

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1049

Short Title: Environmental Protection Improvements.

(Public)

Sponsors: Representatives H. Hunter, Cummings, Fitch; and Adams.

Referred to: Health and Environment, if favorable, Appropriations.

May 8, 1995

A BILL TO BE ENTITLED

**AN ACT TO AMEND THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT,
TO IMPROVE PUBLIC NOTICE REQUIREMENTS CONCERNING SITING
DECISIONS AND OTHER ENVIRONMENTAL DECISIONS, TO EXPAND THE
APPEAL RIGHTS OF PERSONS LIVING IN AREAS AFFECTED BY
ENVIRONMENTAL DECISIONS, AND TO DIRECT ACTIONS OF STATE
AGENCIES TO IMPROVE PUBLIC ACCESS TO INFORMATION, AND TO
ADDRESS ENVIRONMENTAL JUSTICE ISSUES AFFECTING MINORITY
COMMUNITIES AND LOW-INCOME COMMUNITIES.**

The General Assembly of North Carolina enacts:

Section 1. Section 113A-4(2) reads as rewritten:

"(2) Every State agency shall include in every recommendation or report on any action involving expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

- a. The environmental impact of the proposed action;
- b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
- c. Mitigation measures proposed to minimize the impact;

- 1 d. Alternatives to the proposed action;
2 e. The relationship between the short-term uses of the environment
3 involved in the proposed action and the maintenance and
4 enhancement of long-term productivity; ~~and~~
5 f. Any irreversible and irretrievable environmental changes which
6 would be involved in the proposed action should it be
7 ~~implemented.~~ implemented;
8 g. An analysis of the demographic data of the community affected
9 by the proposed project;
10 h. A statement containing necessary emergency management
11 planning for the affected community;
12 i. An analysis of the availability of health care and the quality of
13 health care available to the residents of the affected community;
14 j. An analysis of measures necessary to ensure that the fewest
15 number of people in the community are affected by the planned
16 activity;
17 k. A statement that no other suitable alternative to such activity is
18 available within the region or service area because of the
19 restraints of geology, if there are significant adverse
20 environmental effects;
21 l. A statement detailing increased or decreased employment
22 opportunities created by the proposed project; and
23 m. An analysis of changes in property values in the affected
24 community.

25 Environmental impact statements shall be prepared by contractors who are on a list of
26 approved contractors provided by the Department. Environmental impact statements
27 shall be sent to the Secretary.

28 For purposes of this section, the term 'affected community' means a community
29 affected by Department programs, policies, and activities, including permitting activities,
30 that affect human health or the environment. 'Affected community' includes low-income
31 communities and minority communities. A 'community' within the meaning of this
32 section, is defined by the persons who live within a community and does not necessarily
33 imply generic geographic or census boundaries."

34 Sec. 2. Chapter 113A of the General Statutes is amended by adding the
35 following new sections to read:

36 **"§ 113A-4.1. Action by Secretary.**

37 (a) The Secretary shall either approve or disapprove the plan within 30 days of
38 receipt of the environmental impact statement. The specific reasons that the plan was
39 approved or disapproved shall be stated in writing.

40 (b) If, following commencement of an activity affecting the quality of this State's
41 environment pursuant to an approved plan, the Secretary determines the plan is
42 inadequate to meet the requirements of this Article, the Secretary may require revisions to

1 the plan as necessary to comply with the public policy stated in Chapter 113 of the
2 General Statutes and this Chapter to protect the environment.

3 **"§ 113A-4.2. Reasons to deny permit.**

4 No State agency shall issue a permit pursuant to Article 7 of Chapter 74 of the
5 General Statutes, Chapter 104E or 104G of the General Statutes, Article 25 of Chapter
6 113 of the General Statutes, Article 1, 4, or 7 of this Chapter, Article 9, 10, 11, or 19 of
7 Chapter 130A of the General Statutes, Chapter 130B of the General Statutes, or Article
8 21, 21A, 21B, or 52 of Chapter 143 of the General Statutes to conduct any action or
9 activity affecting the quality of the environment of this State if the environmental impact
10 statement shows:

- 11 (1) An adverse effect on the public health of the affected community; or
12 (2) A disparate impact on minority or low-income communities;
13 and there is a more suitable site for such activity.

14 **"§ 113A-4.3. Stop-work orders.**

15 (a) The Secretary may issue a stop-work order if he finds that land-disturbing
16 activity is being conducted in violation of this Article, that the violation is knowing and
17 willfull, and that:

- 18 (1) The work activity is being conducted without an approved
19 environmental impact statement;
20 (2) The work activity that is being conducted will have a disparate impact
21 on the minority or the low-income community affected by the work
22 activity; or
23 (3) The public health is being adversely affected by the work activity.

24 (b) The stop-work order shall be in writing and shall describe the work to be
25 stopped and what measures are required to correct the violation. The order shall include
26 a statement of the findings made by the Secretary pursuant to subsection (a) of this
27 section and shall list the conditions under which work that is subject to the order may be
28 resumed. The delivery of equipment and materials that does not contribute to the
29 violation may continue while the stop-work order is in effect. A copy of this section shall
30 be attached to the order.

31 (c) The stop-work order shall be served by the sheriff of the county in which the
32 land-disturbing activity is being conducted or by some other person duly authorized by
33 law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person
34 at the site of the land-disturbing activity. The sheriff or other person duly authorized by
35 law to serve process shall post a copy of the stop-work order in a conspicuous place at the
36 site of the land-disturbing activity. The Secretary shall also deliver a copy of the stop-
37 work order to any person that the Secretary has reason to believe may be responsible for
38 the violation.

39 (d) The directives of a stop-work order shall become effective upon service of the
40 order. Thereafter, any person notified of the stop-work order who violates any of the
41 directives set out in the order may be assessed an administrative penalty not to exceed
42 five thousand dollars (\$5,000) per violation.

1 (e) The Secretary shall designate an employee of the Department to monitor
2 compliance with the stop-work order. The name of the employee so designated shall be
3 included in the stop-work order. The employee so designated or the Secretary shall
4 rescind the stop-work order if all the violations for which the stop-work order was issued
5 are corrected, and no other violations have occurred. The Secretary shall rescind a stop-
6 work order that is issued in error.

7 (f) The issuance of a stop-work order shall be a final agency decision subject to
8 judicial review pursuant to Article 4 of Chapter 150B of the General Statutes. The
9 petition for judicial review shall be filed in the superior court of the county in which the
10 activity is being conducted.

11 (g) The Attorney General shall file a cause of action to correct the violations that
12 resulted in the issuance of a stop-work order within two days of the service of the stop-
13 work order. The cause of action shall include a motion for ex parte temporary restraining
14 order to effect necessary remedial measures. A hearing shall be conducted within two
15 days of the filing of the complaint. The clerk of superior court shall accept complaints
16 filed pursuant to this section without the payment of filing fees. Filing fees shall be paid
17 to the clerk of superior court no later than 30 days after the filing of the complaint."

18 Sec. 3. Chapter 113A of the General Statutes is amended to add a new Article
19 to read:

20 **"ARTICLE 16.**

21 **"ENVIRONMENTAL JUSTICE ACT.**

22 **"§ 113A-230. Findings and purpose.**

23 All communities and all individuals across this State are entitled to a safe and healthy
24 environment. The General Assembly finds that minority communities and low-income
25 communities bear a disproportionate burden of the State's environmental hazards.
26 Minority communities and low-income communities are more likely to live near
27 freeways, sewer treatment plants, municipal and hazardous waste landfills and
28 incinerators, intensive livestock operations, and other facilities that have an impact on
29 human health or the environment. Minority communities and low-income communities
30 are more likely to be exposed to lead paint, toxins in the workplace, insufficient local
31 water and sewer systems, contaminated shadow wells, rodents and insects that live near
32 garbage facilities, and the dangers associated with discarded refrigerators.

33 The purpose of this Article is to address the environmental justice concerns of
34 minority communities and low-income communities by evaluating the environmental
35 impact of State agencies' policies and decisions on minority communities and low-
36 income communities and by requiring all State agencies to execute their policies in a
37 manner that does not impose a disproportionate burden upon these minority communities.

38 **"§ 113A-231. Definitions.**

- 39 (1) 'Activities' include adopting rules, permitting, enforcement, and siting.
40 (2) 'Affected community' means any community that is affected by a State
41 agency program, policy, or activity that has an impact upon human
42 health or the environment.

1 (3) 'State agency' means any department, agency, political subdivision, or
2 commission of the State.

3 **"§ 113A-232. Scope.**

4 This Article applies to any State agency program, policy, or activity that has an
5 impact on human health or the environment.

6 **"§ 113A-233. Agency responsibilities.**

7 (a) Each State agency shall identify and address disproportionately high or adverse
8 human health or environmental effects, or potential effects, of its programs, policies, and
9 activities on minority communities and low-income communities in North Carolina.

10 (b) Each State agency shall conduct its programs, policies, and activities that have
11 an impact upon human health or the environment in a manner that:

12 (1) Assesses the need of the facility or activity that is the subject of a permit
13 application.

14 (2) Assesses the impact of the program, policy, or activity upon any
15 affected community.

16 (3) Considers the demographic data of the affected community.

17 (4) Disapproves any siting that will impose a disproportionate
18 environmental or public health burden upon a minority community or a
19 low-income community.

20 (5) Ensures that the program, policy, or activity does not have the effect of:

21 a. Excluding individuals from participating in;

22 b. Denying persons the benefits of; or

23 c. Subjecting persons to discrimination under

24 that program, policy, or activity because of their race, color, or national
25 origin.

26 (c) All State agencies that process applications for permits for siting facilities near
27 freeways, sewer treatment plants, municipal or hazardous waste facilities, intensive
28 livestock operations, or other facilities that potentially have an impact on human health or
29 the environment shall conduct public hearings in the affected communities and, prior to
30 the hearings, publish notice of these public hearings. At these hearings, testimony from
31 residents who live in the affected communities and scientific and demographic evidence
32 may be heard.

33 **"§ 113A-234. The State Working Group on Environmental Justice.**

34 (a) The State Working Group on Environmental Justice is created. No later than
35 January 1, 1996, the Chairs of the Environmental Management Commission shall call the
36 first meeting of the State Working Group on Environmental Justice. The Working Group
37 shall consist of the highest official of the following State agencies, or their designees:
38 Department of Environment, Health, and Natural Resources; Department of Human
39 Resources; Department of Labor; Department of Agriculture; Department of State
40 Transportation; Department of Justice; Department of Commerce; Office of State Budget
41 and Management; Department of Administration; North Carolina Utilities Commission;
42 Department of Insurance; Office of the Governor. In addition to these members, the
43 President Pro Tempore of the Senate shall appoint three members; the Speaker of the

1 House of Representatives shall appoint three members; the Lieutenant Governor shall
2 appoint three members; and the Governor may appoint three members. The persons
3 appointed by the Speaker of the House of Representatives, the President Pro Tempore of
4 the Senate, and the Lieutenant Governor shall be individuals who live in communities
5 affected by the State's environmental policies or individuals who work with communities
6 affected by the State's environmental policies. The General Assembly shall provide
7 office and meeting space, as well as administrative support, to the Working Group.

8 (b) No later than January 1 of each year, the Working Group shall report to the
9 Governor, the Joint Legislative Commission on Governmental Operations, and the
10 Environmental Review Commission. This report shall summarize its activities during the
11 last calendar year, its progress and the progress of State agencies in implementing this
12 Article, whether the timetables set forth in this Article are being met and shall include the
13 Working Group's recommendations and any legislative proposals needed to accomplish
14 the purpose of this Article.

15 (c) The Working Group shall have the following duties:

16 (1) Provide criteria to State agencies so the agencies can identify
17 disproportionately high or adverse human health or environmental
18 effects on minority communities or low-income communities.

19 (2) Coordinate with, provide guidance to, and serve as a clearinghouse of
20 information for each State agency as it develops an environmental
21 justice strategy pursuant to G.S. 113A-237, in order to ensure that the
22 administration, interpretation, and enforcement of programs, policies,
23 and activities are undertaken in a manner consistent with the purpose of
24 this Article.

25 (3) Assist in coordinating research by, and stimulating cooperation among,
26 the Department of Environment, Health, and Natural Resources, the
27 Department of Human Resources, the Department of Commerce, the
28 Department of Agriculture, and any other agencies conducting research
29 or other activities pursuant to G.S. 113A-238.

30 (4) Ensure that State agencies seek data pertinent to the subject of
31 environmental justice and seek assistance from federal agencies.

32 (5) Assist in coordinating the data collection required by this Article.

33 (6) Examine existing data and studies on environmental justice.

34 (7) Solicit assistance from the National Institute of Environmental Health
35 Sciences in the data collection required by this Article.

36 (8) Solicit and consider recommendations from the State Citizens Advisory
37 Council on Environmental Justice.

38 (9) Develop interagency model projects and encourage State agencies to
39 cooperate among themselves to accomplish the purpose of this Article.

40 (10) Monitor the activities of State agencies to ensure that State agencies
41 comply with this Article.

42 (d) The Working Group shall consider the following issues:

1 (1) Trends in siting freeways, sewer treatment plants, municipal and
2 hazardous waste facilities, intensive livestock operations, and any other
3 facilities that potentially have an impact on human health or the
4 environment.

5 (2) Exposure to lead paint, exposure to hazards and toxins in the workplace,
6 insufficient local water and sewer systems, contamination of shadow
7 wells, rodents and insects that live near garbage facilities, and dangers
8 associated with discarded refrigerators.

9 **"§ 113A-235. Citizens Advisory Council on Environmental Justice.**

10 (a) The Citizens Advisory Council on Environmental Justice is created. No later
11 than January 1, 1996, the Lieutenant Governor shall convene and chair the State Citizens
12 Advisory Council on Environmental Justice. This Advisory Council shall consist of
13 individuals who live and work in affected communities, individuals who work with
14 citizens who live and work in affected communities, and other individuals as the
15 Governor may appoint. The Governor shall seek nominations and recommendations for
16 membership and appoint 12 members from the following environmental and grassroots
17 organizations: the North Carolina Wildlife Federation, the North Carolina Chapter of the
18 Sierra Club, the Clean Water Fund of North Carolina, Blue Ridge Environmental Defense
19 League, EcoForce, the North Carolina Legal Services Resource Center, the Land Loss
20 Prevention Project, the Conservation Council of North Carolina, Halifax Environmental
21 Loss Prevention (HELP), the Institute for Southern Studies, the National Association for
22 the Advancement of Colored People (NAACP), and the Southern Environmental Law
23 Center. The Governor shall appoint four additional members. Every effort will be made
24 to ensure regional, ethnic, economic, and gender diversity on the Advisory Council. The
25 General Assembly shall provide office and meeting space, as well as administrative
26 support, to the Advisory Council.

27 (b) No later than January 15 of each year, the Advisory Council shall report to the
28 Governor, the Joint Legislative Commission on Governmental Operations, and the
29 Environmental Review Commission. This report shall state the Advisory Council's
30 activities during the last calendar year and its progress in implementing its duties under
31 this Article.

32 (c) The Advisory Council shall have the following duties:

33 (1) Provide advice to the State Working Group on Environmental Justice in
34 performing its duties under this Article.

35 (2) Monitor the work of the State Working Group on Environmental Justice
36 to ensure citizen interests and input are included in the development of
37 environmental justice strategies under this Article.

38 (3) Develop community education programs, serve as a clearinghouse of
39 information on public health and environmental issues, including
40 environmental justice issues for persons living in local communities.

41 (4) Assist citizens living in local communities to develop the legal and
42 scientific expertise necessary to understand the impact of environmental

1 policy decisions and to enable them to effectively participate in public
2 debates on environmental policies.

3 **"§ 113A-236. Reimbursement of members.**

4 The members of the Working Group on Environmental Justice and Advisory Council
5 who are members of the General Assembly shall receive subsistence and travel
6 allowances at the rate set forth in G.S. 120-3.1. Members who are officials or employees
7 of the State of North Carolina shall receive subsistence and travel allowances at the rate
8 set forth in G.S. 138-6. All other members shall be paid the per diem allowances at the
9 rates set forth in G.S. 138-5.

10 **"§ 113A-237. State agencies required to develop agency environmental justice
11 strategies.**

12 (a) Each State agency shall develop an environmental justice strategy in
13 accordance with the timetable set forth in this section. An environmental justice strategy
14 shall identify disproportionately high and adverse human health or environmental effects
15 of that agency's programs, policies, and activities on minority communities and low-
16 income communities. The environmental justice strategy shall list those programs,
17 policies, and activities related to human health or the environment that should be revised
18 to the end that, at a minimum, they:

- 19 (1) Promote enforcement of all health and environmental statutes in areas
20 with minority populations and low-income populations.
- 21 (2) Ensure greater public participation.
- 22 (3) Improve research and data collection related to the health of, and the
23 environment of, minority communities and low-income communities.
- 24 (4) Identify differential patterns of consumption of natural resources among
25 minority communities and low-income communities. Each
26 environmental justice strategy shall include a timetable for undertaking
27 needed revisions and shall consider the economic and social
28 implications of the revisions.

29 (b) No later than February 1, 1996, each State agency shall identify an internal
30 administrative process for developing its environmental justice strategy and shall inform
31 the State Working Group on Environmental Justice of that process.

32 (c) No later than April 1, 1996, each State agency shall provide the State Working
33 Group on Environmental Justice with an outline of its proposed environmental justice
34 strategy.

35 (d) No later than August 1, 1996, each State agency shall provide the State
36 Working Group on Environmental Justice with its proposed agency environmental justice
37 strategy.

38 (e) No later than January 1, 1997, each State agency shall finalize its
39 environmental justice strategy and provide a copy of its environmental justice strategy to
40 the State Working Group on Environmental Justice.

41 (f) No later than January 1, 1997, each State agency, as part of its environmental
42 justice strategy, shall identify several specific projects that can be promptly undertaken to

1 address particular concerns identified during the development of its proposed
2 environmental justice strategy and develop a timetable for implementing those projects.

3 (g) No later than January 1, 1998, each State agency shall report to the State
4 Working Group on Environmental Justice on its progress in implementing its
5 environmental justice strategy.

6 (h) State agencies shall provide additional periodic reports to the State Working
7 Group on Environmental Justice as requested by the Working Group.

8 **"§ 113A-238. Research, data collection, data analysis.**

9 (a) State agencies shall seek relevant federal data and research grants on
10 environmental human health research, and, to the extent State funds are available,
11 conduct environmental human health research. Any such research conducted by the State
12 shall address diverse segments of the population in epidemiological and clinical studies.
13 These segments of the population shall include any segments at high risk from
14 environmental hazards, specifically minority populations, low-income populations, and
15 workers who may be exposed to substantial environmental hazards. Environmental
16 human health analyses used by the State must identify multiple and cumulative
17 exposures. State agencies shall provide minority communities and low-income
18 communities with the opportunity to comment on the development and design of research
19 strategies undertaken pursuant to this section. State agencies shall disseminate to
20 minority communities and low-income communities data and information collected as a
21 result of research undertaken or obtained pursuant to this section.

22 (b) Each State agency shall collect, maintain, and analyze data, assessing and
23 comparing environmental and human health risks borne by populations identified by race,
24 national origin, and income. State agencies shall use this information to determine
25 whether their programs, policies, and activities have disproportionately high and adverse
26 human health or environmental effects on minority communities and low-income
27 communities. In connection with the development and implementation of an
28 environmental justice strategy pursuant to G.S. 113A-237, each State agency shall
29 collect, maintain, and analyze data on the race, national origin, income level, and other
30 demographic information for areas surrounding facilities or sites an environmental,
31 human health, or economic effect on the surrounding populations, when such facilities or
32 sites become the subject of State environmental administrative or judicial action. Such
33 information shall be made available to the public, unless prohibited by law.

34 (c) Each State agency shall collect, maintain, and analyze data on the race,
35 national origin, income level, and other demographic information for areas surrounding
36 State facilities that are expected to have an environmental, human health, or economic
37 effect on surrounding communities. Such information shall be made available to the
38 public, unless prohibited by law.

39 (d) When implementing this section, each State agency shall share information and
40 eliminate unnecessary duplication of efforts through the use of existing data collection
41 systems and cooperative agreements among State agencies and with State, local, and
42 tribal governments.

43 **"§ 113A-239. Subsistence consumption of fish and wildlife.**

1 (a) In order to assist in identifying the need for ensuring protection of populations
2 with differential patterns of subsistence consumption of fish and wildlife, State agencies
3 shall collect, maintain, and analyze data on the consumption patterns of populations that
4 principally rely on fish or wildlife for subsistence. State agencies shall communicate to
5 the public the risks of those consumption patterns.

6 (b) State agencies shall work in a coordinated manner to publish guidelines
7 reflecting the latest scientific information available concerning methods for evaluating
8 the human health risks associated with the consumption of pollutant-bearing fish or
9 wildlife. Agencies shall consider such guidelines in developing their policies and rules.

10 (c) Beginning January 1, 1997, each State agency shall annually report its progress
11 in implementing this section to the State Working Group on Environmental Justice and
12 the Citizens Advisory Council on Environmental Justice.

13 **"§ 113A-240. Public participation and access to information.**

14 (a) State agencies shall give public notice of its environmental justice activities
15 that are required under this Article. The public may submit recommendations to State
16 agencies relating to the incorporation of environmental justice principles into State
17 agency programs or policies, including any procedures undertaken to adopt rules to
18 implement this Article. Each State agency shall convey public recommendations to the
19 State Working Group on Environmental Justice.

20 (b) Each State agency shall translate crucial public documents, notices, and
21 transcripts of hearings relating to environmental justice for limited English-speaking
22 populations that request, in writing, such translation.

23 (c) Each State agency shall work to ensure that public documents, notices, and
24 transcripts of hearings relating to environmental justice are concise, understandable,
25 lacking in technical language, readily accessible to the public, and distributed to the
26 public through multiple modes of communication and media.

27 (d) The State Working Group on Environmental Justice shall hold public
28 meetings, as it determines appropriate, for the purpose of fact finding, receiving public
29 comments, and conducting inquiries concerning environmental justice. The Working
30 Group shall prepare for public review a summary of the comments and recommendations
31 discussed at the public meetings.

32 **"§ 113A-241. Administrative and judicial review; private right of action.**

33 (a) All decisions made by the State Working Group on Environmental Justice and
34 any State agency pursuant to this Article shall be subject to administrative review and
35 judicial review by any individual living in an affected community pursuant to Chapter
36 150B of the General Statutes.

37 (b) Any individual living in a community affected by a State agency program,
38 policy, or activity that has an impact upon human health or the environment shall have
39 standing to seek administrative review and judicial review under subsection (a) of this
40 section.

41 (c) Unless the State agency can show that its position was substantially justified,
42 any prevailing party may petition for attorneys' fees and shall recover attorneys' fees in an
43 amount to be determined by the administrative law judge or superior court judge.

1 **"§ 113A-242. Miscellaneous provisions.**

2 (a) Responsibility for agency implementation. – The highest official of each State
3 agency shall be responsible for ensuring compliance with this Article. Each State agency
4 shall conduct internal reviews and take such other steps as may be necessary to monitor
5 compliance with this Article.

6 (b) Native American programs. – Each State agency responsibility set forth under
7 this Article shall apply to Native American programs.

8 (c) Costs. – A State agency shall use funds available to it for the costs of
9 complying with this Article. Failure to receive an appropriation by the General Assembly
10 shall not be justification for any State agency to fail to comply with this Article."

11 Sec. 4. Article 1 of Chapter 113A of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 113A-14. Increased public participation.**

14 (a) In addition to those requirements specified in other statutes, State agencies,
15 local governments, and any other governing body responsible for permit decisions set
16 forth in G.S. 113A-4.2 shall give widely circulated multimedia public notice of its
17 hearings and environmental decision-making activities, including regulatory, permitting,
18 enforcement, and siting.

19 (b) The public may submit recommendations to State agencies, local governments,
20 and other governing bodies responsible for siting decisions, which recommendations
21 relate to the incorporation of environmental justice principles to State agency programs or
22 policies, including any rule-making procedures engaged to effectuate environmental
23 justice principles. Each State agency shall convey such recommendations to the State
24 Working Group on Environmental Justice created pursuant to G.S. 113A-236.

25 (c) Each State agency shall translate crucial public documents, notices, and
26 hearings relating to human health or the environment for limited English speaking
27 populations.

28 (d) Each State agency shall work to ensure that public documents, notices, and
29 hearings relating to human health or the environment are concise, understandable, lacking
30 in technical language, written in Spanish where necessary, readily accessible to the
31 public, and distributed to the public through multiple modes of communication and
32 media.

33 (e) The Interagency Working Group on Environmental Justice and the Citizens
34 Advisory Council on Environmental Justice, created pursuant to G.S. 113A-236, shall
35 hold public meetings, as appropriate, for the purpose of fact-finding, receiving public
36 comments, and conducting inquiries concerning environmental justice. The State
37 Working Group on Environmental Justice and the State Citizens Advisory Council on
38 Environmental Justice shall prepare for public review a summary of the comments and
39 recommendations discussed at the public meetings."

40 Sec. 5. Chapter 132 of the General Statutes is amended by adding a new
41 section to read:

42 **"§ 132-6.1. Examination of public records involving environmental protection.**

1 Public records in the possession of the Department of Environment, Health, and
2 Natural Resources related to environmental permitting shall be available to the public for
3 inspection and copying at no cost for copying."

4 Sec. 6. G.S. 113A-13 is repealed.

5 Sec. 7. Article 1 of Chapter 113A of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 113A-15. Right to a contested hearing and judicial review.**

8 (a) Any individual living in a community affected by any State agency program,
9 policy, and activity, including permitting activities, that affects human health or the
10 environment of that person's community shall have standing to file a contested case
11 pursuant to Article 3 of Chapter 150B, of the General Statutes.

12 (b) Any individual living in a community affected by any State agency program,
13 policy, and activity, including permitting activities, that affects human health or the
14 environment of that person's community shall have the right to seek judicial review
15 pursuant to Article 4 of Chapter 150B of the General Statutes if the requirements of G.S.
16 150B-43 are satisfied.

17 (c) Any individual filing a contested case or seeking judicial review pursuant to
18 Article 3 or 4 of Chapter 150B of the General Statutes, if he or she is the prevailing party,
19 shall be entitled to recover attorneys' fees to be awarded by the administrative law judge
20 or superior court judge upon petition filed by the individual, unless the State agency can
21 prove that its position was substantially justified.

22 (d) As used in this section, 'affected communities' means communities affected by
23 State agency programs, policies, and activities, including permitting activities, that affects
24 human health or the environment. 'Affected community' includes low-income
25 communities and minority communities. A 'community' within the meaning of this
26 section is defined by the persons who live within a community and does not imply
27 generic geographic or census boundaries."

28 Sec. 8. There is appropriated from the General Fund to the Department of
29 Environment, Health, and Natural Resources the sum of twenty-five thousand dollars
30 (\$25,000) for the 1995-96 fiscal year and the sum of twenty-five thousand dollars
31 (\$25,000) for the 1996-97 fiscal year for the meeting and operating expenses of the State
32 Working Group on Environmental Justice, as created in G.S. 113A-234, as enacted in
33 Section 3 of this act.

34 Sec. 9. There is appropriated from the General Fund to the Department of
35 Environment, Health, and Natural Resources the sum of twenty-five thousand dollars
36 (\$25,000) for the 1995-96 fiscal year and the sum of twenty-five thousand dollars
37 (\$25,000) for the 1996-97 fiscal year for the meeting and operating expenses of the
38 Citizens Advisory Council on Environmental Justice, as created in G.S. 113A-235, as
39 enacted in Section 3 of this act.

40 Sec. 10. Sections 8 and 9 of this act become effective July 1, 1995. The
41 remaining sections of this act are effective upon ratification.