

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 981

Short Title: Air Emission Permit/ Public Hearing.

(Public)

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Sponsors: Representatives Judy Hunt; Colton and Gottovi.

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Referred to: Environment.

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April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE LOCAL INVOLVEMENT IN THE DECISION TO ISSUE  
A PERMIT TO EMIT AIR CONTAMINANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.108(b) reads as rewritten:

"(b) The 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 Commission shall have the power:

- (1) To grant and renew a permit with such conditions attached as the 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 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;

- 1 (5a) To require that an applicant satisfy the Department that the applicant,  
2 or any parent, subsidiary, or other affiliate of the applicant or parent:  
3 a. Is financially qualified to carry out the activity for which a  
4 permit is required under subsection (a); and  
5 b. Has substantially complied with the air quality and emission  
6 control standards applicable to any activity in which the  
7 applicant has previously engaged, and has been in substantial  
8 compliance with federal and state laws, regulations, and rules  
9 for the protection of the environment.

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

- 13 (6) To adopt rules, as it deems necessary, establishing the form of  
14 applications and permits and procedures for the granting or denial of  
15 permits and renewals pursuant to this section; and all permits, renewals  
16 and denials shall be in writing;  
17 (7) To prohibit any stationary source within the State from emitting any  
18 air pollutant in amounts which will prevent attainment or maintenance  
19 by any other state of any national ambient air quality standard, or  
20 interference with measures required to be included in the applicable  
21 implementation plan for any other state to prevent deterioration of air  
22 quality or protect visibility.

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

30 The Commission shall give notice of intent to issue or deny the permit, along with  
31 any other data that the Commission may determine appropriate, to the appropriate State,  
32 interstate, and federal agencies, to interested persons, and to the public. The  
33 Commission shall prescribe the form and content of the notice. This required notice  
34 shall be given at least 45 days prior to any proposed final action granting or denying the  
35 permit. Public notice shall be given by publication of the notice one time in a  
36 newspaper having general circulation within the county.

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

1 time in a newspaper having general circulation in such county. In any county in which  
2 there is more than one newspaper having general circulation in that county, the  
3 Commission shall cause a copy of such notice to be published in as many newspapers  
4 having general circulation in the county as the Commission in its discretion determines  
5 may be necessary to assure that such notice is generally available throughout the county.  
6 The Commission shall prescribe the form and content of the notices.

7 The Commission shall prescribe the procedures to be followed in such meetings. If  
8 the meeting is not conducted by the Commission, detailed minutes of the meeting shall  
9 be kept and shall be submitted, along with any other written comments, exhibits, or  
10 documents presented at the meeting, to the Commission for its consideration prior to  
11 final action granting or denying the permit.

12 Not later than 60 days following notice of intent or, if a public hearing is held,  
13 within 90 days following consideration of the matters and things presented at such  
14 hearing, the Commission shall grant or deny any application for issuance of a new  
15 permit or for renewal of an existing permit. All permits or renewals issued by the  
16 Commission and all decisions denying application for permit or renewal shall be in  
17 writing.

18 A permit applicant or permittee who is dissatisfied with a decision of the  
19 commission may commence a contested case by filing a petition under G.S. 150B-23  
20 within 30 days after the Commission notifies the applicant or permittee of its decision.  
21 If the permit applicant or permittee does not file a petition within the required time, the  
22 Commission's decision on the application is final and is not subject to review."

23 Sec. 2. This act is effective upon ratification and applies to permits issued on  
24 or after that date.