

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1037

Short Title: No Air Permit Until Facility/ Equip Operational.

(Public)

Sponsors: Senator Hoyle.

Referred to: Agriculture/Environment/Natural Resources.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE EVENT THAT TRIGGERS THE REQUIREMENT TO OBTAIN AN AIR QUALITY PERMIT AND TO PREVENT A PERMIT APPLICANT'S OR A PERMITTEE'S FINANCIAL INVESTMENT IN SUCH FACILITY OR EQUIPMENT FROM BEING USED AS THE BASIS FOR CHALLENGING THE DECISION ON WHETHER TO ISSUE THE PERMIT IN A CONTESTED CASE REGARDING THE APPLICANT OR PERMITTEE OPERATING ITS FACILITY OR EQUIPMENT PRIOR TO OBTAINING THE PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a) reads as rewritten:

"(a) After the effective date applicable to any air quality or emission control standards established pursuant to G.S. 143-215.107 and except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities which contravene or will be likely to contravene such standards until or unless such person shall have applied for and shall have received from the Commission a permit therefor and shall have complied with such conditions, if any, as are prescribed by such permit:

- (1) ~~Establish or operate~~ Operate any air contaminant ~~source; source.~~
- (2) ~~Build, erect, use or operate any equipment which~~ Operate any air-cleaning device that may result in the emission of air contaminants or ~~which that is likely to cause air pollution; pollution.~~
- (3) ~~Alter~~ Physically alter or change the ~~construction or~~ method of operation of any ~~equipment or process~~ air contaminant source or air-cleaning device from which air contaminants are or may be ~~emitted;~~ emitted.

1 (4) Enter into an irrevocable contract for the ~~construction and installation~~
2 operation of any air-cleaning ~~device, or allow or cause such device to~~
3 ~~be installed or operated.~~ device."

4 **SECTION 2.** G.S. 143-215.108(e) reads as rewritten:

5 "(e) A permit applicant or permittee who is dissatisfied with a decision of the
6 Commission may commence a contested case by filing a petition under G.S. 150B-23
7 within 30 days after the Commission notifies the applicant or permittee of its decision.
8 In any contested case involving a permit applicant or a permittee that performs, prior to
9 the issuance or modification of the permit, any activity subject to a permit under this
10 section, the applicant's or the permittee's financial investment in the facility or
11 equipment used in proceeding with such activity shall not be used as a basis for
12 challenging the Commission's decision to issue, modify, or deny that permit. If the
13 permit applicant or permittee does not file a petition within the required time, the
14 Commission's decision on the application is final and is not subject to review."

15 **SECTION 3.** This act is effective when it becomes law.