

1 and timely technical review within the Department of Environment, Health, and Natural
2 Resources.

3 Sec. 2. G.S. 143-215.108 is amended by adding two new subsections to read:

4 "(h) Expedited Review of Applications Certified by a Professional Engineer. – The
5 Commission shall adopt rules governing the submittal of permit applications certified by
6 a professional engineer, including draft permits, that can be sent to public notice and
7 hearing immediately upon receipt and subjected to technical review by personnel within
8 the Department. These rules shall specify, at a minimum, any forms to be used; a
9 checklist for applicants that lists all items of information required to prepare a complete
10 permit application; the form of the certification required on the application by a
11 professional engineer; and the information that must be included in the draft permit. The
12 Department shall process any application submitted with such certification as follows:

13 (1) Immediate Initiation of Review. Upon receipt of an application certified
14 by a professional engineer in accordance with this subsection and the
15 rules adopted pursuant to this subsection and upon a determination that
16 the application is complete pursuant to subdivision (2) of this
17 subsection, the Department shall immediately:

- 18 a. Publish any required notices, using the draft permit included with
19 the application;
20 b. Schedule any required public meetings or hearings on the
21 application and permit; and
22 c. Initiate any and all technical review of the application in a
23 manner to ensure substantial completion of the technical review
24 by the time of any public hearing on the application, or if there is
25 no hearing, by the close of the notice period.

26 (2) Completeness Review. Within 10 working days of receipt of the permit
27 application certified by a professional engineer under this subsection,
28 the Department shall determine whether the application is complete for
29 purposes of this subsection. The Department shall determine whether
30 the permit application certified by a professional engineer is complete
31 by comparing the information provided in the application with the
32 checklist contained in the rules adopted by the Commission pursuant to
33 this subsection.

- 34 a. If the application is not complete, the Department shall promptly
35 notify the applicant in writing of all deficiencies of the
36 application, specifying the items that need to be included,
37 modified, or supplemented in order to make the application
38 complete, and the 10-day time period is suspended after this
39 request for further information. If the applicant submits the
40 requested information within the time specified, the 10-day time
41 period shall begin again on the day the additional information
42 was submitted. If the additional information is not submitted
43 within the time periods specified, the Department shall return the

- 1 application to the applicant, and the applicant may treat the return
2 of the application as a denial of the application or may resubmit
3 the application at a later time.
- 4 b. If the Department fails to notify the applicant that an application
5 is not complete within the time period set forth in this subsection,
6 the application shall be deemed to be complete.
- 7 (3) Time for Permit Decision. For any application found to be complete
8 under subdivision (2) of this subsection, the Department shall issue a
9 permit decision within 60 days of the last day of any public hearing on
10 the application, or if there is no hearing, within 60 days of the close of
11 the notice period.
- 12 (4) Rights if Permit Decision Not Made in Timely Fashion. If the
13 Department fails to issue a permit decision within the time periods
14 specified in subdivision (3) of this subsection, the applicant may take
15 any of the following actions:
- 16 a. Take no action, thereby consenting to the continued review of the
17 application; or
- 18 b. Treat the action as a denial of the application and appeal the
19 denial under Article 3 of Chapter 150B of the General Statutes.
- 20 (5) Power to Halt Review. At any time after the permit application certified
21 by a professional engineer has been determined to be complete under
22 subdivision (2) of this subsection, the Department may immediately
23 terminate review of that application, including technical review and any
24 hearings or meetings scheduled on the application, upon a determination
25 of one of the following:
- 26 a. The permit application is not in substantial compliance with the
27 applicable rules; or
- 28 b. The applicant failed to pay all permit application fees.
- 29 (6) Rights if Review Halted. If the Department terminates review of an
30 application under subdivision (5) of this subsection, the applicant may
31 take any of the following actions:
- 32 a. Revise and resubmit the application; or
- 33 b. Treat the action as a denial of the application and appeal the
34 denial under Article 3 of Chapter 150B of the General Statutes.
- 35 (7) Option; No Additional Fee. The submittal of a permit application
36 certified by a professional engineer to be considered under this
37 subsection shall be an option and shall not be required of any applicant.
38 The Department shall not impose any additional fees for the receipt or
39 processing of a permit application certified by a professional engineer.
- 40 (i) Rules for Review of Applications Other Than Those Certified by a
41 Professional Engineer. – The Commission shall adopt rules governing the times of
42 review for all permit applications submitted pursuant to this section other than those
43 certified by a professional engineer pursuant to subsection (h) of this section. Those rules

1 shall specify maximum times for, among other things, the following actions in reviewing
2 the permit applications covered by this subsection:

- 3 (1) Determining that the permit application is complete;
- 4 (2) Requesting additional information to determine completeness;
- 5 (3) Determining that additional information is needed to conduct a technical
6 review of the application;
- 7 (4) Completing all technical review of the permit application;
- 8 (5) Holding and completing all public meetings and hearings required for
9 the application;
- 10 (6) Completing the record from reviewing and acting on the application;
11 and
- 12 (7) Taking final action on the permit, including granting or denying the
13 application."

14 Sec. 3. The rule-making proceedings for the rules to be adopted pursuant to
15 G.S. 143-215.108(h) and G.S. 143-215.108(i), as enacted by Section 2 of this act, shall be
16 initiated as soon as possible after the effective date of this act with the goal of making the
17 permanent rules effective no later than 18 months after the ratification of this act.

18 Sec. 4. In order to evaluate the progress towards implementation of this act,
19 including adoption of the rules required in Sections 2 of this act, the Department shall
20 submit a report by 1 April 1996 to the Environmental Review Commission for
21 consideration and any recommendations for further legislation to be considered by the
22 1996 Regular Session of the 1995 General Assembly.

23 Sec. 5. G.S. 143-215.3(a)(1b) reads as rewritten:

24 "(1b) The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing
25 ~~of an application for a permit under G.S. 143-215.1 of Article 21 and~~
26 ~~G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this Chapter may~~
27 ~~not exceed four hundred dollars (\$400.00). The fee to be charged~~
28 pursuant to G.S. 143-215.3(a)(1a) for processing an application for a
29 permit under G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of
30 this Chapter may not exceed five hundred dollars (\$500.00). The fee to
31 be charged pursuant to G.S. 143-215.3(a)(1a) for processing a
32 registration under Part 2A of this Article or Article 38 of this Chapter
33 may not exceed fifty dollars (\$50.00) for any single registration. An
34 additional fee of twenty percent (20%) of the registration processing fee
35 may be assessed for a late registration under Article 38 of this Chapter.
36 The fee for administering and compliance monitoring under G.S. 143-
37 215.1 of Article 21 and G.S. 143-215.108 and G.S. 143-215.109 of
38 Article 21B shall be charged on an annual basis for each year of the
39 permit term and may not exceed one thousand five hundred dollars
40 (\$1,500) per year. Fees for processing all permits under Article 21A
41 and all other sections of Articles 21 and 21B shall not exceed one
42 hundred dollars (\$100.00) for any single permit. Notwithstanding any
43 other provision of this subdivision, the total payment for fees required

1 for all permits under this subsection for any single facility shall not
2 exceed seven thousand five hundred dollars (\$7,500) per year, which
3 amount shall include all application fees and fees for administration and
4 compliance monitoring. A single facility is defined to be any
5 contiguous area under one ownership and in which permitted activities
6 occur. For all permits issued under these Articles where a fee schedule
7 is not specified in the statutes, the Commission, or other commission
8 specified by statute shall adopt a fee schedule in a rule following the
9 procedures established by the Administrative Procedure Act. ~~Such fee~~
10 Fee schedules shall be established to reflect the size of the emission or
11 discharge, the potential impact on the environment, the staff costs
12 involved, relative costs of the issuance of new permits and the
13 reissuance of existing permits, and shall include adequate safeguards to
14 prevent unusual fee assessments which would result in serious economic
15 burden on an individual applicant. A system shall be considered to
16 allow consolidated annual payments for persons with multiple permits.
17 In its rulemaking to establish fee schedules, the Commission is also
18 directed to consider a method of rewarding facilities which achieve full
19 compliance with administrative and self-monitoring reporting
20 requirements, and to consider, in those cases where the cost of renewal
21 or amendment of a permit is less than for the original permit, a lower fee
22 for ~~such the~~ renewal or amendment."

23 Sec. 6. Section 3 of this act and this section are effective upon ratification.
24 The remainder of this act becomes effective 1 January 1996 and applies to an application
25 for a new permit, a modification of an existing permit, or a reissuance or renewal of an
26 existing permit filed on or after that date.