

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 211*

Short Title: Amend Env. Laws.

(Public)

Sponsors: Representative Culp.

Referred to: Environment.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS, AS RECOMMENDED
BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 3 of Chapter 90A is amended by adding a new section to read:

"§ 90A-46.1. Renewal of certificates.

A certificate issued under this Part expires on 31 December of the year in which it is issued or renewed. The Commission may establish minimum continuing education requirements that an applicant must meet to renew a certificate. The Commission shall renew a certificate if the applicant meets the continuing education requirement and pays the required renewal fee, any renewal fee in arrears, and any late application penalty."

Section 2. G.S. 113A-120(b1) reads as rewritten:

"(b1) In addition to those factors set out in subsection (a) of this section, and notwithstanding the provisions of subsection (b) of this section, the responsible official or body may deny an application for a permit upon finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:

(1) Is conducting or has conducted any activity causing significant environmental damage for which a major development permit is required under this Article without having previously obtained such

1 permit or has received a notice of violation with respect to any activity
2 governed by this Article and has not complied with the notice within the
3 time specified in the notice;

- 4 (2) Has failed to pay a civil penalty assessed pursuant to this Article, a local
5 ordinance adopted pursuant to this Article, or Article 17 of Chapter 113
6 of the General Statutes which is due and for which no appeal is pending;
7 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-126, G.S.
8 113-229(k), or any criminal provision of a local ordinance adopted
9 pursuant to this Article; or
10 (4) Has failed to substantially comply with ~~State~~state rules or local
11 ordinances and regulations adopted pursuant to this Article or with other
12 federal and ~~State~~state laws, regulations, and rules for the protection of
13 the environment."

14 Section 3. G.S. 143-215.1(c) reads as rewritten:

15 "(c) Applications for Permits and Renewals for Facilities Discharging to the
16 Surface Waters. –

- 17 (1) All applications for permits and for renewal of existing permits for
18 outlets and point sources and for treatment works and disposal systems
19 discharging to the surface waters of the State shall be in writing, and the
20 Commission may prescribe the form of such applications. All
21 applications shall be filed with the Commission at least 180 days in
22 advance of the date on which it is desired to commence the discharge of
23 wastes or the date on which an existing permit expires, as the case may
24 be. The Commission shall act on a permit application as quickly as
25 possible. The Commission may conduct any inquiry or investigation it
26 considers necessary before acting on an application and may require an
27 applicant to submit plans, specifications, and other information the
28 Commission considers necessary to evaluate the application.
29 (2) a. The Department shall refer each application for permit, or renewal of
30 an existing permit, for outlets and point sources and treatment works
31 and disposal systems discharging to the surface waters of the State to its
32 staff for written evaluation and proposed determination with regard to
33 issuance or denial of the permit. If the Commission concurs in the
34 proposed determination, it shall give notice of intent to issue or deny the
35 permit, along with any other data that the Commission may determine
36 appropriate, to be given to the appropriate State, interstate and federal
37 agencies, to interested persons, and to the public. The Commission
38 shall prescribe the form and content of the notice.

39 The notice required herein shall be given at least 45 days
40 prior to any proposed final action granting or denying the permit.
41 Public notice shall be given by publication of the notice one time
42 in a newspaper having general circulation within the county.

- 43 b. Repealed by Session Laws 1987, c. 734.

1 (3) If any person desires a public ~~meeting~~-hearing on any application for
2 permit or renewal of an existing permit provided for in this subsection,
3 he shall so request in writing to the Commission within 30 days
4 following date of the notice of intent. The Commission shall consider
5 all such requests for ~~meeting~~-hearing, and if the Commission determines
6 that there is a significant public interest in holding such ~~meeting~~-
7 hearing, at least 30 days' notice of such ~~meeting~~-hearing shall be given to
8 all persons to whom notice of intent was sent and to any other person
9 requesting notice. At least 30 days prior to the date of ~~meeting~~-hearing,
10 the Commission shall also cause a copy of the notice thereof to be
11 published at least one time in a newspaper having general circulation in
12 such county. In any county in which there is more than one newspaper
13 having general circulation in that county, the Commission shall cause a
14 copy of such notice to be published in as many newspapers having
15 general circulation in the county as the Commission in its discretion
16 determines may be necessary to assure that such notice is generally
17 available throughout the county. The Commission shall prescribe the
18 form and content of the notices.

19 The Commission shall prescribe the procedures to be followed in
20 ~~such meetings~~-hearings. If the ~~meeting~~-hearing is not conducted by the
21 Commission, detailed minutes of the ~~meeting~~-hearing shall be kept and
22 shall be submitted, along with any other written comments, exhibits or
23 documents presented at the ~~meeting~~-hearing, to the Commission for its
24 consideration prior to final action granting or denying the permit.

25 (4) Not later than 60 days following notice of intent or, if a public hearing is
26 held, within 90 days following consideration of the matters and things
27 presented at such hearing, the Commission shall grant or deny any
28 application for issuance of a new permit or for renewal of an existing
29 permit. All permits or renewals issued by the Commission and all
30 decisions denying application for permit or renewal shall be in writing.

31 (5) No permit issued pursuant to this subsection (c) shall be issued or
32 renewed for a term exceeding five years.

33 (6) The Commission shall not act upon an application for a new
34 nonmunicipal domestic wastewater discharge facility until it has
35 received a written statement from each city and county government
36 having jurisdiction over any part of the lands on which the proposed
37 facility and its appurtenances are to be located which states whether the
38 city or county has in effect a zoning or subdivision ordinance and, if
39 such an ordinance is in effect, whether the proposed facility is consistent
40 with the ordinance. The Commission shall not approve a permit
41 application for any facility which a city or county has determined to be
42 inconsistent with its zoning or subdivision ordinance unless it
43 determines that the approval of such application has statewide

1 significance and is in the best interest of the State. An applicant for a
2 permit shall request that each city and county government having
3 jurisdiction issue the statement required by this subdivision by mailing
4 by certified mail, return receipt requested, a written request for such
5 statement and a copy of the draft permit application to the clerk of the
6 city or county. If a local government fails to mail the statement required
7 by this subdivision, as evidenced by a postmark, within 15 days after
8 receiving and signing for the certified mail, the Commission may
9 proceed to consider the permit application notwithstanding this
10 subdivision."

11 Section 4. G.S. 143-215.4(b) reads as rewritten:

12 "(b) Procedures for Public Input. –

13 (1) The Commission may, on its own motion or when required by federal
14 law, request public comments on or hold public hearings on matters
15 within the scope of its authority under this Article or Articles 21A or
16 21B of this Chapter. To request public comments on a matter, the
17 Commission shall notify appropriate agencies of the opportunity to
18 submit written comments to the Commission on the matter and shall
19 publish a notice in a newspaper having general circulation in the
20 affected area, stating the matter under consideration by the Commission
21 and informing the public of its opportunity to submit written comments
22 to the Commission on the matter. A public comment period shall extend
23 for at least 30 days after the notice is published.

24 (2) To hold a public hearing on a matter, the Commission shall notify, by
25 personal service or certified mail, persons directly affected by the matter
26 under consideration and shall publish a notice in a newspaper having
27 general circulation in the affected area, stating the matter under
28 consideration by the Commission and the time, date, and place of a
29 public hearing to be held on the matter. A public hearing shall be held
30 no sooner than 20 days after the notice is published. The proceedings at
31 a public hearing held under this subsection shall be recorded. Upon
32 payment of a fee established by the Commission, any person may obtain
33 a copy of the record of the public hearing. After a public hearing, the
34 Commission shall accept written comments for the time period
35 prescribed by the Commission.

36 (3) This subsection does not apply to rule-making proceedings, contested
37 case hearings, or the issuance of permits required under Title V. The
38 Commission shall establish procedures for public hearings, public
39 notice, and public comment respecting permits required by Title V as
40 provided by G.S. 143-215.111(4).

41 (4) The Commission may hold a public meeting on any matter within its
42 scope of authority. The Commission may hold a public meeting in
43 addition to any public hearing that is required under any provision of

1 law, but a public meeting may not be substituted for any required public
2 hearing. Except as may be otherwise provided by law, the Commission
3 may determine the procedures for any public meeting it holds."

4 Section 5. G.S. 143-215.114A(b) reads as rewritten:

5 "~~(b) Each day of continuing violation after written notification from the Secretary shall be~~
6 ~~considered a separate offense.~~ If any action or failure to act for which a penalty may be
7 assessed under this section is continuous, the Secretary may assess a penalty not to
8 exceed ten thousand dollars (\$10,000) per day for so long as the violation continues."

9 Section 6. This act is effective when it becomes law.