

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2012-91
HOUSE BILL 952**

AN ACT TO EXEMPT FROM STATE AIR TOXICS EMISSIONS CONTROLS THOSE SOURCES OF EMISSIONS THAT ARE SUBJECT TO CERTAIN FEDERAL EMISSIONS REQUIREMENTS, TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE PERMIT CONDITIONS THAT ELIMINATE UNACCEPTABLE RISKS TO HUMAN HEALTH, TO DIRECT THE DIVISION OF AIR QUALITY TO REVIEW THE STATE AIR TOXICS PROGRAM, AND TO REQUIRE REPORTS ON THE IMPLEMENTATION OF THIS ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107(a) reads as rewritten:

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

...
(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. ~~This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).~~ The Department shall implement rules adopted pursuant to this subsection as follows:

- a. Except as provided in sub-subdivision b. of this subdivision, rules adopted pursuant to this subdivision that control emissions of toxic air pollutants shall not apply to an air emission source that is any of the following:
 1. Subject to an applicable requirement under 40 C.F.R. Part 61, as amended.
 2. An affected source under 40 C.F.R. Part 63, as amended.
 3. Subject to a case-by-case maximum achievable control technology (MACT) permit requirement issued by the Department pursuant to 42 U.S.C. § 7412(j), as amended.
- b. Upon receipt of a permit application for a new source or facility, or for the modification of an existing source or facility, that would result in an increase in the emission of toxic air pollutants, the Department shall review the application to determine if the emission of toxic air pollutants from the source or facility would present an unacceptable risk to human health. Upon making a written finding that a source or facility presents or would present an unacceptable risk to human health, the Department shall require the owner or operator of the source or facility to submit a permit application for any or all emissions of toxic air pollutants from the facility that eliminates the unacceptable risk to human health. The written finding may be based on modeling, epidemiological studies, actual monitoring data, or other information that indicates an unacceptable



health risk. When the Department requires the owner or operator of a source or facility to submit a permit application pursuant to this sub-subdivision, the Department shall report to the Chairs of the Environmental Review Commission on the circumstances surrounding the permit requirement, including a copy of the written finding.

....."
SECTION 2. The Environmental Management Commission shall amend its rules adopted pursuant to G.S. 143-215.107(a) so that they are consistent with the provisions of Section 1 of this act.

SECTION 3. The Division of Air Quality of the Department of Environment and Natural Resources shall review toxic air pollutant rules adopted pursuant to G.S. 143-215.107(a) and the implementation of those rules to determine whether changes could be made to the rules or their implementation to reduce unnecessary regulatory burden and increase the efficient use of Division resources while maintaining protection of public health. The Division shall conduct this review in consultation with interested parties. The Division shall report the results of its review, including recommendations, if any, to the Environmental Review Commission no later than December 1, 2012.

SECTION 4. The Division of Air Quality in the Department of Environment and Natural Resources shall report on the implementation of this act to the Environmental Review Commission no later than December 1 for the years 2012, 2013, and 2014. The report shall include an analysis of air toxic emissions changes and a summary of results of the Division's analysis of air quality impacts.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:34 p.m. this 28th day of June, 2012