

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1199*
Finance Committee Substitute Adopted 6/25/98

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

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

1 **"§ 10A-7. Fee with commission application.**

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

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

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 When a registration statement is withdrawn before the effective date or a pre-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

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

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

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

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

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

38 (2) After the initial offer of the security in this State, all documents that are
39 part of an amendment to a federal registration statement filed with the
40 Securities and Exchange Commission under the Securities Act of 1933,
41 or, in lieu thereof, a form prescribed by the Administrator, which shall
42 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 day
10 shall be two thousand eight hundred sixty-five dollars (\$2,865).

11 (2) Minor Individual NPDES Permits. – The annual fee for an individual
12 permit for a point source discharge of less than 1,000,000 gallons per
13 day shall be seven hundred fifteen dollars (\$715.00).

14 (3) Single-Family Residence. – The annual fee for a certificate of coverage
15 under a general permit for a point source discharge or an individual
16 nondischarge permit from a single-family residence shall be fifty dollars
17 (\$50.00).

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

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

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

26 (7) Minor Nondischarge Permits. – The annual fee for an individual permit
27 for a nondischarge of less than 10,000 gallons per day or requiring less
28 than 300 acres of land shall be six hundred seventy-five dollars
29 (\$675.00).

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

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

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

38 (1) Major consent special orders. – If the Commission enters into a consent
39 special order, assurance of voluntary compliance, or similar document
40 pursuant to G.S. 143-215.2 for an activity subject to an annual fee under
41 subdivision (1) or (6) of subsection (a) of this section, the initial project
42 fee shall be four hundred dollars (\$400.00) and the annual fee shall be

1 five hundred dollars (\$500.00). These fees shall be in addition to the
2 annual fee due under subsection (a) of this section.

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

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

18 (e) Other fees under this Article. –

- 19 (1) Sewer system extension permits. – The application fee for a permit for
20 the construction of a new sewer system or for the extension of an
21 existing sewer system shall be four hundred dollars (\$400.00).
22 (2) State stormwater permits. – The application fee for a permit regulating
23 stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 shall be
24 four hundred twenty dollars (\$420.00).
25 (3) Major water quality certifications. – The fee for a water quality
26 certification involving one acre or more of wetland fill or 150 feet or
27 more of stream impact shall be four hundred seventy-five dollars
28 (\$475.00).
29 (4) Minor water quality certifications. – The fee for a water quality
30 certification involving less than one acre of wetland fill or less than 150
31 feet of stream impact shall be two hundred dollars (\$200.00).
32 (5) Permit for land application of petroleum contaminated soils. – The fee
33 for a permit to apply petroleum contaminated soil to land shall be four
34 hundred dollars (\$400.00).
35 (6) Fee nonrefundable. – If an application for a permit or a certification
36 described in this subsection is denied, the application or certification fee
37 shall not be refunded."

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

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

- 42 (1) To make rules implementing Articles 21, 21A, 21B, or 38 of this
43 Chapter.

- 1 (1a) To ~~charge~~ adopt fee schedules and collect fees for the following:
- 2 a. Processing of applications for permits or registrations issued
- 3 under ~~Articles~~ Article 21, other than Parts 1 and 1A, Articles 21A,
- 4 21B, and 38 of this Chapter;
- 5 b. Administering permits or registrations issued under ~~Articles~~
- 6 Article 21, other than Parts 1 and 1A, Articles 21A, 21B, or and
- 7 38 of this Chapter including monitoring compliance with the
- 8 terms of those permits; and
- 9 c. Reviewing, processing, and publicizing applications for
- 10 construction grant awards under the Federal Water Pollution
- 11 Control Act.

12 No fee may be charged under this provision, however, to a farmer who

13 submits an application that pertains to his farming operations.

- 14 (1b) ~~The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing~~
- 15 ~~an application for a permit under G.S. 143-215.1 of Article 21 may not~~
- 16 ~~exceed four hundred dollars (\$400.00).~~ The fee to be charged pursuant
- 17 to G.S. 143-215.3(a)(1a) for processing an application for a permit
- 18 under G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this
- 19 Chapter may not exceed five hundred dollars (\$500.00). The fee to be
- 20 charged pursuant to G.S. 143-215.3(a)(1a) for processing a registration
- 21 under Part 2A of this Article or Article 38 of this Chapter may not
- 22 exceed fifty dollars (\$50.00) for any single registration. An additional
- 23 fee of twenty percent (20%) of the registration processing fee may be
- 24 assessed for a late registration under Article 38 of this Chapter. The fee
- 25 for administering and compliance monitoring under ~~G.S. 143-215.1 of~~
- 26 Article 21 Article 21, other than Parts 1 and 1A, and G.S. 143-215.108
- 27 and G.S. 143-215.109 of Article ~~21B~~ 21B shall be charged on an annual
- 28 basis for each year of the permit term and may not exceed one thousand
- 29 five hundred dollars (\$1,500) per year. Fees for processing all permits
- 30 under Article 21A and all other sections of ~~Articles 21 and~~ Article 21B
- 31 shall not exceed one hundred dollars (\$100.00) for any single permit.
- 32 ~~Notwithstanding any other provision of this subdivision, the~~ The total
- 33 payment for fees ~~required~~ that are set by the Commission under this
- 34 subsection for all permits ~~under this subsection~~ for any single facility
- 35 shall not exceed seven thousand five hundred dollars (\$7,500) per year,
- 36 which amount shall include all application fees and fees for
- 37 administration and compliance monitoring. A single facility is defined
- 38 to be any contiguous area under one ownership and in which permitted
- 39 activities occur. For all permits issued under these Articles where a fee
- 40 schedule is not specified in the statutes, the Commission, or other
- 41 commission specified by statute shall adopt a fee schedule in a rule
- 42 following the procedures established by the Administrative Procedure
- 43 Act. Fee schedules shall be established to reflect the size of the emission

1 or discharge, the potential impact on the environment, the staff costs
2 involved, relative costs of the issuance of new permits and the
3 reissuance of existing permits, and shall include adequate safeguards to
4 prevent unusual fee assessments which would result in serious economic
5 burden on an individual applicant. A system shall be considered to
6 allow consolidated annual payments for persons with multiple permits.
7 In its rulemaking to establish fee schedules, the Commission is also
8 directed to consider a method of rewarding facilities which achieve full
9 compliance with administrative and self-monitoring reporting
10 requirements, and to consider, in those cases where the cost of renewal
11 or amendment of a permit is less than for the original permit, a lower fee
12 for the renewal or amendment.

- 13 (1c) Moneys collected pursuant to G.S. 143-215.3(a)(1a) shall be used to:
- 14 a. Eliminate, insofar as possible, backlogs of permit applications
15 awaiting agency action;
 - 16 b. Improve the quality of permits issued;
 - 17 c. Improve the rate of compliance of permitted activities with
18 environmental standards; and
 - 19 d. Decrease the length of the processing period for permit
20 applications.
- 21 (1d) The Commission may adopt and implement a graduated fee schedule
22 sufficient to cover all direct and indirect costs required for the State to
23 develop and administer a permit program which meets the requirements
24 of Title V. The provisions of subdivision (1b) of this subsection do not
25 apply to the adoption of a fee schedule under this subdivision. In
26 adopting and implementing a fee schedule, the Commission shall
27 require that the owner or operator of all air contaminant sources subject
28 to the requirement to obtain a permit under Title V to pay an annual fee,
29 or the equivalent over some other period, sufficient to cover costs as
30 provided in section 502(b)(3)(A) of Title V. The fee schedule shall be
31 adopted according to the procedures set out in Chapter 150B of the
32 General Statutes.
- 33 a. The total amount of fees collected under the fee schedule adopted
34 pursuant to this subdivision shall conform to the requirements of
35 section 502(b)(3)(B) of Title V. No fee shall be collected for
36 more than 4,000 tons per year of any individual regulated
37 pollutant, as defined in section 502(b)(3)(B)(ii) of Title V,
38 emitted by any source. Fees collected pursuant to this subdivision
39 shall be credited to the Title V Account.
 - 40 b. The Commission may reduce any permit fee required under this
41 section to take into account the financial resources of small
42 business stationary sources as defined under Title V and

1 regulations promulgated by the United States Environmental
2 Protection Agency.

- 3 c. When funds in the Title V Account exceed the total amount
4 necessary to cover the cost of the Title V program for the next
5 fiscal year, the Secretary shall reduce the amount billed for the
6 next fiscal year so that the excess funds are used to supplement
7 the cost of administering the Title V permit program in that fiscal
8 year.

9 (1e) The Commission shall collect the application, annual, and project fees
10 for processing and administering permits, certificates of coverage under
11 general permits, and certifications issued under Parts 1 and 1A of this
12 Article and for compliance monitoring under Parts 1 and 1A of this
13 Article as provided in G.S. 143-215.3D and G.S. 143-215.10G.

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

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

37 (4) To delegate such of the powers of the Commission as the Commission
38 deems necessary to one or more of its members, to the Secretary or any
39 other qualified employee of the Department. The Commission shall not
40 delegate to persons other than its own members and the designated
41 employees of the Department the power to conduct hearings with
42 respect to the classification of waters, the assignment of classifications,
43 air quality standards, air contaminant source classifications, emission

1 control standards, or the issuance of any special order except in the case
2 of an emergency under subdivision (12) of this subsection for the
3 abatement of existing water or air pollution. Any employee of the
4 Department to whom a delegation of power is made to conduct a
5 hearing shall report the hearing with its evidence and record to the
6 Commission.

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

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

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

1 fish or wildlife destroyed shall be prima facie evidence of the actual
2 replacement costs of such fish or wildlife. In arriving at such estimate,
3 any reasonably accurate method may be used and it shall not be
4 necessary for any agent of the Wildlife Resources Commission or the
5 Department to collect, handle or weigh numerous specimens of dead
6 fish or wildlife.

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

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

36 The determination of the Commission shall be supported by detailed
37 findings of fact and conclusions set forth in the order and based upon
38 competent evidence of record. The order shall describe the geographical
39 area of the State affected thereby with particularity and shall prohibit the
40 issuance of permits pending a determination by the Commission that the
41 generalized condition of water or air pollution has ceased.

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

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

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

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

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

35 (12) To declare an emergency when it finds that a generalized condition of
36 water or air pollution which is causing imminent danger to the health or
37 safety of the public. Regardless of any other provisions of law, if the
38 Department finds that such a condition of water or air pollution exists
39 and that it creates an emergency requiring immediate action to protect
40 the public health and safety or to protect fish and wildlife, the Secretary
41 of the Department with the concurrence of the Governor, shall order
42 persons causing or contributing to the water or air pollution in question
43 to reduce or discontinue immediately the emission of air contaminants

1 or the discharge of wastes. Immediately after the issuance of such order,
2 the chairman of the Commission shall fix a place and time for a hearing
3 before the Commission to be held within 24 hours after issuance of such
4 order, and within 24 hours after the commencement of such hearing, and
5 without adjournment thereof, the Commission shall either affirm,
6 modify or set aside the order.

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

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

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

35 (15) To adopt rules for the prevention of pollution from underground tanks
36 containing petroleum, petroleum products, or hazardous substances.
37 Rules adopted under this section may incorporate standards and
38 restrictions which exceed and are more comprehensive than comparable
39 federal regulations.

40 (16) To adopt rules limiting the manufacture, storage, sale, distribution or
41 use of cleaning agents containing phosphorus pursuant to G.S. 143-
42 214.4(e), and to adopt rules limiting the manufacture, storage, sale,
43 distribution or use of cleaning agents containing nitrilotriacetic acid.

1 (17) To adopt rules to implement Part 2A of Article 21A of Chapter 143."
2 Section 11. G.S. 143-215.3A reads as rewritten:
3 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees;
4 Title V Account; I & M Air Pollution Control Account; reports.**

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

- 12 (1) Fees collected under Part 2 of Article 21A and credited to the Oil or
13 Other Hazardous Substances Pollution Protection Fund.
- 14 (2) Fees credited to the Title V Account.
- 15 (3) Fees credited to the Wastewater Treatment Works Emergency
16 Maintenance, Operation and Repair Fund under G.S. 143-215.3B.
- 17 (4) Fees collected under G.S. 143-215.28A.
- 18 (5) Fees collected under G.S. 143-215.94C shall be credited to the
19 Commercial Leaking Petroleum Underground Storage Tank Cleanup
20 Fund.

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

28 (b) The Title V Account is established as a nonreverting account within the
29 Department. Revenue in the Account shall be used for developing and implementing a
30 permit program that meets the requirements of Title V. The Title V Account shall consist
31 of fees collected pursuant to G.S. 143-215.3(a)(1d) and G.S. 143-215.106A. Fees
32 collected under G.S. 143-215.3(a)(1d) shall be used only to cover the direct and indirect
33 costs required to develop and administer the Title V permit program, and fees collected
34 under G.S. 143-215.106A shall be used only for the eligible expenses of the Title V
35 program. Expenses of the Air Quality Compliance Advisory Panel, the ombudsman for
36 the Small Business Stationary Source Technical and Environmental Compliance
37 Assistance Program, support staff, equipment, legal services provided by the Attorney
38 General, and contracts with consultants and program expenses listed in section
39 502(b)(3)(A) of Title V shall be included among Title V program expenses.

40 (b1) The I & M Air Pollution Control Account is established as a nonreverting
41 account within the Department. Fees transferred to the Division of Air Quality of the
42 Department pursuant to G.S. 20-183.7(c)(2) shall be credited to the I & M Air Pollution

1 Control Account and shall be applied to the costs of developing and implementing an air
2 pollution control program for mobile sources.

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

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

13 "**§ 143-215.10G. Fees for animal waste management systems.**

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

17 (1) For a system with a design capacity of 38,500 or more and less than
18 100,000 pounds steady state live weight, fifty dollars (\$50.00).

19 (2) For a system with a design capacity of 100,000 or more and less than
20 800,000 pounds steady state live weight, one hundred fifty dollars
21 ~~(\$100.00)-(\$150.00)~~.

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

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

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

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

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

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

35 (2) Temporary Certificate, \$200.00;

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

37 (4) Conditional Certificate, \$75.00;

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

39 (6) Reciprocity Certificate, \$100.00;

40 (6a) Voluntary Conversion Certificate, \$50.00;

41 (7) Annual Renewal, ~~\$30.00;~~ \$35.00;

42 (8) Replacement of Certificate, \$20.00;

1 (9) Late Payment of Annual Renewal, \$50.00 penalty in addition to all
2 current and past due annual renewal fees plus one hundred dollars
3 (\$100.00) penalty per year for each year for which annual renewal fees
4 were not paid prior to the current year; and

5 (10) Mailing List Charges – The Commission may provide mailing lists of
6 certified water pollution control system operators and of water pollution
7 control system operators to persons who request such lists. The charge
8 for such lists shall be twenty-five dollars (\$25.00) for each such list
9 provided."

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

11 "(a) An applicant for certification under this Part shall pay a fee of ~~ten dollars~~
12 ~~(\$10.00)~~ twenty-five dollars (\$25.00) for the examination and the certificate."

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

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

18 **PART VI. EFFECTIVE DATES**

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