

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 386

Short Title: NC May Exceed US Air/Water Regs.

(Public)

Sponsors: Senators Winner, Daniel; Ballance, Basnight, Hunt, Hyde, Johnson, Kaplan, Martin of Guilford, Marvin, Odom, Plexico, Raynor, Richardson, Sands, Seymour, Staton, Walker, and Ward..

Referred to: Environment and Natural Resources.

April 1, 1991

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THOSE PORTIONS OF THE GENERAL STATUTES THAT
2 LIMIT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO THE
3 ADOPTION OF ENVIRONMENTAL RULES REGARDING WATER QUALITY
4 AND AIR QUALITY THAT ARE NO MORE RESTRICTIVE THAN FEDERAL
5 ENVIRONMENTAL REGULATIONS.
6

7 The General Assembly of North Carolina enacts:

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

9 "**§ 143-215. Effluent standards and limitations.**

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

19 (b) The effluent standards and limitations developed and adopted by the
20 Commission shall provide limitations upon the effluents discharged from pretreatment
21 facilities and from outlets and point sources to the waters of the State adequate to limit
22 the waste loads upon the waters of the State to the extent necessary to maintain or

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

5 ~~(e) In adopting effluent standards and limitations and management practices the~~
6 ~~Commission shall be guided by the same considerations and criteria set forth, from time~~
7 ~~to time, in federal law for the guidance of federal agencies administering the Federal~~
8 ~~Water Pollution Control Program. It is the intent of the General Assembly that the~~
9 ~~effluent standards and limitations and management practices adopted hereunder shall be~~
10 ~~no more restrictive than the most nearly applicable federal effluent standards and~~
11 ~~limitations and management practices.~~

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

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

18 **"§ 143-215.107. Air quality standards and classifications.**

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

22 (1) To prepare and develop, after proper study, a comprehensive plan or
23 plans for the prevention, abatement and control of air pollution in the
24 State or in any designated area of the State.

25 (2) To determine by means of field sampling and other studies, including
26 the examination of available data collected by any local, State or
27 federal agency or any person, the degree of air contamination and air
28 pollution in the State and the several areas of the State.

29 (3) To develop and adopt, after proper study, air quality standards
30 applicable to the State as a whole or to any designated area of the State
31 as the Commission deems proper in order to promote the policies and
32 purposes of this Article and Article 21 most effectively.

33 (4) To collect information or to require reporting from classes of sources
34 which, in the judgment of the Environmental Management
35 Commission, may cause or contribute to air pollution. Any person
36 operating or responsible for the operation of air contaminant sources of
37 any class for which the Commission requires reporting shall make
38 reports containing such information as may be required by the
39 Commission concerning location, size, and height of contaminant
40 outlets, processes employed, fuels used, and the nature and time
41 periods or duration of emissions, and such other information as is
42 relevant to air pollution and available or reasonably capable of being
43 assembled.

1 (5) To develop and adopt such emission control standards as in the
2 judgment of the Commission may be necessary to prohibit, abate or
3 control air pollution commensurate with established air quality
4 standards. Such standards may be applied uniformly to the State as a
5 whole or to any area of the State designated by the Commission.

6 (6) To adopt, when necessary and practicable, a program for testing
7 emissions from motor vehicles and to adopt motor vehicle emission
8 standards in compliance with applicable federal regulations.

9 (7) To develop and adopt standards and plans necessary to implement
10 programs for the prevention of significant deterioration and for the
11 attainment of air quality standards in nonattainment areas; ~~provided, that~~
12 ~~the Commission shall adopt no standard which is not made mandatory upon~~
13 ~~approved State programs by rules, regulations or published guidelines of the~~
14 ~~United States Environmental Protection Agency or the Federal Clean Air~~
15 ~~Act.~~ areas.

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

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

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

28 ~~It is the intent of the General Assembly (i) that the air quality rules, procedures,~~
29 ~~plans, practices, air quality standards, and emission control standards adopted by the~~
30 ~~Commission pursuant to this Article or Article 21, or by any other State or local~~
31 ~~regulatory body under the General Statutes of North Carolina, shall be no more~~
32 ~~restrictive and no more stringent than required to comply with federal ambient air~~
33 ~~quality standards or other applicable federal requirements, if any, adopted in final or~~
34 ~~proposed regulations by the United States Environmental Protection Agency under or~~
35 ~~pursuant to the Federal Clean Air Act, and amendments thereto; except (ii) that no air~~
36 ~~quality rules, procedures, plans, practices, air quality standards or emission control~~
37 ~~standards shall be adopted by the Commission with respect to matters on which the~~
38 ~~United States Environmental Protection Agency has not proposed or adopted final~~
39 ~~regulations unless the Commission first considers, among other things, an assessment of~~
40 ~~the economic impact of the proposed standards. The Department shall prepare and~~
41 ~~submit into the record of the rule-making hearing an economic impact study of such~~
42 ~~proposed standards. Such study shall include an estimate of the economic and social~~
43 ~~costs to commerce and industry, units of local government, and agriculture necessary to~~

1 ~~comply with the proposed standards and an examination of the economic and social~~
2 ~~benefits of such compliance.~~

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

8 Sec. 3. G.S. 130A-295.02(d) reads as rewritten:

9 "(d) Resident inspectors assigned to a commercial hazardous waste facility shall
10 have unrestricted access to all operational areas of such facility at all times. ~~For the~~
11 ~~protection of resident inspectors and the public, the provisions of G.S. 143-215.107(a)(7) and~~
12 ~~G.S. 143-215.107(f) shall not apply to commercial hazardous waste facilities to which a~~
13 ~~resident inspector is assigned."~~

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