

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 386

Environment and Natural Resources Committee Substitute Adopted 5/13/91

Short Title: Eco. Impact Req./Exceed US Air/Water Regs.

(Public)

Sponsors: .

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THOSE PORTIONS OF THE GENERAL STATUTES THAT LIMIT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO THE ADOPTION OF ENVIRONMENTAL RULES REGARDING WATER QUALITY AND AIR QUALITY THAT ARE NO MORE RESTRICTIVE THAN FEDERAL ENVIRONMENTAL REGULATIONS TO PROVIDE THAT AN ECONOMIC IMPACT STATEMENT BE PREPARED BEFORE SUCH RULES ARE ADOPTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215 reads as rewritten:

"§ 143-215. Effluent standards and limitations.

(a) The Commission is authorized and directed to develop, adopt, modify and revoke effluent standards and limitations and waste treatment management practices as it determines necessary to prohibit, abate, or control water pollution. The effluent standards or limitations or management practices may provide, without limitation, standards or limitations or management practices for any point source or sources; standards, limitations, management practices, or prohibitions for toxic wastes or combinations of toxic wastes discharged from any point source or sources; and pretreatment standards for wastes discharged to any disposal system subject to effluent standards or limitations or management practices.

(b) The effluent standards and limitations developed and adopted by the Commission shall provide limitations upon the effluents discharged from pretreatment facilities and from outlets and point sources to the waters of the State adequate to limit

1 the waste loads upon the waters of the State to the extent necessary to maintain or
2 enhance the chemical, physical, biological and radiological integrity of the waters. The
3 management practices developed and adopted by the Commission shall prescribe
4 practices necessary to be employed in order to prevent or reduce contribution of
5 pollutants to the State's waters.

6 (c) In adopting effluent standards and limitations and management practices the
7 Commission shall be guided by the same considerations and criteria set forth, from time
8 to time, in federal law for the guidance of federal agencies administering the Federal
9 Water Pollution Control Program. ~~It is the intent of the General Assembly that the effluent~~
10 Effluent standards and limitations and management practices adopted hereunder shall be
11 no more restrictive than the most nearly applicable federal effluent standards and
12 limitations and management practices unless the Commission first considers,
13 among other things, an assessment of the economic impact of the proposed effluent
14 standards and limitations and management practices. The Department shall prepare and
15 submit into the record of the rule-making hearing an economic impact study of the
16 proposed standards and limitations and management practices. The study shall include
17 an estimate of the economic and social costs to commerce and industry, units of local
18 government, and agriculture to comply with the proposed standards and limitations and
19 management practices and an examination of the economic and social benefits of such
20 compliance. Limits and conditions to protect water quality standards that are included
21 in permits issued under this Article are not subject to the requirements of this
22 subsection.

23 (c1) Except as required by federal law or regulations, the Commission may not
24 adopt effluent standards or limitations applicable to animal and poultry feeding
25 operations. The definitions and provisions of 40 Code of Federal Regulations § 122.23
26 (1 July 1990 Edition) shall apply to this subsection.

27 (d) Notwithstanding the provisions of subsection (c) of this section, the
28 Environmental Management Commission may adopt rules applicable to any facility
29 which is sited or operated pursuant to Chapter 130B of the General Statutes which
30 incorporate standards and restrictions which exceed and are more comprehensive than
31 comparable federal regulations."

32 Sec. 2. G.S. 143-215.107 reads as rewritten:

33 "**§ 143-215.107. Air quality standards and classifications.**

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

- 37 (1) To prepare and develop, after proper study, a comprehensive plan or
38 plans for the prevention, abatement and control of air pollution in the
39 State or in any designated area of the State.
- 40 (2) To determine by means of field sampling and other studies, including
41 the examination of available data collected by any local, State or
42 federal agency or any person, the degree of air contamination and air
43 pollution in the State and the several areas of the State.

- 1 (3) To develop and adopt, after proper study, air quality standards
2 applicable to the State as a whole or to any designated area of the State
3 as the Commission deems proper in order to promote the policies and
4 purposes of this Article and Article 21 most effectively.
- 5 (4) To collect information or to require reporting from classes of sources
6 which, in the judgment of the Environmental Management
7 Commission, may cause or contribute to air pollution. Any person
8 operating or responsible for the operation of air contaminant sources of
9 any class for which the Commission requires reporting shall make
10 reports containing such information as may be required by the
11 Commission concerning location, size, and height of contaminant
12 outlets, processes employed, fuels used, and the nature and time
13 periods or duration of emissions, and such other information as is
14 relevant to air pollution and available or reasonably capable of being
15 assembled.
- 16 (5) To develop and adopt such emission control standards as in the
17 judgment of the Commission may be necessary to prohibit, abate or
18 control air pollution commensurate with established air quality
19 standards. Such standards may be applied uniformly to the State as a
20 whole or to any area of the State designated by the Commission.
- 21 (6) To adopt, when necessary and practicable, a program for testing
22 emissions from motor vehicles and to adopt motor vehicle emission
23 standards in compliance with applicable federal regulations.
- 24 (7) To develop and adopt standards and plans necessary to implement
25 programs for the prevention of significant deterioration and for the
26 attainment of air quality standards in nonattainment areas; ~~provided, that~~
27 ~~the Commission shall adopt no standard which is not made mandatory upon~~
28 ~~approved State programs by rules, regulations or published guidelines of the~~
29 ~~United States Environmental Protection Agency or the Federal Clean Air~~
30 ~~Act areas.~~

31 (b) Criteria for Standards. – In developing air quality and emission control
32 standards, the Commission shall recognize varying local conditions and requirements
33 and may prescribe different standards for different areas as may be necessary and
34 appropriate to facilitate accomplishment of the stated purposes of this Article and
35 Article 21.

36 (c) Chapter 150B of the General Statutes governs the adoption and publication of
37 rules under this Article.

38 ~~(f) Guidance of Federal Criteria and Legislative Intent.—~~In adopting air quality
39 policies, rules, and procedures, the Commission or any other State or local regulatory
40 body shall be guided by the same standards, definitions, considerations and criteria set
41 forth, from time to time, in federal law, rules or regulations for the guidance of federal,
42 State or local agencies administering the Federal Clean Air Program.

43 ~~It is the intent of the General Assembly (i) that the air quality rules, procedures,~~
44 ~~plans, practices, air quality standards, and emission control standards.~~ Air quality

1 standards and emission standards adopted by the Commission pursuant to this Article or
2 Article 21, or by any other State or local regulatory body under the General Statutes of
3 North Carolina, shall be no more restrictive and no more stringent than required to
4 comply with federal ambient air quality standards or other applicable federal
5 requirements, ~~if any, adopted in final or proposed regulations by the United States~~
6 ~~Environmental Protection Agency under or pursuant to the Federal Clean Air Act, and~~
7 ~~amendments thereto; except (ii) that no air quality rules, procedures, plans, practices, air~~
8 ~~quality standards or emission control standards shall be adopted by the Commission~~
9 ~~with respect to matters on which the United States Environmental Protection Agency~~
10 ~~has not proposed or adopted final regulations~~ requirements unless the Commission first
11 considers, among other things, an assessment of the economic impact of the proposed
12 standards. The Department shall prepare and submit into the record of the rule-making
13 hearing an economic impact study of ~~such~~ the proposed standards. ~~Such~~ The study shall
14 include an estimate of the economic and social costs to commerce and industry, units of
15 local government, and agriculture ~~necessary~~ to comply with the proposed standards and
16 an examination of the economic and social benefits of such compliance. Limits and
17 conditions to protect air quality standards or to ensure compliance with emission control
18 standards that are included in permits issued under this Article or Article 21 of this
19 Chapter are not subject to the requirements of this subsection.

20 (g) Notwithstanding the provisions of ~~subdivision (a)(7) and~~ subsection (f) of this
21 section, the Environmental Management Commission may adopt rules applicable to any
22 facility which is sited or operated pursuant to Chapter 130B of the General Statutes
23 which incorporate standards and restrictions which exceed and are more comprehensive
24 than comparable federal regulations."

25 Sec. 3. This act shall not be construed to affect the validity of any rule in
26 force on the date this act becomes effective. This act shall not be construed to obligate
27 the General Assembly to make any appropriation to implement the provisions of this
28 act. Each agency to which this act applies shall implement the provisions of this act
29 from funds otherwise appropriated or available to that agency.

30 Sec. 4. This act is effective upon ratification.