

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 308

Short Title: Promote Pollution Prevention.

(Public)

Sponsors: Representatives Hackney; and Luebke.

Referred to: Health and Environment.

February 23, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROMOTE POLLUTION PREVENTION IN NORTH CAROLINA BY
2 ESTABLISHING A STATE GOAL FOR REDUCTION OF RELEASES AND
3 TRANSFERS OF CERTAIN TOXIC CHEMICALS AND BY REQUIRING THE
4 DEVELOPMENT OF POLLUTION PREVENTION PLANS, AS PROPOSED BY
5 THE POLLUTION PREVENTION ADVISORY COUNCIL AND
6 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Article 9 of Chapter 130A of the General Statutes is amended by
10 adding a new Part to read:

11 **"PART 5. MULTIMEDIA POLLUTION PREVENTION.**

12 **"§ 130A-310.30. Definitions.**

13 Unless a different meaning is required by the context, the following definitions shall
14 apply throughout this Part:

- 15 (1) 'Environmentally sound recycling' means a recycling process that
16 significantly reduces the release or discharge of the constituents in the
17 material being recycled. 'Environmentally sound recycling' includes
18 both on-site and off-site recycling, but does not include on-site or off-
19 site energy recovery.

- 1 (2) 'Facility' means an operation or collection of operations on contiguous
2 property under common ownership or control.
- 3 (3) 'Large quantity generator' means any person who generates either one
4 kilogram of acute hazardous waste or 1,000 kilograms of hazardous
5 waste in any calendar month during any year beginning 1 July and
6 ending 30 June.
- 7 (4) 'Multimedia' means air, water, including surface water and groundwater,
8 and land.
- 9 (5) 'Off-site transfer' means shipment of a material from one facility to
10 another for treatment, storage disposal, or energy recovery. 'Off-site
11 transfer' includes a discharge to a publicly owned treatment works and
12 disposal in a hazardous waste disposal facility, landfill, or sanitary
13 landfill. 'Off-site transfer' does not include shipment of a material to a
14 facility for environmentally sound recycling.
- 15 (6) 'Pollution prevention' means source reduction or environmentally sound
16 recycling.
- 17 (7) 'Pollution prevention plan' means a written description of current and
18 projected plans to prevent, reduce, or minimize the generation of
19 hazardous waste and pollutants at a facility by pollution prevention.
- 20 (8) 'Release' means any spilling, leaking, pumping, pouring, emitting,
21 emptying, discharging, injecting, escaping, leaching, dumping, or
22 disposing to the air, water, groundwater, or land.
- 23 (9) 'Small business' means a business that employs 100 or fewer full-time
24 equivalent employees.
- 25 (10) 'Small quantity generator' means any person who generates 100
26 kilograms or more of hazardous waste in any calendar month and who is
27 not a large quantity generator.
- 28 (11) 'Source reduction' means any practice that reduces:
29 a. The amount of any hazardous substance, pollutant, or
30 contaminant entering any waste stream or otherwise released into
31 the environment, including, fugitive releases, prior to any out-of-
32 process recycling, treatment, or disposal.
33 b. The hazards to public health and the environment associated with
34 the release of a hazardous substance, pollutant, or contaminant.
35 Methods of achieving 'source reduction' include equipment or
36 technology modifications; process or procedure modifications;
37 reformulation or redesign of products; substitution of raw materials; use
38 of the material in manufacturing; and improvements in housekeeping,
39 maintenance, training, or inventory control.
- 40 (12) 'State agency' means any agency, as defined in G.S. 143A-3, the
41 General Assembly, the General Court of Justice, any community college
42 under the jurisdiction of the State Board of Community Colleges, and
43 The University of North Carolina.

1 (13) 'Toxics Release Inventory' means the report of toxic chemical releases
2 required by Title III, Section 313 of the Superfund Amendments and
3 Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as
4 amended.

5 **"§ 130A-130.31. State pollution prevention goal.**

6 (a) It is the goal of this State to reduce releases and off-site transfers of toxic
7 chemicals that are required to be reported on the Toxics Release Inventory by fifty
8 percent (50%) by 1 January 2005 from a baseline year of 1992. It is the goal of this State
9 that at least one-half of these reductions will be achieved through source reduction and
10 environmentally sound recycling.

11 (b) The Department shall use Toxics Release Inventory data submitted by
12 companies in Standard Industrial Classification (SIC) codes 20 through 39 and the 1992
13 list of reportable chemicals to determine statewide progress toward the goal. In
14 determining progress toward the goal, the Department shall take population increase,
15 economic expansion, and new or expanded facilities into account.

16 (c) Individual facilities are not required to meet the State goal. Individual
17 facilities are encouraged to use the State goal as a guide in establishing their own
18 pollution prevention goals and to strive for continuous improvement in the reduction of
19 releases and off-site transfers of all pollutants. The Department shall provide technical
20 assistance to individual facilities to assist individual facilities in reducing toxic chemical
21 releases and off-site transfers.

22 (d) The Department shall submit a report to the Environmental Review
23 Commission on or before 1 September of each odd-numbered year as to progress toward
24 achieving the goal. The report shall recognize facilities that achieve the greatest
25 reductions in waste generation.

26 **"§ 130A-310.32. Pollution prevention plans.**

27 (a) Any person who is (i) a small quantity generator, (ii) a large quantity
28 generator, (iii) required to hold a permit under G.S. 143-215.1, (iv) required to hold a
29 permit under G.S. 143-215.108, or (v) is a significant industrial user of a publicly owned
30 treatment works as those terms are defined in 40 Code of Federal Regulations § 403.3 (1
31 July 1994 Edition) shall prepare a written pollution prevention plan. Any person who is
32 required to prepare a pollution prevention plan shall, within one year after the plan is
33 prepared and at least annually thereafter, update the plan and shall, at the time the plan is
34 updated, prepare a written report as to progress in implementing the plan. The pollution
35 prevention plan and the annual progress reports shall be available at the facility for
36 review by employees of the Department and employees of any unit of local government
37 having jurisdiction over any part of the land where the facility is located.

38 (b) The Environmental Management Commission and the Commission for Health
39 Services shall jointly adopt rules to implement this section. These rules may provide that
40 certain activities or classes of activities that result in insignificant toxic chemical releases
41 are exempt from the requirements of this section. A pollution prevention plan shall
42 contain, at a minimum, the following:

- 1 (1) A statement of commitment to implementation of the pollution
2 prevention plan.
- 3 (2) A nonbinding pollution prevention goal expressed in either quantitative
4 or qualitative terms.
- 5 (3) A summary of past, current, and planned pollution prevention activities.
- 6 (4) A time line and strategy for implementation of planned pollution
7 prevention activities.
- 8 (5) A description of ongoing and planned employee training programs that
9 promote pollution prevention.

10 (c) An applicant for a permit, permit modification, or permit renewal for any
11 permit required under Article 9 of Chapter 130A of the General Statutes or Article 21,
12 21A, or 21B of Chapter 143 of the General Statutes shall include as a part of the permit
13 application that it submits to the Department or to a local air pollution control program
14 certified under G.S. 143-215.112 a certification that a pollution prevention plan has been
15 prepared as required by this Part and that the applicant is implementing the pollution
16 prevention plan. The certification shall be separately signed by the permit applicant.
17 This certification requirement is in addition to any other certification required by other
18 laws, regulations, or rules.

19 (d) A person who is required to prepare a pollution prevention plan under this
20 section shall provide to any person who requests a copy of the plan within 60 days of
21 receipt of a written request either a copy of the plan or an abstract of the plan. A person
22 who prepares an abstract of a pollution prevention plan is not required to disclose
23 information that constitutes a trade secret under G.S. 66-152(3). The Department shall
24 request a copy of the pollution prevention plan or an abstract of the plan on behalf of any
25 person who makes a written request to the Department. A person who fails to provide
26 either a pollution prevention plan or an abstract of the plan to the Department within 30
27 days after receipt of a written request from the Department is in violation of this Part.

28 (e) A pollution prevention plan may incorporate by reference an existing pollution
29 prevention plan prepared for the facility in accordance with other federal or State
30 requirements.

31 (f) The Department shall develop industry- or process-specific guidelines and
32 shall provide technical assistance and training for persons who are required to prepare a
33 pollution prevention plan under this section.

34 (g) As a part of its regular compliance inspection activities, the Department shall
35 review the pollution prevention plan and progress reports required by this section and
36 shall determine whether the plan meets the requirements of this section and whether the
37 progress reports are complete and accurate. A failure to prepare and maintain a pollution
38 prevention plan as required by this section is a violation of this Part. Failure to prepare
39 and maintain complete and accurate progress reports is a violation of this Part.

40 (h) The provisions of Article 21 of Chapter 66 of the General Statutes and G.S.
41 132-1.2 apply to this Part.

42 (i) Any person who (i) generates less than 100 kilograms of hazardous waste and
43 less than one kilogram of acute hazardous waste per month, (ii) is not required to obtain a

1 permit under G.S. 143-215.1 or G.S. 143-215.108, and (iii) is not a significant industrial
2 user of a publicly owned treatment works is not required to prepare a pollution prevention
3 plan under this section.

4 **"§ 130A-310.33. State agency pollution prevention.**

5 (a) It shall be the goal of each State agency to reduce its releases and off-site
6 transfers of toxic chemicals in accordance with the goal stated in G.S. 130A-310.31. Each
7 State agency shall use source reduction and environmentally sound recycling in its efforts
8 to achieve the goal whenever practicable.

9 (b) Each State agency shall submit a report to the Department on or before 1 July
10 of each odd-numbered year as to progress toward achieving the pollution prevention goal.

11 (c) The State Pollution Prevention Task Force is established to coordinate waste
12 reduction activities in State government, establish guidelines for incorporating pollution
13 prevention into State government operations, identify barriers and incentives to pollution
14 prevention in State agencies, and act as a forum for information exchange. The Secretary
15 of each department and the Chancellor of each university shall appoint at least one senior
16 staff member to the State Pollution Prevention Task Force. The Office of Waste
17 Reduction shall coordinate the efforts of the State Pollution Prevention Task Force. By 1
18 September 1996 the Task Force shall develop a report on its findings and
19 recommendations to the General Assembly and the Governor.

20 (d) The Secretary of each department and the Chancellor of each university shall
21 establish an intradepartmental pollution prevention workgroup to review practices,
22 procedures, and operations and to identify multimedia sources of waste and waste
23 reduction opportunities. Each workgroup should consist of representatives of each
24 section in that department and also include that department's member of the State
25 Pollution Prevention Task Force. Each workgroup shall review major department
26 activities, including construction, contracting, purchasing, and facilities operation and
27 management, to identify ways to reduce waste generation and environmental impacts.
28 The workgroup also shall develop a multimedia pollution prevention plan for its
29 department. The Secretary of each department will be responsible for approving the
30 pollution prevention plan and ensuring that the plan is implemented.

31 (e) Beginning 1 October 1996 and annually thereafter, State-operated facilities that
32 are comparable to industrial facilities with Standard Industrial Classification (SIC) codes
33 20 through 39 shall report to the Department the amount of toxic materials generated as
34 waste or released into the environment. This information shall be submitted in
35 accordance with the requirements of Title III of SARA.

36 (f) Each State agency shall develop procedures to ensure that pollution prevention
37 is incorporated into all contracted work where appropriate, and that pollution prevention
38 programs are required of industries receiving funds from the State.

39 (g) The Department shall provide technical assistance to State agencies in
40 implementing this section.

41 **"§ 130A-310.34. Incentives.**

42 The Department and the Department of Commerce shall develop financial incentives
43 for pollution prevention to include, but not be limited to, a capital access fund for

1 pollution prevention activities and an income tax credit for research and development of
2 pollution prevention technologies. No later than 1 February 1996, the Department and
3 the Department of Commerce jointly shall report to the Environmental Review
4 Commission the incentives developed.

5 **"§ 130A-310.35. Governor's awards of excellence in pollution prevention.**

6 Annually the Governor shall award the Governor's Award of Excellence to an
7 industry or company and a program within State government or the university system for
8 outstanding achievement in the area of pollution prevention. The Department shall
9 recommend possible recipients of this award to the Governor.

10 **"§ 130A-310.36. Environmental honors program.**

11 (a) The Department shall establish a recognition and honors program for facilities
12 that have shown exemplary performance in pollution prevention. Qualifying facilities
13 should receive recognition from the Governor and the use of a logo developed by the
14 Department that identifies the facility as a leader in pollution prevention.

15 (b) The Governor shall appoint a council for one year to establish those criteria
16 that facilities must meet to receive an honor and determine eligibility under subsection (a)
17 of this section.

18 **"§ 130A-310.37. Enforcement.**

19 The Department shall enforce the provisions of this Part as provided under its existing
20 authority to enforce Article 9 of Chapter 130A of the General Statutes and Articles 21,
21 21A, and 21B of the General Statutes. The Department shall develop and apply an
22 enforcement policy for this part that is consistent across all programs administered under
23 Article 9 of Chapter 130A of the General Statutes and Articles 21, 21A, and 21B of
24 Chapter 143 of the General Statutes."

25 Sec. 2. G.S. 130A-294(k), G.S. 130A-294(p), G.S. 143-215.1(g), and G.S.
26 143-215.108(g) are repealed.

27 Sec. 3. The first report required by G.S. 130A-310.30(d), as enacted by
28 Section 1 of this act, shall be made on or before 1 September 1997. This report shall
29 include information on those facilities that achieved significant reductions in releases and
30 off-site transfers prior to the date this act becomes effective. No person is required to
31 prepare a pollution prevention plan under G.S. 130A-310.32, as enacted by Section 1 of
32 this act, prior to 1 July 1997, provided that a pollution prevention plan shall not be
33 required for a small business prior to 1 July 1998. The first report required by G.S.
34 130A-310.33(b), as enacted by Section 1 of this act, shall be made on or before 1 July
35 1997.

36 Sec. 4. Any State agency, as defined in G.S. 130A-310.30, as enacted by
37 Section 1 of this act, may use funds appropriated or otherwise available to the agency
38 from the Reserve for Repairs and Renovations for pollution prevention projects for the
39 agency.

40 Sec. 5. This act is effective upon ratification.