allow consolidated annual payments for persons with multiple permits. In its rulemaking to establish fee schedules, the Environmental Management Commission is also directed to consider a method of rewarding facilities which achieve full compliance with administrative and self-monitoring reporting requirements, and to consider, in those cases where the cost of renewal or amendment of a permit is less than for the original permit, a lower fee for such renewal or amendment.

- (1c) Monies collected pursuant to G.S. 143-215.3(a)(1a) shall be used to:
- a. eliminate, insofar as possible, backlogs of permit applications awaiting agency action;
 - b. improve the quality of permits issued;
 - c. improve the rate of compliance of permitted activities with environmental standards; and
 - d. decrease the length of the processing period for permit applications."

Sec. 2. Chapter 143 is amended by adding a new section to read:

"§ 143-215.3A. Use of application and permit fees.—There is established a nonreverting account within the Office of State Budget. The account will be used, to the extent appropriated by the General Assembly, for allocations to the Department of Natural Resources and Community Development to (a) defray the expenses of any project or program supporting the permitting and compliance activities needed to protect the State's surface water, groundwater, and air quality, and (b) establish additional permanent positions, under the Personnel Act, for water, groundwater, and air quality permitting and compliance activities. All application fees and permit administration fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38, except those collected under Part 2 of Article 21A and deposited in the Oil or Other Hazardous Substances Pollution Protection Fund, and except as provided in

G.S. 143-215.3B shall be deposited in the account. The total monies collected per year from fees for permits under G.S. 143-215.3(a)(1a) shall not exceed thirty percent (30%) of the total budgets from all sources of environmental permitting and compliance programs within the Department of Natural Resources and Community Development. The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the State's environmental permitting programs contained within such Department. The report shall include, but is not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

Sec. 3. Chapter 143 is amended by adding a new section to read:

"§ 143-215.3B. Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund.—(a) There is established under the control and direction of the Department of Natural Resources and Community Development a Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund. The Fund shall be maintained as a separate nonlapsing, nonreverting, revolving fund and shall consist of any monies appropriated to the Fund by the General Assembly or designated for such purposes pursuant to subsection (b). The Fund shall be invested by the State Treasurer in accordance with law.

(b) A portion, not to exceed one hundred dollars (\$100.00) per permit, of the monies charged pursuant to G.S. 143-215.3(a)(1a)a. for application fees for treatment works permits under G.S. 143-215.1(c) and (d), shall be designated by the Environmental Management Commission for deposit into the Fund. This section applies only to applicants who apply for a permit or renewal of a permit to operate treatment works of design flow capacity of less than or equal to 100,000 gallons per day. The portion of the application fee to be deposited in the Fund shall be set forth in the fee schedule established for treatment works permits pursuant to G.S. 143-215.3(a)(1b) and shall be established by adoption of a rule pursuant to the procedures of the Administrative Procedures Act and the application of the factors set forth in G.S. 143-215.3(a)(1b).

(c) If the Environmental Management Commission finds that any person holding a wastewater discharge or nondischarge permit issued pursuant to G.S. 143-215.1 has violated the terms of the permit or the provisions of Article 21, and if the Commission has notified the permittee in writing of the violation and that it proposes to pay for corrective action from the Fund, the Commission may order corrective action to remedy the violations of the permit or Article 21 and shall pay the costs of the corrective action from the Fund. Monies from this Fund may only be used for corrective action at permitted facilities with design flow capacity of less than or equal to 100,000 gallons per day. The Commission may thereafter bring an action in a court of competent jurisdiction to recover from the permittee any amounts which have been expended from the Fund for corrective action. Any sums recovered as the result of such action, or otherwise recovered from the permittee, shall be paid into the Fund.

(d) All monies paid into the Fund and the investment earnings thereon shall be accumulated in the Fund until the Fund balance reaches seven hundred fifty thousand dollars (\$750,000). Once the Fund balance reaches seven hundred and fifty thousand dollars (\$750,000) the Commission shall revise the application fee charged pursuant to G.S. 143-215.3(a)(1a)a. to reduce the application fee by the amount designated for deposit into the Fund, provided that the Commission may at any time increase the application fee, within the limit set forth in G.S. 143-215.3(a)(1b), to be paid into the Fund in a manner which will insure that a sufficient minimum balance is maintained in the Fund.

(e) The Department shall provide an annual accounting of the Fund to the General Assembly."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of August, 1987.