

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 194\*

Short Title: Amend Env. Laws.

(Public)

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Sponsors: Senators Albertson; Dannelly, Hoyle, Jordan, Odom, Perdue, Rand, and Warren.

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Referred to: Agriculture/Environment/Natural Resources.

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February 19, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS, AS RECOMMENDED  
3 BY THE ENVIRONMENTAL REVIEW COMMISSION.

4 The General Assembly of North Carolina enacts:

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

7 "**§ 90A-46.1. Renewal of certificates.**

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

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

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

18 (1) Is conducting or has conducted any activity causing significant  
19 environmental damage for which a major development permit is

1 required under this Article without having previously obtained such  
2 permit or has received a notice of violation with respect to any activity  
3 governed by this Article and has not complied with the notice within the  
4 time specified in the notice;

5 (2) Has failed to pay a civil penalty assessed pursuant to this Article, a local  
6 ordinance adopted pursuant to this Article, or Article 17 of Chapter 113  
7 of the General Statutes which is due and for which no appeal is pending;

8 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-126, G.S.  
9 113-229(k), or any criminal provision of a local ordinance adopted  
10 pursuant to this Article; or

11 (4) Has failed to substantially comply with ~~State~~state rules or local  
12 ordinances and regulations adopted pursuant to this Article or with other  
13 federal and ~~State~~state laws, regulations, and rules for the protection of  
14 the environment."

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

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

18 (1) All applications for permits and for renewal of existing permits for  
19 outlets and point sources and for treatment works and disposal systems  
20 discharging to the surface waters of the State shall be in writing, and the  
21 Commission may prescribe the form of such applications. All  
22 applications shall be filed with the Commission at least 180 days in  
23 advance of the date on which it is desired to commence the discharge of  
24 wastes or the date on which an existing permit expires, as the case may  
25 be. The Commission shall act on a permit application as quickly as  
26 possible. The Commission may conduct any inquiry or investigation it  
27 considers necessary before acting on an application and may require an  
28 applicant to submit plans, specifications, and other information the  
29 Commission considers necessary to evaluate the application.

30 (2) a. The Department shall refer each application for permit, or renewal of  
31 an existing permit, for outlets and point sources and treatment works  
32 and disposal systems discharging to the surface waters of the State to its  
33 staff for written evaluation and proposed determination with regard to  
34 issuance or denial of the permit. If the Commission concurs in the  
35 proposed determination, it shall give notice of intent to issue or deny the  
36 permit, along with any other data that the Commission may determine  
37 appropriate, to be given to the appropriate State, interstate and federal  
38 agencies, to interested persons, and to the public. The Commission  
39 shall prescribe the form and content of the notice.

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

1           b.       Repealed by Session Laws 1987, c. 734.

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

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

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

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

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

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

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

13 "(b) Procedures for Public Input. –

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

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

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

42 (4) The Commission may hold a public meeting on any matter within its  
43 scope of authority. The Commission may hold a public meeting in

1                   addition to any public hearing that is required under any provision of  
2                   law, but a public meeting may not be substituted for any required public  
3                   hearing. Except as may be otherwise provided by law, the Commission  
4                   may determine the procedures for any public meeting it holds."

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

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

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