

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1325

Short Title: N.C. May Exceed U.S. Envir. Regs.-2.

(Public)

Sponsors: Representative Miller.

Referred to: Basic Resources.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO REPEAL THOSE PORTIONS OF THE GENERAL STATUTES WHICH REQUIRE THAT ENVIRONMENTAL RULES BE NO MORE RESTRICTIVE THAN COMPARABLE FEDERAL REGULATIONS AND TO LIMIT THE POWER OF UNITS OF LOCAL GOVERNMENT TO ADOPT ENVIRONMENTAL REGULATIONS WHICH ARE MORE RESTRICTIVE THAN STATE RULES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-128.2(a) reads as rewritten:

"(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) for the purposes of this section shall be limited to carbon monoxide, shall be statewide in scope but enforced on a county unit basis when ambient air pollutant concentrations exceed the National Ambient Air Quality Standards established pursuant to the Clean Air Act of 1970 as amended by the Clean Air Act amendments of 1977 and when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality within a specified county requires a motor vehicle inspection/maintenance program; provided the Environmental Management Commission may prescribe different standards for different areas as may be necessary and appropriate to facilitate accomplishment of the stated purposes of this section. Such standards shall be no more restrictive or stringent than federal standards, as required by G.S. 143-215.107(f)."

Sec. 2. G.S. 130-166.21D is repealed.

Sec. 3. G.S. 130A-294(e) reads as rewritten:

1 "~~the rules~~ Rules adopted under this section shall be no less stringent than the
2 most recent regulations adopted under ~~the federal act RCRA~~ and may be amended. Rules
3 adopted under this section may incorporate standards and restrictions which exceed and
4 are more comprehensive than comparable federal regulations and shall be statewide in
5 scope and application. No unit of local government shall promulgate or continue in
6 effect any ordinance, rule, or regulation which incorporates standards or restrictions
7 which exceed those adopted pursuant to this section. The Commission shall adopt and
8 revise rules under this section in accordance with the provisions of Chapter 150B of the
9 General Statutes."

10 Sec. 4. G.S. 143-215 reads as rewritten:

11 **"§ 143-215. Effluent standards and limitations.**

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

21 (b) The effluent standards and limitations developed and adopted by the
22 Commission shall provide limitations upon the effluents discharged from pretreatment
23 facilities and from outlets and point sources to the waters of the State adequate to limit
24 the waste loads upon the waters of the State to the extent necessary to maintain or
25 enhance the chemical, physical, biological and radiological integrity of the waters. The
26 management practices developed and adopted by the Commission shall prescribe
27 practices necessary to be employed in order to prevent or reduce contribution of
28 pollutants to the State's waters.

29 (c) ~~In adopting effluent standards and limitations and management practices the~~
30 ~~Commission shall be guided by the same considerations and criteria set forth, from time~~
31 ~~to time, in federal law for the guidance of federal agencies administering the Federal~~
32 ~~Water Pollution Control Program. It is the intent of the General Assembly that the~~
33 ~~effluent standards and limitations and management practices adopted hereunder shall be~~
34 ~~no more restrictive than the most nearly applicable federal effluent standards and~~
35 ~~limitations and management practices.—~~Rules adopted under this section may
36 incorporate standards and restrictions which exceed and are more comprehensive than
37 comparable federal regulations and shall be statewide in scope and application. No unit
38 of local government shall promulgate or continue in effect any ordinance, rule, or
39 regulation which incorporates standards or restrictions which exceed those adopted
40 pursuant to this section."

41 Sec. 5. G.S. 143-215.3(a)(15) reads as rewritten:

42 "~~(15) To implement programs to prevent pollution from underground tanks~~
43 ~~containing oil or hazardous substances, in accordance with those~~
44 ~~requirements made mandatory upon approved State programs by~~

1 federal agencies administering the Resource Conservation and
2 Recovery Act, as amended, including the Hazardous and Solid Waste
3 Amendments of 1984. To adopt rules and implement programs to
4 prevent pollution from underground tanks containing petroleum,
5 petroleum products, or hazardous substances. Rules adopted under
6 this section may incorporate standards and restrictions which exceed
7 and are more comprehensive than comparable federal regulations and
8 shall be statewide in scope and application. No unit of local
9 government shall promulgate or continue in effect any ordinance, rule,
10 or regulation which incorporates standards or restrictions which
11 exceed those adopted pursuant to this section."

12 Sec. 6. G.S. 143-215.107 reads as rewritten:

13 **"§ 143-215.107. Air quality standards and classifications.**

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

- 17 (1) To prepare and develop, after proper study, a comprehensive plan or
18 plans for the prevention, abatement and control of air pollution in the
19 State or in any designated area of the State.
- 20 (2) To determine by means of field sampling and other studies, including
21 the examination of available data collected by any local, State or
22 federal agency or any person, the degree of air contamination and air
23 pollution in the State and the several areas of the State.
- 24 (3) To develop and adopt, after proper study, air quality standards
25 applicable to the State as a whole or to any designated area of the State
26 as the Commission deems proper in order to promote the policies and
27 purposes of this Article and Article 21 most effectively.
- 28 (4) To develop and adopt classifications for use in classifying air
29 contaminant sources, which in the judgment of the Commission may
30 cause or contribute to air pollution, according to levels and types of
31 emissions and other characteristics which relate to air pollution and
32 may require reporting for any such class or classes. Such
33 classifications may be for application to the State as a whole or to any
34 designated area of the State, and shall be made with special reference
35 to effects on health, economic and social factors, and physical effects
36 on property. Any person operating or responsible for the operation of
37 air contaminant sources of any class for which the Commission
38 requires reporting shall make reports containing such information as
39 may be required by the Commission concerning location, size, and
40 height of contaminant outlets, processes employed, fuels used, and the
41 nature and time periods or duration of emissions, and such other
42 information as is relevant to air pollution and available or reasonably
43 capable of being 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~~
44 ~~comply with the proposed standards and an examination of the economic and social~~

1 ~~benefits of such compliance.~~—Rules adopted under this section may incorporate
2 standards and restrictions which exceed and are more comprehensive than comparable
3 federal regulations and shall be statewide in scope and application. No unit of local
4 government shall promulgate or continue in effect any ordinance, rule, or regulation
5 which incorporates standards or restrictions which exceed those adopted pursuant to this
6 section except as may now or hereafter be authorized pursuant to G.S. 143-215.122.
7 The Commission shall adopt and revise rules under this section in accordance with the
8 provisions of Chapter 150B of the General Statutes."

9 Sec. 7. This act is effective upon ratification.