

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

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HOUSE BILL 551\*  
Committee Substitute Favorable 5/3/91  
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Short Title: Clean Air Act Implementations.

(Public)

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Sponsors:

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Referred to:

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April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE REQUIREMENTS OF THE 1990 AMENDMENTS  
TO THE FEDERAL CLEAN AIR ACT.

Whereas, the United States Congress passed, and the President enacted, the  
Federal Clean Air Act Amendments of 1990 on November 15, 1990; and

Whereas, these amendments dramatically increase the responsibilities of  
North Carolina regulatory agencies under the Federal Clean Air Act, placing a great and  
imminent burden on the State to finance, develop, and ultimately implement new State  
air quality programs in the areas of permitting of air emission sources, State  
implementation planning procedures, nonattainment area permitting, automobile  
inspection and maintenance, the regulation of toxic air pollutants, acid rain control, and  
compliance enforcement, among others; and

Whereas, the Federal Clean Air Act Amendments of 1990 require the State of  
North Carolina to make comprehensive changes in many existing State air quality  
programs; and

Whereas, failure of the State to implement the Federal Clean Air Act  
Amendments of 1990 will subject North Carolina to federal sanctions under the Federal  
Clean Air Act; and

Whereas, the Environmental Management Commission must have all of the  
statutory authority in place to begin the administrative rule-making process for adoption  
and implementation of those elements no later than November 15, 1992; and

1           Whereas, it is the State of North Carolina's policy to afford the public a full  
2 and complete opportunity for public hearing and comment; Now, therefore,  
3 The General Assembly of North Carolina enacts:

4           Section 1. G.S. 143-215.3(a) is amended by adding a new subdivision (1d) to  
5 read:

6           "(1d) Notwithstanding the provisions of G.S. 143-215.3(a)(1b), the  
7 Commission is authorized to adopt and implement a graduated fee  
8 schedule sufficient to cover all reasonable direct and indirect costs  
9 required for the State to develop and administer a permit program  
10 which meets the requirements of Title V of the 1990 amendments  
11 to the Federal Clean Air Act (Pub. L. 101-549, 104 Stat. 2635 et  
12 seq.), as amended (hereinafter Title V). In adopting and  
13 implementing a fee schedule, the Commission shall require that the  
14 owner or operator of all air contaminant sources subject to the  
15 requirement to obtain a permit under Title V pay an annual fee, or  
16 the equivalent over some other period, sufficient to cover costs as  
17 provided in section 502(b)(3)(A) of Title V. The fee schedule shall  
18 be adopted according to the procedures set out in Chapter 150B of  
19 the General Statutes.

- 20           a. The total amount of fees collected under the fee schedule  
21 adopted pursuant to subdivision (1d) of this section shall  
22 conform to the requirements of section 502(b)(3)(B) of Title V.  
23 No fee shall be collected for more than 4,000 tons per year of  
24 any individual regulated pollutant, as defined in section  
25 502(b)(3)(B)(ii) of Title V, emitted by any source.  
26 Notwithstanding the provisions of G.S. 143-215.3(a)(1c), the  
27 fees so collected shall be used solely to cover all reasonable  
28 direct and indirect costs required to develop and administer the  
29 State's permit program.
- 30           b. The Commission may reduce any permit fee required under this  
31 section to take into account the financial resources of small  
32 business stationary sources as defined under Title V and  
33 regulations promulgated by the United States Environmental  
34 Protection Agency.
- 35           c. When funds in the Title V nonreverting account established in  
36 G.S. 143-215.3A exceed the total amount necessary to cover the  
37 cost of the Title V program for the next fiscal year, the  
38 Secretary shall adjust the amount billed so that the surplus  
39 funds are used to supplement program costs in that fiscal year."

40           Sec. 2. G.S. 143-215.3A reads as rewritten:

41       "**§ 143-215.3A. Use of application and permit fees.**

42       (a) There is established a separate nonreverting account within the Department of  
43 Environment, Health, and Natural Resources. The account may be used, to the extent  
44 appropriated by the General Assembly, to (a) defray the expenses of any project or

1 program supporting the permitting and compliance activities needed to protect the  
2 State's surface water, groundwater, and air quality, and (b) establish additional  
3 permanent positions, under the Personnel Act, for water, groundwater, and air quality  
4 permitting and compliance activities. All application fees and permit administration  
5 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38,  
6 except those collected under Part 2 of Article 21A and deposited in the Oil or Other  
7 Hazardous Substances Pollution Protection Fund, ~~Fund~~ and those collected under G.S.  
8 143-215.3(a)(1d) and deposited in the Title V nonreverting account, and except as  
9 provided in G.S. 143-215.28A and G.S. 143-215.3B shall be credited to the account.  
10 The total monies collected per year from fees for permits under G.S. 143-215.3(a)(1a),  
11 after deducting those monies collected under G.S. 143-215.3(a)(1d), shall not exceed  
12 thirty percent (30%) of the total budgets from all sources of environmental permitting  
13 and compliance programs within the Department of Environment, Health, and Natural  
14 Resources.

15 (b) There is also established a separate nonreverting account within the  
16 Department of Environment, Health, and Natural Resources to be used exclusively for  
17 development and implementation of the Title V program from the application fees and  
18 permit administration fees collected under G.S. 143-215.3(a)(1d). Expenses of the Air  
19 Quality Compliance Advisory Panel, the Clean Air Act Advisory Council, the Office of  
20 the Ombudsman for the Small Business Stationary Source Technical and Environmental  
21 Compliance Assistance Program, support staff, equipment, the Attorney General's  
22 Office for legal services, and contracts with consultants and program expenses listed in  
23 section 502(b)(3)(A) of Title V of the 1990 amendments to the Federal Clean Air Act  
24 shall be included among Title V program expenses.

25 (c) The Department shall make an annual report to the General Assembly and its  
26 Fiscal Research Division on the cost of the State's environmental permitting programs  
27 contained within such Department. In addition, the Department shall make an annual  
28 report to the General Assembly and its Fiscal Research Division on the cost of the Title  
29 V program. The report-reports shall include, but is-not be limited to, fees set and  
30 established under this Article, fees collected under this Article, revenues received from  
31 other sources for environmental permitting and compliance programs, changes made in  
32 the fee schedule since the last report, anticipated revenues from all other sources,  
33 interest earned and any other information requested by the General Assembly."

34 Sec. 3. G.S. 143-215.114A(a) reads as rewritten:

35 "(a) A civil penalty of not more than ~~five ten~~ thousand dollars ~~(\$5,000)-(\$10,000)~~  
36 may be assessed by the Secretary against any person who:

- 37 (1) Violates any classification, standard or limitation established  
38 pursuant to G.S. 143-215.107;
- 39 (2) Is required but fails to apply for or to secure a permit required by  
40 G.S. 143-215.108 or who violates or fails to act in accordance with  
41 the terms, conditions, or requirements of such permit;
- 42 (3) Violates or fails to act in accordance with the terms, conditions, or  
43 requirements of any special order or other appropriate document  
44 issued pursuant to G.S. 143-215.110;

- 1 (4) Fails to file, submit, or make available, as the case may be, any  
2 documents, data or reports required by this Article or Parts 1 or 7  
3 of Article 21 of this Chapter;  
4 (5) Violates a rule of the Commission or a local governing body  
5 implementing this ~~Article~~ Article or Parts 1 or 7 of Article 21;  
6 (6) Violates the offenses set out in G.S. 143-215.114B."

7 Sec. 4. G.S. 143-215.108 reads as rewritten:

8 **"§ 143-215.108. Control of sources of air pollution; permits required.**

9 (a) After the effective date applicable to any air quality or emission control  
10 standards established pursuant to G.S. 143-215.107, no person shall do any of the  
11 following things or carry out any of the following activities which contravene or will be  
12 likely to contravene such standards until or unless such person shall have applied for  
13 and shall have received from the Commission a permit therefor and shall have complied  
14 with such conditions, if any, as are prescribed by such permit:

- 15 (1) Establish or operate any air contaminant source;  
16 (2) Build, erect, use or operate any equipment which may result in the  
17 emission of air contaminants or which is likely to cause air  
18 pollution;  
19 (3) Alter or change the construction or method of operation of any  
20 equipment or process from which air contaminants are or may be  
21 emitted;  
22 (4) Enter into a ~~an~~ an irrevocable contract for the construction and  
23 installation of any air-cleaning device, or allow or cause such  
24 device to be constructed, installed, or operated.

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

29 The Commission shall have the power:

- 30 (1) To grant and renew a permit with such conditions attached as the  
31 Commission believes necessary to achieve the purposes of this  
32 section;  
33 (2) To grant and renew any temporary permit for such period of time  
34 as the Commission shall specify even though the action allowed by  
35 such permit may result in pollution or increase pollution where  
36 conditions make such temporary permit essential;  
37 (3) To modify or revoke any permit upon not less than 60 days' written  
38 notice to any person affected;  
39 (4) To require all applications for permits and renewals to be in writing  
40 and to prescribe the form of such applications;  
41 (5) To request such information from an applicant and to conduct such  
42 inquiry or investigation as it may deem necessary and to require the  
43 submission of plans and specifications prior to acting on any  
44 application for a permit;

- 1 (5a) 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 a. Is financially qualified to carry out the activity for which a  
 5 permit is required under subsection (a); and  
 6 b. Has substantially complied with the air quality and emission  
 7 control standards applicable to any activity in which the  
 8 applicant has previously engaged, and has been in substantial  
 9 compliance with federal and state laws, regulations, and rules  
 10 for the protection of the environment.

11 As used in this subdivision, the words 'affiliate,' 'parent,' and  
 12 'subsidiary' have the same meaning as in 17 Code of Federal  
 13 Regulations § 240.12b-2 (1 April 1990 Edition);

- 14 (6) To adopt rules, as it deems necessary, establishing the form of  
 15 applications and permits and procedures for the granting or denial  
 16 of permits and renewals pursuant to this section; and all permits,  
 17 renewals and denials shall be in writing;  
 18 (7) To prohibit any stationary source within the State from emitting  
 19 any air pollutant in amounts which will prevent attainment or  
 20 maintenance by any other state of any national ambient air quality  
 21 standard, or interference with measures required to be included in  
 22 the applicable implementation plan for any other state to prevent  
 23 deterioration of air quality or protect ~~visibility~~-visibility; and  
 24 (8) To issue general permits under rules adopted pursuant to Chapter  
 25 150B of the General Statutes consistent with the provisions in  
 26 section 504(d) of Title V of the 1990 amendments to the Federal  
 27 Clean Air Act (Pub. L. 101-549, 104 Stat. 2635 et seq., as  
 28 amended.

29 The Commission shall act on a permit application as quickly as possible. The  
 30 Commission may conduct any inquiry or investigation it considers necessary before  
 31 acting on an application and may require an applicant to submit plans, specifications,  
 32 and other information the Commission considers necessary to evaluate the application.  
 33 If the Commission fails to act on an application for a permit within 90 days after the  
 34 applicant submits all information required by the Commission, the application is  
 35 considered to be approved.

36 (c) No permit issued pursuant to this section shall be issued or renewed for a  
 37 term exceeding five years.

38 (d) A permit applicant or permittee who is dissatisfied with a decision of the  
 39 Commission may commence a contested case by filing a petition under G.S. 150B-23  
 40 within 30 days after the Commission notifies the applicant or permittee of its decision.  
 41 If the permit applicant or permittee does not file a petition within the required time, the  
 42 Commission's decision on the application is final and is not subject to review.

43 (e) (e) Any person who is required to hold a permit under this section shall  
 44 submit to the Department a written description of his current and projected plans to

1 reduce the emission of air contaminants under such permit by source reduction or  
 2 recycling. The written description shall accompany the payment of the annual permit  
 3 fee. The written description shall also accompany any application for a new permit, or  
 4 for modification of an existing permit, under this section. The written description  
 5 required by this subsection shall not be considered part of a permit application and shall  
 6 not serve as the basis for the denial of a permit or permit modification."

7 Sec. 5. G.S. 143B-317 reads as rewritten:

8 **"§ 143B-317. Air Quality ~~Council~~Compliance Advisory Panel – creation; powers  
 9 and duties.**

10 There is hereby created the Air Quality ~~Council~~Compliance Advisory Panel of the  
 11 Department of Environment, Health, and Natural Resources. The Air Quality ~~Council~~  
 12 Compliance Advisory Panel shall have the following functions and duties:

- 13 - (1) ~~To advise the Environmental Management Commission in~~  
 14 ~~the development of rules, regulations and quality standards for air;~~  
 15 ~~and~~  
 16 (2) ~~To consider and to advise the Commission upon any matter the~~  
 17 ~~Commission may refer to it.~~  
 18 (1) To render advisory opinions concerning the effectiveness of the  
 19 small business stationary source technical and environmental  
 20 compliance assistance program, difficulties encountered, and  
 21 degree and severity of enforcement;  
 22 (2) To make periodic reports to the Administrator of the United States  
 23 Environmental Protection Agency concerning the compliance of  
 24 the State Small Business Stationary Source Technical and  
 25 Environmental Compliance Assistance Program with the  
 26 requirements of the Paperwork Reduction Act, 44 U.S.C. § 3501 et  
 27 seq.; the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq.; and the  
 28 Equal Access to Justice Act, 5 U.S.C. § 504 et seq.; and  
 29 (3) To review information for small business stationary sources to  
 30 assure such information is understandable by the layperson."

31 Sec. 6. G.S. 143B-318 reads as rewritten:

32 **"§ 143B-318. Air Quality ~~Council~~Compliance Advisory Panel – members;  
 33 chairman; selection; removal; compensation; quorum; services.**

34 (a) The Air Quality ~~Council~~Compliance Advisory Panel of the Department of  
 35 Environment, Health, and Natural Resources shall consist of ~~nine members appointed by~~  
 36 ~~the Governor. The composition of the Council shall be as follows: one registered professional~~  
 37 ~~engineer knowledgeable in matters of air pollution; one representative from municipal~~  
 38 ~~government; one representative from county government; one representative of public health;~~  
 39 ~~two representatives from industry providing they are from different industries; one~~  
 40 ~~representative of agriculture; one licensed physician knowledgeable in the health aspects of air~~  
 41 ~~pollution; and one practicing biologist knowledgeable in the principles of air quality~~  
 42 ~~management.~~two members who are not owners or representatives of owners of small  
 43 business stationary sources, appointed by the Governor to represent the general public;  
 44 two members appointed one each by the Speaker and the minority leader of the House  
 45 of Representatives, and who are owners, or who represent owners, of small business

1 stationary sources; two members appointed one each by the President Pro Tempore and  
2 the minority leader of the Senate, who are owners, or who represent owners, of small  
3 business stationary sources; and one member appointed by the Secretary of the  
4 Department of Environment, Health, and Natural Resources.

5 (b) The Governor shall designate one member of the ~~Council~~-Panel to serve as  
6 chairman at his pleasure.

7 (c) Members shall serve staggered terms of four years. In order to achieve  
8 staggered terms, ~~the Governor~~-~~the Speaker~~ and the minority leader of the House of  
9 Representatives each shall initially appoint ~~three~~ members for terms of two years, ~~the~~  
10 President Pro Tempore and the minority leader of the Senate each shall initially appoint  
11 ~~three~~ members for terms of ~~four~~ three years, and ~~three~~ members for terms of ~~six~~ years.  
12 At the end of the respective terms of office of the initial members, their successors shall  
13 be appointed for terms of ~~six~~ four years and until their successors are appointed and  
14 qualify. Any appointment to fill a vacancy on the ~~Council~~-Panel created by the  
15 resignation, dismissal, death or disability of a member shall be for the balance of the  
16 unexpired term.

17 (d) The Governor shall have the power to remove any member of the ~~Council~~  
18 Panel from office for misfeasance, malfeasance or nonfeasance in accordance with the  
19 provisions of G.S. ~~143B-16 of the Executive Organization Act of 1973.~~ 143B-16.

20 (e) The members of the ~~Council~~-Panel shall receive per diem and necessary travel  
21 and subsistence expenses in accordance with the provisions of G.S. 138-5.

22 (f) A majority of the ~~Council~~-Panel shall constitute a quorum for the transaction  
23 of their business.

24 (g) The Secretary of Environment, Health, and Natural Resources shall designate  
25 an office within the Department of Environment, Health, and Natural Resources to serve  
26 as ombudsman for the Small Business Stationary Source Technical and Environmental  
27 Compliance Assistance Program established by the Department pursuant to section 507  
28 of the Federal Clean Air Act, as amended. The Small Business Stationary Source  
29 Technical and Environmental Compliance Assistance Program shall serve as the  
30 secretariat for the development and dissemination of reports and advisory opinions  
31 issued by the Panel. The Panel and the ombudsman shall exercise their powers  
32 consistent with G.S. 143B-14(b).

33 (h) All clerical and other services required by the ~~Council~~-Panel shall be supplied  
34 by the Secretary of Environment, Health, and Natural Resources."

35 Sec. 7. G.S. 143B-319 reads as rewritten:

36 "**§ 143B-319. Air Quality ~~Council~~Compliance Advisory Panel – meetings.**

37 The ~~Council~~-Panel shall meet at least semiannually and may hold special meetings at  
38 any time and place at the call of the chairman or upon the written request of at least ~~five~~  
39 ~~three~~ members."

40 Sec. 8. G.S. 143-215.107(a) reads as rewritten:

41 "(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed  
42 and empowered, as rapidly as possible within the limits of funds and facilities available  
43 to it, and subject to the procedural requirements of this Article and Article 21:

- 1 (1) To prepare and develop, after proper study, a comprehensive plan  
2 or plans for the prevention, abatement and control of air pollution  
3 in the State or in any designated area of the State.
- 4 (2) To determine by means of field sampling and other studies,  
5 including the examination of available data collected by any local,  
6 State or federal agency or any person, the degree of air  
7 contamination and air pollution in the State and the several areas of  
8 the State.
- 9 (3) To develop and adopt, after proper study, air quality standards  
10 applicable to the State as a whole or to any designated area of the  
11 State as the Commission deems proper in order to promote the  
12 policies and purposes of this Article and Article 21 most  
13 effectively.
- 14 (4) To collect information or to require reporting from classes of  
15 sources which, in the judgment of the Environmental Management  
16 Commission, may cause or contribute to air pollution. Any person  
17 operating or responsible for the operation of air contaminant  
18 sources of any class for which the Commission requires reporting  
19 shall make reports containing such information as may be required  
20 by the Commission concerning location, size, and height of  
21 contaminant outlets, processes employed, fuels used, and the nature  
22 and time periods or duration of emissions, and such other  
23 information as is relevant to air pollution and available or  
24 reasonably capable of being assembled.
- 25 (5) To develop and adopt such emission control standards as in the  
26 judgment of the Commission may be necessary to prohibit, abate or  
27 control air pollution commensurate with established air quality  
28 standards. Such standards may be applied uniformly to the State as  
29 a whole or to any area of the State designated by the Commission.
- 30 (6) To adopt, when necessary and practicable, a program for testing  
31 emissions from motor vehicles and to adopt motor vehicle emission  
32 standards in compliance with applicable federal regulations.
- 33 (7) To develop and adopt standards and plans necessary to implement  
34 programs for the prevention of significant deterioration and for the  
35 attainment of air quality standards in nonattainment areas;  
36 provided, that the Commission shall adopt no standard which is not  
37 made mandatory upon approved State programs by rules,  
38 regulations or published guidelines of the United States  
39 Environmental Protection Agency or the Federal Clean Air Act.
- 40 (8) To regulate the use of sulfur dioxide allowances in accordance with  
41 Title IV of the 1990 amendments to the Federal Clean Air Act  
42 (Pub. L. 101-549, 104 Stat. 2584 et seq.), as amended, and  
43 regulations promulgated by the United States Environmental  
44 Protection Agency."



1           Sec. 9. Article 21B of Chapter 143 is amended by adding a new section to  
2 read:

3 **"§ 143-215.106A. Clean Air Act Advisory Council.**

4       (a) Creation. There is created the Clean Air Act Advisory Council.

5       (b) Membership. The Council shall consist of 11 members representing the  
6 following interests:

7           (1) The Secretary or his designee;

8           (2) The Commissioner of Agriculture or his designee;

9           (3) The Chair of the Air Quality Committee of the Commission;

10          (4) Two representatives of local government;

11          (5) Three representatives of the environmental and conservation  
12 community; and

13          (6) Three representatives of industry.

14       The Secretary shall appoint the members representing subdivisions (4) through (6)  
15 above. The Secretary shall designate one member of the Council to serve as Chair.

16       (c) Functions and Duties. The Clean Air Act Advisory Council shall assist the  
17 Secretary and the Commission in an advisory capacity on:

18           (1) The development of all programs necessary to implement the  
19 Federal Clean Air Act Amendments of 1990 including, but not  
20 limited to, changes in existing State air quality statutes, rules and  
21 programs, permitting and implementation procedures, fee  
22 programs, regulatory flexibility, and regulation of air toxics; and

23           (2) The development of a permit fee program to finance increased  
24 State regulatory activity required under the Federal Clean Air Act.

25       (d) Terms of Office and Removal from Office. Members shall be appointed for  
26 one-year terms effective July 1, 1991. Appointments to fill vacancies shall be for the  
27 balance of the unexpired term. A member who fails to attend three consecutive  
28 meetings is disqualified from further participation. In addition, the Secretary may  
29 remove any member of the Council from office for misfeasance, malfeasance, or  
30 nonfeasance.

31       (e) Quorum. A majority of the Council shall constitute a quorum for the  
32 transaction of business.

33       (f) Multiple Offices. Any person who is a member of the Council may hold such  
34 membership concurrently with and in addition to any other elective or appointive office  
35 or offices such person is permitted to hold under G.S. 128-1.1.

36       (g) Compensation. Members of the Council who are not State employees shall  
37 receive per diem and necessary travel and subsistence expenses in accordance with the  
38 provisions of G.S. 138-5.

39       (h) Staff. All clerical and other services required by the Council shall be  
40 supplied by the Department. The Attorney General shall provide legal services required  
41 by the Council.

42       (i) Meetings/Reports. The Council shall meet periodically upon the call of the  
43 Chair. The Council may prepare separate final reports on issues it selects. The Council  
44 shall complete its study and advise the Commission in a written report to the

1 Commission no later than May 1, 1992. A copy of the report shall be filed with the  
2 Environmental Review Commission.

3 (j) Commission Rule-Making Authority. Unless deadlines established by the  
4 United States Environmental Protection Agency require that rule making be initiated  
5 earlier, the Commission shall not initiate rule making to implement the Title V Clean  
6 Air Act programs and fees until May 1, 1992, or upon receipt of a final written report by  
7 the Council, whichever is earlier."

8 Sec. 10. Article 21B of Chapter 143 is amended by adding a new section to  
9 read:

10 **"§ 143-215.106B. Assessments to establish Title V Program.**

11 (a) The holders of permits issued by the Environmental Management  
12 Commission for the control of sources of air pollution are assessed Clean Air Act  
13 implementation fees on an annual basis in accordance with the schedule established in  
14 this section. The assessments are in addition to any other fees required to be paid by the  
15 permit holders in conjunction with the permits. The assessments shall be deposited in  
16 the separate nonreverting account for the Title V Program established in G.S. 143-  
17 215.3A(b) and shall be used only to defray the eligible expenses of the Title V Program.  
18 The Secretary shall issue annual notices of the assessments to permit holders on or  
19 before July 1 of each fiscal year. Assessments shall be payable 30 days after receipt of  
20 notice. Failure to make timely payment within 90 days shall be grounds to revoke the  
21 permit and to institute a collection action against the permit holder by the Attorney  
22 General.

23 (b) Assessments are made in accordance with the following schedule:

- 24 (1) Sources emitting at least 100 tons and less than 500 tons per year,  
25 two thousand dollars (\$2,000) for fiscal year 1991-92 and two  
26 thousand five hundred dollars (\$2,500) for each year thereafter;  
27 (2) Sources emitting at least 500 tons and less than 1,000 tons per year,  
28 four thousand dollars (\$4,000) for fiscal year 1991-92 and twelve  
29 thousand five hundred dollars (\$12,500) for each year thereafter;  
30 (3) Sources emitting at least 1,000 tons and less than 5,000 tons per  
31 year, six thousand dollars (\$6,000) for fiscal year 1991-92, and  
32 twenty-five thousand dollars (\$25,000) for each year thereafter; and  
33 (4) Sources emitting at least 5,000 tons per year, six thousand dollars  
34 (\$6,000) for fiscal year 1991-92, and one hundred thousand dollars  
35 (\$100,000) for each year thereafter.

36 (c) Notices of assessment shall not be issued for any fiscal year in which the  
37 permit fees for the Title V Program adopted by the Commission pursuant to G.S. 143-  
38 215.3(a)(1d) are in effect. Should a Title V Program permit fee become due and  
39 payable during a fiscal year when the permit holder has paid an assessment, the Title V  
40 Program permit fee shall be reduced in an amount equal to the pro rata share of the  
41 assessment for the months remaining in the fiscal year. The pro rata share is determined  
42 by dividing the assessment into 12 equal parts and multiplying that sum by the number  
43 of months remaining in the fiscal year."

1                   Sec. 11. This act is effective upon ratification, provided, however, Section 9  
2 of this act expires July 1, 1992.