

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 589

Short Title: N.C. May Exceed U.S. Air/Water Regs.

(Public)

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Sponsors: Representatives Ethridge; Barnes, Colton, N. J. Crawford, DeVane, Fletcher, Gottovi, Grady, Greenwood, Hackney, Hardaway, H. Hunter, R. Hunter, Jeffus, Kahl, Luebke, Stamey, and Warner.

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Referred to: Environment.

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April 3, 1991

A BILL TO BE ENTITLED

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2 AN ACT TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT  
3 COMMISSION TO ADOPT RULES REGARDING WATER QUALITY AND AIR  
4 QUALITY THAT EXCEED OR ARE MORE COMPREHENSIVE THAN  
5 COMPARABLE FEDERAL REGULATIONS.

6 The General Assembly of North Carolina enacts:

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

8 **"§ 143-215. Effluent standards and limitations.**

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

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

1 management practices developed and adopted by the Commission shall prescribe  
2 practices necessary to be employed in order to prevent or reduce contribution of  
3 pollutants to the State's waters.

4 ~~(c) In adopting effluent standards and limitations and management practices the  
5 Commission shall be guided by the same considerations and criteria set forth, from time  
6 to time, in federal law for the guidance of federal agencies administering the Federal  
7 Water Pollution Control Program. It is the intent of the General Assembly that the  
8 effluent standards and limitations and management practices adopted hereunder shall be  
9 no more restrictive than the most nearly applicable federal effluent standards and  
10 limitations and management practices. Rules adopted under this Article may  
11 incorporate standards and limitations which exceed or are more comprehensive than  
12 comparable federal regulations.~~

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

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

19 **"§ 143-215.107. Air quality standards and classifications.**

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

- 23 (1) To prepare and develop, after proper study, a comprehensive plan or  
24 plans for the prevention, abatement and control of air pollution in the  
25 State or in any designated area of the State.
- 26 (2) To determine by means of field sampling and other studies, including  
27 the examination of available data collected by any local, State or  
28 federal agency or any person, the degree of air contamination and air  
29 pollution in the State and the several areas of the State.
- 30 (3) To develop and adopt, after proper study, air quality standards  
31 applicable to the State as a whole or to any designated area of the State  
32 as the Commission deems proper in order to promote the policies and  
33 purposes of this Article and Article 21 most effectively.
- 34 (4) To collect information or to require reporting from classes of sources  
35 which, in the judgment of the Environmental Management  
36 Commission, may cause or contribute to air pollution. Any person  
37 operating or responsible for the operation of air contaminant sources of  
38 any class for which the Commission requires reporting shall make  
39 reports containing such information as may be required by the  
40 Commission concerning location, size, and height of contaminant  
41 outlets, processes employed, fuels used, and the nature and time  
42 periods or duration of emissions, and such other information as is  
43 relevant to air pollution and available or reasonably capable of being  
44 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. Rules adopted~~  
28 ~~under this Article may incorporate standards and limitations which exceed or are more~~  
29 ~~comprehensive than comparable federal regulations.~~

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

1 ~~costs to commerce and industry, units of local government, and agriculture necessary to~~  
2 ~~comply with the proposed standards and an examination of the economic and social~~  
3 ~~benefits of such compliance.~~

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

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

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

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