

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 755
Committee Substitute Favorable 5/6/13

Short Title: DENR Electronic Notice.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN DEPARTMENT OF ENVIRONMENT AND NATURAL
3 RESOURCES NOTICE REQUIREMENTS TO AUTHORIZE ELECTRONIC
4 NOTIFICATION AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND
5 NATURAL RESOURCES TO IDENTIFY OTHER NOTIFICATION REQUIREMENTS
6 IN STATUTE OR RULE FOR WHICH ELECTRONIC NOTICE MAY BE ADEQUATE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 74-51 reads as rewritten:

9 "**§ 74-51. Permits – Application, granting, conditions.**

10 ...

11 (c) If the Department determines, based on public comment relevant to the provisions
12 of this Article, that significant public interest exists, the Department shall conduct a public
13 hearing on any application for a new mining permit or for a modification of a mining permit to
14 add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the
15 Department reaches a final decision on the application, and in making its determination, the
16 Department shall give full consideration to all comments submitted at the public hearing. The
17 public hearing shall be held within 60 days of the end of the 30-day period within which any
18 requests for the public hearing shall be made. At least 10 days prior to the date of the public
19 hearing, the Department shall publish notice of the public hearing both electronically on the
20 Department's Web site and via electronic mail transmission to a list of interested parties who
21 have requested notification.

22"

23 **SECTION 2.** G.S. 87-87 reads as rewritten:

24 "**§ 87-87. Authority to adopt rules, regulations, and procedures.**

25 The Environmental Management Commission shall adopt rules governing the location,
26 construction, repair, and abandonment of wells, the operation of water wells or well systems
27 with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of
28 pumps and pumping equipment. The Environmental Management Commission shall be
29 responsible for the administration of this Article and shall:

- 30 (1) Hold public hearings, upon not less than 30 days' prior notice setting forth
31 the date, place, and time of hearing, and the proposed rules and regulations
32 to be considered at said public hearing, which notice shall be published ~~in~~
33 one or more newspapers having general circulation throughout the State, both
34 electronically on the Department's Web site and via electronic mail
35 transmission to a list of interested parties who have requested notification in
36 connection with proposed rules and regulations and amendments thereto.



* H 7 5 5 - V - 2 *

- 1 (2) Enforce the provisions of this Article, and any rules and regulations not
2 inconsistent with the provisions of this Article adopted pursuant thereto.
- 3 (3) Establish procedures and forms for the submission, review, approval, and
4 rejection of applications, notifications, and reports required under this
5 Article.
- 6 (4) Issue such additional regulations as may be necessary to carry out the
7 provisions of this Article.
- 8 (5) Neither adopt nor enforce any rule or regulation that concerns the civil
9 liability of an owner to a well driller for any costs or expenses of drilling and
10 installing a well for the owner.
- 11 (6) Adopt rules governing the permitting and inspection by the Commission of
12 private drinking water wells with a designed capacity of 100,000 gallons per
13 day or greater.
- 14 (7) Adopt rules governing the permitting and inspection by local health
15 departments of private drinking water wells pursuant to G.S. 87-97."

16 **SECTION 3.** G.S. 113-202 reads as rewritten:

17 **"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued**
18 **prior to January 1, 1966.**

19 ...
20 (f) Within a reasonable time after receipt of an application that complies with
21 subsection (d), the Secretary shall notify the applicant of the intended action on the lease
22 application. If the intended action is approval of the application as submitted or approval with a
23 modification to which the applicant agrees, the Secretary shall conduct a public hearing in the
24 county where the proposed leasehold lies. The Secretary must publish ~~at least two notices~~
25 notice of the intention to lease in a newspaper of general circulation in the county in which the
26 proposed leasehold lies, both electronically on the Department's Web site and via electronic
27 mail transmission to a list of interested parties who have requested notification. The first
28 publication must precede the public hearing by more than 20 days; ~~the second publication must~~
29 ~~follow the first by seven to 11 days.~~ days. The notice of intention to lease must contain a
30 sufficient description of the area of the proposed leasehold that its boundaries may be
31 established with reasonable ease and certainty and must also contain the date, hour and place of
32 the hearing.

33 ...
34 (m) In the event the leaseholder takes steps within 30 days to remedy the situation upon
35 which the notice of intention to terminate was based and the Secretary is satisfied that
36 continuation of the lease is in the best interests of the shellfish culture of the State, the
37 Secretary may discontinue termination procedures. Where there is no discontinuance of
38 termination procedures, the leaseholder may initiate a contested case by filing a petition under
39 G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the
40 leaseholder does not initiate a contested case, or the final decision upholds termination, the
41 Secretary must send a final letter of termination to the leaseholder. The final letter of
42 termination may not be mailed sooner than 30 days after receipt by the leaseholder of the
43 Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The
44 lease is terminated effective at midnight on the day the final notice of termination is served on
45 the leaseholder. The final notice of termination may not be issued pending hearing of a
46 contested case initiated by the leaseholder.

47 Service of any notice required in this subsection may be accomplished by certified mail,
48 return receipt requested; personal service by any law-enforcement officer; or upon the failure of
49 these two methods, publication. Service by publication shall be accomplished by publishing
50 ~~such notices in a newspaper of general circulation within the county where the lease is located~~
51 ~~for at least once a week for three successive weeks. The format for notice by publication shall~~

1 ~~be approved by the Attorney General; a notice both electronically on the Department's Web site~~
2 ~~and via electronic mail transmission to a list of interested parties who have requested~~
3 ~~notification. The notice shall be published on the Department's Web site for a minimum of 30~~
4 ~~days.~~

5"

6 **SECTION 4.** G.S. 143-215.2 reads as rewritten:

7 "**§ 143-215.2. Special orders.**

8 ...

9 (a1) Public Notice and Review of Consent Orders.

10 (1) The Commission shall give notice of a proposed consent order to the proper
11 State, interstate, and federal agencies, to interested persons, and to the
12 public. The Commission may also provide any other data it considers
13 appropriate to those notified. The Commission shall prescribe the form and
14 content of the notice. The notice shall be given at least 45 days prior to any
15 final action regarding the consent order. Public notice shall be given by
16 publication of the notice ~~one time in a newspaper having general circulation~~
17 ~~within the county in which the pollution originates; both electronically on the~~
18 ~~Department's Web site and via electronic mail transmission to a list of~~
19 ~~interested parties who have requested notification.~~

20 (2) Any person who desires a public meeting on any proposed consent order
21 may request one in writing to the Commission within 30 days following date
22 of the notice of the proposed consent order. The Commission shall consider
23 all such requests for meetings. If the Commission determines that there is
24 significant public interest in holding a meeting, the Commission shall
25 schedule a meeting and shall give notice of such meeting at least 30 days in
26 advance to all persons to whom notice of the proposed consent order was
27 given and to any other person requesting notice. At least 30 days prior to the
28 date of meeting, the Commission shall also have a copy of the notice of the
29 meeting published ~~at least one time in a newspaper having general~~
30 ~~circulation within the county in which the pollution originates; both~~
31 ~~electronically on the Department's Web site and via electronic mail~~
32 ~~transmission to a list of interested parties who have requested notification.~~
33 The Commission shall prescribe the form and content of notices under this
34 subsection.

35 (3) The Commission shall prescribe the procedures to be followed in such
36 meetings. If the meeting is not conducted by the Commission, detailed
37 minutes of the meeting shall be kept and shall be submitted, along with any
38 other written comment, exhibits or other documents presented at the
39 meeting, to the Commission for its consideration prior to final action
40 granting or denying the consent order.

41 (4) The Commission shall take final action on a proposed consent not later than
42 60 days following notice of the proposed consent order or, if a public
43 meeting is held, within 90 days following such meeting.

44"

45 **SECTION 5.(a)** The Department of Environment and Natural Resources shall
46 report to the Environmental Review Commission, on both January 1, 2014, and January 1,
47 2015, on the implementation and effectiveness of the electronic notice authorized by Sections 1
48 through 4 of this act.

49 **SECTION 5.(b)** The Department of Environment and Natural Resources shall
50 review the notification requirements in the General Statutes and rules under its purview and
51 identify those notification requirements for which electronic notice would provide adequate

1 public notice. The Department shall report its findings and recommendations to the
2 Environmental Review Commission on or before October 1, 2013.

3 **SECTION 6.** Section 5(b) of this act is effective when this act becomes law. The
4 remainder of this act becomes effective July 1, 2013.