

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1199*
Finance Committee Substitute Adopted 6/25/98
House Committee Substitute Favorable 8/10/98

Short Title: Set Regul. Fees/Increase Various Fees.

(Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE INSURANCE REGULATORY CHARGE, TO INCREASE VARIOUS FEES, TO ESTABLISH A FEE FOR FAIRNESS HEARING CONDUCTED BY THE OFFICE OF THE SECRETARY OF STATE, TO INCREASE THE AUTOPSY FEE, AND TO REVISE AND PLACE INTO THE GENERAL STATUTES THE SCHEDULE OF FEES FOR PERMITS UNDER THE WATER QUALITY PROGRAM.

The General Assembly of North Carolina enacts:

PART I. PUBLIC UTILITIES REGULATORY FEE

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1998.

PART II. INSURANCE REGULATORY CHARGE

Section 2. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for the 1998 calendar year.

PART III. SECRETARY OF STATE FEES

1 Section 3. G.S. 10A-7 reads as rewritten:

2 **"§ 10A-7. Fee with commission application.**

3 Every applicant for a notarial commission shall pay to this State a nonrefundable fee
4 of ~~twenty five dollars (\$25.00).~~ thirty dollars (\$30.00). Every applicant for
5 recommissioning shall pay to this State a nonrefundable fee of ~~twenty five dollars (\$25.00).~~
6 thirty dollars (\$30.00)."

7 Section 4. G.S. 78A-28(b) reads as rewritten:

8 "(b) Every person filing a registration statement shall pay a filing fee of ~~one~~
9 ~~hundred dollars (\$100.00), plus a registration fee of one tenth of one percent (1/10 of~~
10 ~~1%) of the maximum aggregate offering price at which the registered securities are to be~~
11 ~~offered in this State, but the registration fee may not be less than twenty five dollars~~
12 ~~(\$25.00) nor more than one thousand five hundred dollars (\$1,500).~~ two thousand dollars
13 (\$2,000). When a registration statement is withdrawn before the effective date or a pre-
14 effective stop order is entered under G.S. 78A-29, the Administrator shall retain the filing
15 fee. A registration statement relating to securities issued or to be issued by a mutual fund,
16 open-end management company, or unit investment trust or relating to other redeemable
17 securities, to be offered for a period in excess of one year, must be renewed annually by
18 payment of a renewal fee of one hundred dollars (\$100.00) and by filing any documents
19 or reports that the Administrator may by rule or order require."

20 Section 5. G.S. 78A-30 is amended by adding a new subsection to read:

21 "(g) The Administrator shall charge a fee for a fairness hearing that the
22 Administrator holds under this section. The Administrator shall set the fee based upon
23 the time and expenses incurred by the Administrator. The fee may not be less than five
24 hundred dollars (\$500.00), and it may not exceed five thousand dollars (\$5,000)."

25 Section 6. G.S. 78A-31(a) reads as rewritten:

26 "(a) The Administrator, by rule or order, may require the filing of any of the
27 following documents with regard to a security covered under section 18(b)(2) of the
28 Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

- 29 (1) Prior to the initial offer of the security in this State, all documents that
30 are part of a federal registration statement filed with the Securities and
31 Exchange Commission under the Securities Act of 1933, or, in lieu
32 thereof, a form prescribed by the Administrator, together with a consent
33 to service of process signed by the issuer and with the payment of a
34 notice filing fee of ~~one tenth of one percent (1/10 of 1%) of the maximum~~
35 ~~aggregate offering price at which the securities covered under federal law are~~
36 ~~to be offered in this State, but the notice filing fee shall not be less than~~
37 ~~twenty five dollars (\$25.00) or more than one thousand six hundred dollars~~
38 ~~(\$1,600).~~ two thousand dollars (\$2,000).
- 39 (2) After the initial offer of the security in this State, all documents that are
40 part of an amendment to a federal registration statement filed with the
41 Securities and Exchange Commission under the Securities Act of 1933,
42 or, in lieu thereof, a form prescribed by the Administrator, which shall
43 be filed concurrently with the Administrator.

- 1 (3) A report of the value of securities covered under federal law that are
2 offered or sold in this State.
- 3 (4) A notice filing pursuant to this section shall expire on December 31 of
4 each year or some other date not more than one year from its effective
5 date as the Administrator may by rule or order provide. A notice filing
6 of the offer of securities covered under federal law that are to be offered
7 for a period in excess of one year shall be renewed annually by payment
8 of a renewal fee of one hundred dollars (\$100.00) and by filing any
9 documents and reports that the Administrator may by rule or order
10 require consistent with this section. The renewal shall be effective upon
11 the expiration of the prior notice period.
- 12 (5) A notice filed in accordance with this section may be amended after its
13 effective date to increase the securities specified as proposed to be
14 offered. An amendment becomes effective upon receipt by the
15 Administrator. Every person submitting an amended notice filing shall
16 pay a fee calculated in the manner specified in subdivision (1) of this
17 subsection and a filing fee of fifty dollars (\$50.00) with respect to the
18 additional securities proposed to be offered."

19 Section 7. G.S. 147-37 reads as rewritten:

20 **"§ 147-37. Secretary of State; fees to be collected.**

21 When no other charge is provided by law, the Secretary of State shall collect such fees
22 for copying any document or record on file in his office which in his discretion bears a
23 reasonable relation to the quantity of copies supplied and the cost of purchasing or
24 leasing and maintaining copying equipment. These fees may be changed from time to
25 time, but a schedule of fees shall be available on request at all times. In addition to
26 copying charges, the Secretary of State shall collect a fee of ~~six dollars and twenty-five~~
27 ~~cents (\$6.25)~~ ten dollars (\$10.00) for certifying any document or record on file in his
28 office or for issuing any certificate as to the facts shown by the records on file in his
29 office."

30 **PART IV. INCREASE AUTOPSY FEE**

31 Section 8. G.S. 130A-389(a) reads as rewritten:

32 "(a) If, in the opinion of the medical examiner investigating the case or of the Chief
33 Medical Examiner, it is advisable and in the public interest that an autopsy or other study
34 be made; or, if an autopsy or other study is requested by the district attorney of the county
35 or by any superior court judge, an autopsy or other study shall be made by the Chief
36 Medical Examiner or by a competent pathologist designated by the Chief Medical
37 Examiner. A complete autopsy report of findings and interpretations, prepared on forms
38 designated for the purpose, shall be submitted promptly to the Chief Medical Examiner.
39 Copies of the report shall be furnished the authorizing medical examiner, district attorney
40 or superior court judge. A copy of the report shall be furnished to other persons upon
41 request. A fee for the autopsy or other study shall be paid by the State. However, if the
42 deceased is a resident of the county in which the death or fatal injury occurred, that

1 county shall pay the fee. The fee shall be ~~four hundred dollars (\$400.00)~~ one thousand
2 dollars (\$1,000)."

3 PART V. WATER QUALITY FEES

4 Section 9. Part 1 of Article 21 of Chapter 143 of the General Statutes is
5 amended by adding a new section to read:

6 "§ 143-215.3D. Fee schedule for water quality permits.

7 (a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

8 (1) Major Individual NPDES Permits. – The annual fee for an individual
9 permit for a point source discharge of 1,000,000 or more gallons per
10 day, a publically owned treatment works (POTW) that administers a
11 POTW pretreatment program, as defined in 40 Code of Federal
12 Regulations § 403.3 (1 July 1996 Edition), or an industrial waste
13 treatment works that has a high toxic pollutant potential shall be two
14 thousand eight hundred sixty-five dollars (\$2,865).

15 (2) Minor Individual NPDES Permits. – The annual fee for an individual
16 permit for a point source discharge other than a point source discharge
17 to which subdivision (1) of this subsection applies shall be seven
18 hundred fifteen dollars (\$715.00).

19 (3) Single-Family Residence. – The annual fee for a certificate of coverage
20 under a general permit for a point source discharge or an individual
21 nondischarge permit from a single-family residence shall be fifty dollars
22 (\$50.00).

23 (4) Stormwater and Wastewater Discharge General Permits. – The annual
24 fee for a certificate of coverage under a general permit for a point source
25 discharge of stormwater or wastewater shall be eighty dollars (\$80.00).

26 (5) Recycle Systems. – The annual fee for an individual permit for a recycle
27 system nondischarge permit shall be three hundred dollars (\$300.00).

28 (6) Major Nondischarge Permits. – The annual fee for an individual permit
29 for a nondischarge of 10,000 or more gallons per day or requiring 300
30 or more acres of land shall be one thousand ninety dollars (\$1,090).

31 (7) Minor Nondischarge Permits. – The annual fee for an individual permit
32 for a nondischarge of less than 10,000 gallons per day or requiring less
33 than 300 acres of land shall be six hundred seventy-five dollars
34 (\$675.00).

35 (8) Animal Waste Management Systems. – The annual fee for animal
36 waste management systems shall be as set out in G.S. 143-215.10G.

37 (b) Application fee for new discharge and nondischarge permits. – An application
38 for a new permit of the type set out in subsection (a) of this section shall be accompanied
39 by an initial application fee equal to the annual fee for that permit. If a permit is issued,
40 the application fee will be applied as the annual fee for the first year that the permit is in
41 effect. If the application is denied, the application fee shall not be refunded.

42 (c) Application and annual fees for consent special orders. –

1 (1) Major consent special orders. – If the Commission enters into a consent
2 special order, assurance of voluntary compliance, or similar document
3 pursuant to G.S. 143-215.2 for an activity subject to an annual fee under
4 subdivision (1) or (6) of subsection (a) of this section, the initial project
5 fee shall be four hundred dollars (\$400.00) and the annual fee shall be
6 five hundred dollars (\$500.00). These fees shall be in addition to the
7 annual fee due under subsection (a) of this section.

8 (2) Minor consent special orders. – If the Commission enters into a consent
9 special order, assurance of voluntary compliance, or similar document
10 pursuant to G.S. 143-215.2 for an activity subject to an annual fee under
11 subdivision (2) or (7) of subsection (a) of this section, the initial project
12 fee shall be four hundred dollars (\$400.00) and the annual fee shall be
13 two hundred fifty dollars (\$250.00). These fees shall be in addition to
14 the annual fee due under subsection (a) of this section.

15 (d) Fee for major permit modifications. – An application for a major modification
16 of a permit of the type set out in subsection (a) of this section shall be accompanied by an
17 application fee equal to thirty percent (30%) of the annual fee applicable to that permit.
18 A major modification of a permit is any modification that would allow an increase in the
19 volume or pollutant load of the discharge or nondischarge or that would result in a
20 significant relocation of the point of discharge, as determined by the Commission. This
21 fee shall be in addition to the fees due under subsections (a) and (c) of this section. If the
22 application is denied, the application fee shall not be refunded.

23 (e) Other fees under this Article. –

24 (1) Sewer system extension permits. – The application fee for a permit for
25 the construction of a new sewer system or for the extension of an
26 existing sewer system shall be four hundred dollars (\$400.00).

27 (2) State stormwater permits. – The application fee for a permit regulating
28 stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 shall be
29 four hundred twenty dollars (\$420.00).

30 (3) Major water quality certifications. – The fee for a water quality
31 certification involving one acre or more of wetland fill or 150 feet or
32 more of stream impact shall be four hundred seventy-five dollars
33 (\$475.00).

34 (4) Minor water quality certifications. – The fee for a water quality
35 certification involving less than one acre of wetland fill or less than 150
36 feet of stream impact shall be two hundred dollars (\$200.00).

37 (5) Permit for land application of petroleum contaminated soils. – The fee
38 for a permit to apply petroleum contaminated soil to land shall be four
39 hundred dollars (\$400.00).

40 (6) Fee nonrefundable. – If an application for a permit or a certification
41 described in this subsection is denied, the application or certification fee
42 shall not be refunded."

43 Section 10. G.S. 143-215.3(a) reads as rewritten:

1 (a) Additional Powers. – In addition to the specific powers prescribed elsewhere in
2 this Article, and for the purpose of carrying out its duties, the Commission shall have the
3 power:

4 (1) To make rules implementing Articles 21, 21A, 21B, or 38 of this
5 Chapter.

6 (1a) To ~~charge~~ adopt fee schedules and collect fees for the following:

7 a. Processing of applications for permits or registrations issued
8 under ~~Articles~~ Article 21, other than Parts 1 and 1A, Articles 21A,
9 21B, and 38 of this Chapter;

10 b. Administering permits or registrations issued under ~~Articles~~
11 Article 21, other than Parts 1 and 1A, Articles 21A, 21B, or and
12 38 of this Chapter including monitoring compliance with the
13 terms of those permits; and

14 c. Reviewing, processing, and publicizing applications for
15 construction grant awards under the Federal Water Pollution
16 Control Act.

17 No fee may be charged under this provision, however, to a farmer who
18 submits an application that pertains to his farming operations.

19 (1b) ~~The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing~~
20 ~~an application for a permit under G.S. 143-215.1 of Article 21 may not~~
21 ~~exceed four hundred dollars (\$400.00). The fee to be charged pursuant~~
22 ~~to G.S. 143-215.3(a)(1a) for processing an application for a permit~~
23 ~~under G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this~~
24 ~~Chapter may not exceed five hundred dollars (\$500.00). The fee to be~~
25 ~~charged pursuant to G.S. 143-215.3(a)(1a) for processing a registration~~
26 ~~under Part 2A of this Article or Article 38 of this Chapter may not~~
27 ~~exceed fifty dollars (\$50.00) for any single registration. An additional~~
28 ~~fee of twenty percent (20%) of the registration processing fee may be~~
29 ~~assessed for a late registration under Article 38 of this Chapter. The fee~~
30 ~~for administering and compliance monitoring under G.S. 143-215.1 of~~
31 ~~Article 21 Article 21, other than Parts 1 and 1A, and G.S. 143-215.108~~
32 ~~and G.S. 143-215.109 of Article 21B shall be charged on an annual~~
33 ~~basis for each year of the permit term and may not exceed one thousand~~
34 ~~five hundred dollars (\$1,500) per year. Fees for processing all permits~~
35 ~~under Article 21A and all other sections of Articles 21 and Article 21B~~
36 ~~shall not exceed one hundred dollars (\$100.00) for any single permit.~~
37 ~~Notwithstanding any other provision of this subdivision, the~~ The total
38 payment for fees required that are set by the Commission under this
39 subsection for all permits under this subsection for any single facility
40 shall not exceed seven thousand five hundred dollars (\$7,500) per year,
41 which amount shall include all application fees and fees for
42 administration and compliance monitoring. A single facility is defined
43 to be any contiguous area under one ownership and in which permitted

1 activities occur. For all permits issued under these Articles where a fee
2 schedule is not specified in the statutes, the Commission, or other
3 commission specified by statute shall adopt a fee schedule in a rule
4 following the procedures established by the Administrative Procedure
5 Act. Fee schedules shall be established to reflect the size of the emission
6 or discharge, the potential impact on the environment, the staff costs
7 involved, relative costs of the issuance of new permits and the
8 reissuance of existing permits, and shall include adequate safeguards to
9 prevent unusual fee assessments which would result in serious economic
10 burden on an individual applicant. A system shall be considered to
11 allow consolidated annual payments for persons with multiple permits.
12 In its rulemaking to establish fee schedules, the Commission is also
13 directed to consider a method of rewarding facilities which achieve full
14 compliance with administrative and self-monitoring reporting
15 requirements, and to consider, in those cases where the cost of renewal
16 or amendment of a permit is less than for the original permit, a lower fee
17 for the renewal or amendment.

18 (1c) Moneys collected pursuant to G.S. 143-215.3(a)(1a) shall be used to:

- 19 a. Eliminate, insofar as possible, backlogs of permit applications
20 awaiting agency action;
- 21 b. Improve the quality of permits issued;
- 22 c. Improve the rate of compliance of permitted activities with
23 environmental standards; and
- 24 d. Decrease the length of the processing period for permit
25 applications.

26 (1d) The Commission may adopt and implement a graduated fee schedule
27 sufficient to cover all direct and indirect costs required for the State to
28 develop and administer a permit program which meets the requirements
29 of Title V. The provisions of subdivision (1b) of this subsection do not
30 apply to the adoption of a fee schedule under this subdivision. In
31 adopting and implementing a fee schedule, the Commission shall
32 require that the owner or operator of all air contaminant sources subject
33 to the requirement to obtain a permit under Title V to pay an annual fee,
34 or the equivalent over some other period, sufficient to cover costs as
35 provided in section 502(b)(3)(A) of Title V. The fee schedule shall be
36 adopted according to the procedures set out in Chapter 150B of the
37 General Statutes.

- 38 a. The total amount of fees collected under the fee schedule adopted
39 pursuant to this subdivision shall conform to the requirements of
40 section 502(b)(3)(B) of Title V. No fee shall be collected for
41 more than 4,000 tons per year of any individual regulated
42 pollutant, as defined in section 502(b)(3)(B)(ii) of Title V,

1 emitted by any source. Fees collected pursuant to this subdivision
2 shall be credited to the Title V Account.

3 b. The Commission may reduce any permit fee required under this
4 section to take into account the financial resources of small
5 business stationary sources as defined under Title V and
6 regulations promulgated by the United States Environmental
7 Protection Agency.

8 c. When funds in the Title V Account exceed the total amount
9 necessary to cover the cost of the Title V program for the next
10 fiscal year, the Secretary shall reduce the amount billed for the
11 next fiscal year so that the excess funds are used to supplement
12 the cost of administering the Title V permit program in that fiscal
13 year.

14 (1e) The Commission shall collect the application, annual, and project fees
15 for processing and administering permits, certificates of coverage under
16 general permits, and certifications issued under Parts 1 and 1A of this
17 Article and for compliance monitoring under Parts 1 and 1A of this
18 Article as provided in G.S. 143-215.3D and G.S. 143-215.10G.

19 (2) To direct that such investigation be conducted as it may reasonably
20 deem necessary to carry out its duties as prescribed by this Article or
21 Article 21A or Article 21B of this Chapter, and for this purpose to enter
22 at reasonable times upon any property, public or private, for the purpose
23 of investigating the condition of any waters and the discharge therein of
24 any sewage, industrial waste, or other waste or for the purpose of
25 investigating the condition of the air, air pollution, air contaminant
26 sources, emissions, or the installation and operation of any air-cleaning
27 devices, and to require written statements or the filing of reports under
28 oath, with respect to pertinent questions relating to the operation of any
29 air-cleaning device, sewer system, disposal system, or treatment works.
30 In the case of effluent or emission data, any records, reports, or
31 information obtained under this Article or Article 21A or Article 21B of
32 this Chapter shall be related to any applicable effluent or emission
33 limitations or toxic, pretreatment, or new source performance standards.
34 No person shall refuse entry or access to any authorized representative
35 of the Commission or Department who requests entry for purposes of
36 inspection, and who presents appropriate credentials, nor shall any
37 person obstruct, hamper or interfere with any such representative while
38 in the process of carrying out his official duties.

39 (3) To conduct public hearings and to delegate the power to conduct public
40 hearings in accordance with the procedures prescribed by this Article or
41 by Article 21B of this Chapter.

42 (4) To delegate such of the powers of the Commission as the Commission
43 deems necessary to one or more of its members, to the Secretary or any

1 other qualified employee of the Department. The Commission shall not
2 delegate to persons other than its own members and the designated
3 employees of the Department the power to conduct hearings with
4 respect to the classification of waters, the assignment of classifications,
5 air quality standards, air contaminant source classifications, emission
6 control standards, or the issuance of any special order except in the case
7 of an emergency under subdivision (12) of this subsection for the
8 abatement of existing water or air pollution. Any employee of the
9 Department to whom a delegation of power is made to conduct a
10 hearing shall report the hearing with its evidence and record to the
11 Commission.

12 (5) To institute such actions in the superior court of any county in which a
13 violation of this Article, Article 21B of this Chapter, or the rules of the
14 Commission has occurred, or, in the discretion of the Commission, in
15 the superior court of the county in which any defendant resides, or has
16 his or its principal place of business, as the Commission may deem
17 necessary for the enforcement of any of the provisions of this Article,
18 Article 21B of this Chapter, or of any official action of the Commission,
19 including proceedings to enforce subpoenas or for the punishment of
20 contempt of the Commission.

21 (6) To agree upon or enter into any settlements or compromises of any
22 actions and to prosecute any appeals or other proceedings.

23 (7) To direct the investigation of any killing of fish and wildlife which, in
24 the opinion of the Commission, is of sufficient magnitude to justify
25 investigation and is known or believed to have resulted from the
26 pollution of the waters or air as defined in this Article, and whenever
27 any person, whether or not he shall have been issued a certificate of
28 approval, permit or other document of approval authorized by this or
29 any other State law, has negligently, or carelessly or unlawfully, or
30 willfully and unlawfully, caused pollution of the waters or air as defined
31 in this Article, in such quantity, concentration or manner that fish or
32 wildlife are killed as the result thereof, the Commission, may recover, in
33 the name of the State, damages from such person. The measure of
34 damages shall be the amount determined by the Department and the
35 North Carolina Wildlife Resources Commission, whichever has
36 jurisdiction over the fish and wildlife destroyed to be the replacement
37 cost thereof plus the cost of all reasonable and necessary investigations
38 made or caused to be made by the State in connection therewith. Upon
39 receipt of the estimate of damages caused, the Department shall notify
40 the persons responsible for the destruction of the fish or wildlife in
41 question and may effect such settlement as the Commission may deem
42 proper and reasonable, and if no settlement is reached within a
43 reasonable time, the Commission shall bring a civil action to recover

1 such damages in the superior court in the county in which the discharge
2 took place. Upon such action being brought the superior court shall have
3 jurisdiction to hear and determine all issues or questions of law or fact,
4 arising on the pleadings, including issues of liability and the amount of
5 damages. On such hearing, the estimate of the replacement costs of the
6 fish or wildlife destroyed shall be prima facie evidence of the actual
7 replacement costs of such fish or wildlife. In arriving at such estimate,
8 any reasonably accurate method may be used and it shall not be
9 necessary for any agent of the Wildlife Resources Commission or the
10 Department to collect, handle or weigh numerous specimens of dead
11 fish or wildlife.

12 The State of North Carolina shall be deemed the owner of the fish or
13 wildlife killed and all actions for recovery shall be brought by the
14 Commission on behalf of the State as the owner of the fish or wildlife.
15 The fact that the person or persons alleged to be responsible for the
16 pollution which killed the fish or wildlife holds or has held a certificate
17 of approval, permit or other document of approval authorized by this
18 Article or any other law of the State shall not bar any such action. The
19 proceeds of any recovery, less the cost of investigation, shall be used to
20 replace, insofar as and as promptly as possible, the fish and wildlife
21 killed, or in cases where replacement is not practicable, the proceeds
22 shall be used in whatever manner the responsible agency deems proper
23 for improving the fish and wildlife habitat in question. Any such funds
24 received are hereby appropriated for these designated purposes. Nothing
25 in this paragraph shall be construed in any way to limit or prevent any
26 other action which is now authorized by this Article.

- 27 (8) After issuance of an appropriate order, to withhold the granting of any
28 permit or permits pursuant to G.S. 143-215.1 or G.S. 143-215.108 for
29 the construction or operation of any new or additional disposal system
30 or systems or air-cleaning device or devices in any area of the State.
31 Such order may be issued only upon determination by the Commission,
32 after public hearing, that the permitting of any new or additional source
33 or sources of water or air pollution will result in a generalized condition
34 of water or air pollution within the area contrary to the public interest,
35 detrimental to the public health, safety, and welfare, and contrary to the
36 policy and intent declared in this Article or Article 21B of this Chapter.
37 The Commission may make reasonable distinctions among the various
38 sources of water and air pollution and may direct that its order shall
39 apply only to those sources which it determines will result in a
40 generalized condition of water or air pollution.

41 The determination of the Commission shall be supported by detailed
42 findings of fact and conclusions set forth in the order and based upon
43 competent evidence of record. The order shall describe the geographical

1 area of the State affected thereby with particularity and shall prohibit the
2 issuance of permits pending a determination by the Commission that the
3 generalized condition of water or air pollution has ceased.

4 Notice of hearing shall be given in accordance with the provisions of
5 G.S. 150B-21.2.

6 A person aggrieved by an order of the Commission under this
7 subdivision may seek judicial review of the order under Article 4 of
8 Chapter 150B of the General Statutes without first commencing a
9 contested case. An order may not be stayed while it is being reviewed.

10 (9) If an investigation conducted pursuant to this Article or Article 21B of
11 this Chapter reveals a violation of any rules, standards, or limitations
12 adopted by the Commission pursuant to this Article or Article 21B of
13 this Chapter, or a violation of any terms or conditions of any permit
14 issued pursuant to G.S. 143-215.1 or 143-215.108, or special order or
15 other document issued pursuant to G.S. 143-215.2 or G.S. 143-215.110,
16 the Commission may assess the reasonable costs of any investigation,
17 inspection or monitoring survey which revealed the violation against the
18 person responsible therefor. If the violation resulted in an unauthorized
19 discharge to the waters or atmosphere of the State, the Commission may
20 also assess the person responsible for the violation for any actual and
21 necessary costs incurred by the State in removing, correcting or abating
22 any adverse effects upon the water or air resulting from the
23 unauthorized discharge. If the person responsible for the violation
24 refuses or fails within a reasonable time to pay any sums assessed, the
25 Commission may institute a civil action in the superior court of the
26 county in which the violation occurred or, in the Commission's
27 discretion, in the superior court of the county in which such person
28 resides or has his or its principal place of business, to recover such
29 sums.

30 (10) To require a laboratory facility that performs any tests, analyses,
31 measurements, or monitoring required under this Article or Article 21B
32 of this Chapter to be certified annually by the Department, to establish
33 standards that a laboratory facility and its employees must meet and
34 maintain in order for the laboratory facility to be certified, and to charge
35 a laboratory facility a fee for certification. Fees collected under this
36 subdivision shall be credited to the Water and Air Account and used to
37 administer this subdivision. These fees shall be applied to the cost of
38 certifying commercial, industrial, and municipal laboratory facilities.

39 (11) Repealed by Session Laws 1983, c. 296, s. 6.

40 (12) To declare an emergency when it finds that a generalized condition of
41 water or air pollution which is causing imminent danger to the health or
42 safety of the public. Regardless of any other provisions of law, if the
43 Department finds that such a condition of water or air pollution exists

1 and that it creates an emergency requiring immediate action to protect
2 the public health and safety or to protect fish and wildlife, the Secretary
3 of the Department with the concurrence of the Governor, shall order
4 persons causing or contributing to the water or air pollution in question
5 to reduce or discontinue immediately the emission of air contaminants
6 or the discharge of wastes. Immediately after the issuance of such order,
7 the chairman of the Commission shall fix a place and time for a hearing
8 before the Commission to be held within 24 hours after issuance of such
9 order, and within 24 hours after the commencement of such hearing, and
10 without adjournment thereof, the Commission shall either affirm,
11 modify or set aside the order.

12 In the absence of a generalized condition of air or water pollution of
13 the type referred to above, if the Secretary finds that the emissions from
14 one or more air contaminant sources or the discharge of wastes from
15 one or more sources of water pollution is causing imminent danger to
16 human health and safety or to fish and wildlife, he may with the
17 concurrence of the Governor order the person or persons responsible for
18 the operation or operations in question to immediately reduce or
19 discontinue the emissions of air contaminants or the discharge of wastes
20 or to take such other measures as are, in his judgment, necessary,
21 without regard to any other provisions of this Article or Article 21B of
22 this Chapter. In such event, the requirements for hearing and affirmance,
23 modification or setting aside of such orders set forth in the preceding
24 paragraph of this subdivision shall apply.

25 (13) Repealed by Session Laws 1983, c. 296, s. 6.

26 (14) To certify and approve, by appropriate delegations and conditions in
27 permits required by G.S. 143-215.1, requests by publicly owned
28 treatment works to implement, administer and enforce a pretreatment
29 program for the control of pollutants which pass through or interfere
30 with treatment processes in such treatment works; and to require such
31 programs to be developed where necessary to comply with the Federal
32 Water Pollution Control Act and the Resource Conservation and
33 Recovery Act, including the addition of conditions and compliance
34 schedules in permits required by G.S. 143-215.1. Pretreatment programs
35 submitted by publicly owned treatment works shall include, at a
36 minimum, the adoption of pretreatment standards, a permit or equally
37 effective system for the control of pollutants contributed to the
38 treatment works, and the ability to effectively enforce compliance with
39 the program.

40 (15) To adopt rules for the prevention of pollution from underground tanks
41 containing petroleum, petroleum products, or hazardous substances.
42 Rules adopted under this section may incorporate standards and

1 restrictions which exceed and are more comprehensive than comparable
2 federal regulations.

3 (16) To adopt rules limiting the manufacture, storage, sale, distribution or
4 use of cleaning agents containing phosphorus pursuant to G.S. 143-
5 214.4(e), and to adopt rules limiting the manufacture, storage, sale,
6 distribution or use of cleaning agents containing nitrilotriacetic acid.

7 (17) To adopt rules to implement Part 2A of Article 21A of Chapter 143."

8 Section 11. G.S. 143-215.3A reads as rewritten:

9 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees;**
10 **Title V Account; I & M Air Pollution Control Account; reports.**

11 (a) The Water and Air Quality Account is established as a nonreverting account
12 within the Department. Revenue in the Account shall be applied to the costs of
13 administering the programs for which the fees were collected. Revenue credited to the
14 Account pursuant to G.S. 105-449.125, 105-449.134, and 105-449.43 shall be used to
15 administer the air quality program. Except for the following fees, all application fees and
16 permit administration fees collected by the State for permits issued under Articles 21,
17 21A, 21B, and 38 of this Chapter shall be credited to the Account:

18 (1) Fees collected under Part 2 of Article 21A and credited to the Oil or
19 Other Hazardous Substances Pollution Protection Fund.

20 (2) Fees credited to the Title V Account.

21 (3) Fees credited to the Wastewater Treatment Works Emergency
22 Maintenance, Operation and Repair Fund under G.S. 143-215.3B.

23 (4) Fees collected under G.S. 143-215.28A.

24 (5) Fees collected under G.S. 143-215.94C shall be credited to the
25 Commercial Leaking Petroleum Underground Storage Tank Cleanup
26 Fund.

27 (a1) The total monies collected per year from fees for permits under G.S. 143-
28 215.3(a)(1a), after deducting those monies collected under G.S. ~~143-215.3(A)(1d)~~, ~~143-~~
29 ~~215.3(a)(1d)~~, shall not exceed thirty percent (30%) of the total budgets from all sources
30 of environmental permitting and compliance programs within the Department. This
31 subsection shall not be construed to relieve any person of the obligation to pay a fee
32 established under this Article or Articles 21A, 21B, or 38 of this Chapter.

33 (b) The Title V Account is established as a nonreverting account within the
34 Department. Revenue in the Account shall be used for developing and implementing a
35 permit program that meets the requirements of Title V. The Title V Account shall consist
36 of fees collected pursuant to G.S. 143-215.3(a)(1d) and G.S. 143-215.106A. Fees
37 collected under G.S. 143-215.3(a)(1d) shall be used only to cover the direct and indirect
38 costs required to develop and administer the Title V permit program, and fees collected
39 under G.S. 143-215.106A shall be used only for the eligible expenses of the Title V
40 program. Expenses of the Air Quality Compliance Advisory Panel, the ombudsman for
41 the Small Business Stationary Source Technical and Environmental Compliance
42 Assistance Program, support staff, equipment, legal services provided by the Attorney

1 General, and contracts with consultants and program expenses listed in section
2 502(b)(3)(A) of Title V shall be included among Title V program expenses.

3 (b1) The I & M Air Pollution Control Account is established as a nonreverting
4 account within the Department. Fees transferred to the Division of Air Quality of the
5 Department pursuant to G.S. 20-183.7(c)(2) shall be credited to the I & M Air Pollution
6 Control Account and shall be applied to the costs of developing and implementing an air
7 pollution control program for mobile sources.

8 (c) The Department shall make an annual report to the General Assembly and its
9 Fiscal Research Division on the cost of the State's environmental permitting programs
10 contained within such Department. In addition, the Department shall make an annual
11 report to the General Assembly and its Fiscal Research Division on the cost of the Title V
12 program. The reports shall include, but are not limited to, fees set and established under
13 this Article, fees collected under this Article, revenues received from other sources for
14 environmental permitting and compliance programs, changes made in the fee schedule
15 since the last report, anticipated revenues from all other sources, interest earned and any
16 other information requested by the General Assembly."

17 Section 12. G.S. 143-215.10G reads as rewritten:

18 **"§ 143-215.10G. Fees for animal waste management systems.**

19 (a) Department shall charge an annual permit fee of all animal operations that are
20 subject to a permit under G.S. 143-215.10C for animal waste management systems
21 according to the following schedule:

22 (1) For a system with a design capacity of 38,500 or more and less than
23 100,000 pounds steady state live weight, fifty dollars (\$50.00).

24 (2) For a system with a design capacity of 100,000 or more and less than
25 800,000 pounds steady state live weight, one hundred fifty dollars
26 ~~(\$100.00)~~ ~~(\$150.00)~~.

27 (3) For a system with a design capacity of 800,000 pounds or more steady
28 state live weight, ~~two~~ three hundred dollars ~~(\$200.00)~~ ~~(\$300.00)~~.

29 (b) An application for a new permit under this section shall be accompanied by an
30 initial application fee equal to the annual fee for that permit. If a permit is issued, the
31 application fee will be applied as the annual fee for the first year that the permit is in
32 effect. If the application is denied, the application fee shall not be refunded.

33 (c) Fees collected under this section shall be credited to the Water and Air Quality
34 Account. The Department shall use fees collected pursuant to this section to cover the
35 costs of administering this Part."

36 Section 13. G.S. 90A-42(a) reads as rewritten:

37 "(a) The Commission, in establishing procedures for implementing the
38 requirements of this Article, shall impose the following schedule of fees:

39 (1) Examination including Certificate, ~~\$75.00~~, \$85.00;

40 (2) Temporary Certificate, \$200.00;

41 (3) Temporary Certification Renewal, \$300.00;

42 (4) Conditional Certificate, \$75.00;

43 (5) Repealed by Session Laws 1987, c. 582, s. 3.

- 1 (6) Reciprocity Certificate, \$100.00;
2 (6a) Voluntary Conversion Certificate, \$50.00;
3 (7) Annual Renewal, ~~\$30.00~~; \$35.00;
4 (8) Replacement of Certificate, \$20.00;
5 (9) Late Payment of Annual Renewal, \$50.00 penalty in addition to all
6 current and past due annual renewal fees plus one hundred dollars
7 (\$100.00) penalty per year for each year for which annual renewal fees
8 were not paid prior to the current year; and
9 (10) Mailing List Charges – The Commission may provide mailing lists of
10 certified water pollution control system operators and of water pollution
11 control system operators to persons who request such lists. The charge
12 for such lists shall be twenty-five dollars (\$25.00) for each such list
13 provided."

14 Section 14. G.S. 90A-47.4(a) reads as rewritten:

15 "(a) An applicant for certification under this Part shall pay a fee of ~~ten dollars~~
16 ~~(\$10.00)~~ twenty-five dollars (\$25.00) for the examination and the certificate."

17 Section 15. Subsection (d) of Section 27.13 of Chapter 18 of the 1995 Session
18 Laws (1996 Second Extra Session) is repealed.

19 Section 16. This act shall not be construed to relieve any person of the
20 obligation to pay any fees due for any activity described in this act under the schedule of
21 fees in effect prior to the date this act becomes effective.

22 **PART VI. EFFECTIVE DATES**

23 Section 17. PART V of this act becomes effective 1 January 1999. The
24 remainder of this act becomes effective 1 July 1998. Section 8 of this act applies to
25 autopsies or other studies performed on and after that date.