

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 755

Short Title: DENR Electronic Notice. (Public)

Sponsors: Representatives McGrady and West (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Environment.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN DEPARTMENT OF ENVIRONMENT AND NATURAL
3 RESOURCES NOTICE REQUIREMENTS TO AUTHORIZE ELECTRONIC
4 NOTIFICATION AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND
5 NATURAL RESOURCES TO IDENTIFY OTHER NOTIFICATION REQUIREMENTS
6 IN STATUTE OR RULE FOR WHICH ELECTRONIC NOTICE MAY BE ADEQUATE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 87-87 reads as rewritten:

9 **"§ 87-87. Authority to adopt rules, regulations, and procedures.**

10 The Environmental Management Commission shall adopt rules governing the location,
11 construction, repair, and abandonment of wells, the operation of water wells or well systems
12 with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of
13 pumps and pumping equipment. The Environmental Management Commission shall be
14 responsible for the administration of this Article and shall:

- 15 (1) Hold public hearings, upon not less than 30 days' prior notice setting forth
16 the date, place, and time of hearing, and the proposed rules and regulations
17 to be considered at said public hearing, which notice shall be published ~~in~~
18 ~~one or more newspapers having general circulation throughout the State,~~
19 both electronically on the Department's Web site and via electronic mail
20 transmission to a list of interested parties who have requested notification in
21 connection with proposed rules and regulations and amendments thereto.
22 (2) Enforce the provisions of this Article, and any rules and regulations not
23 inconsistent with the provisions of this Article adopted pursuant thereto.
24 (3) Establish procedures and forms for the submission, review, approval, and
25 rejection of applications, notifications, and reports required under this
26 Article.
27 (4) Issue such additional regulations as may be necessary to carry out the
28 provisions of this Article.
29 (5) Neither adopt nor enforce any rule or regulation that concerns the civil
30 liability of an owner to a well driller for any costs or expenses of drilling and
31 installing a well for the owner.
32 (6) Adopt rules governing the permitting and inspection by the Commission of
33 private drinking water wells with a designed capacity of 100,000 gallons per
34 day or greater.



- 1 (7) Adopt rules governing the permitting and inspection by local health
2 departments of private drinking water wells pursuant to G.S. 87-97."

3 **SECTION 2.(a)** G.S. 143-215.1 reads as rewritten:

4 **"§ 143-215.1. Control of sources of water pollution; permits required.**

5 ...

6 (c) Applications for Permits and Renewals for Facilities Discharging to the Surface
7 Waters. –

- 8 (1) All applications for permits and for renewal of existing permits for outlets
9 and point sources and for treatment works and disposal systems discharging
10 to the surface waters of the State shall be in writing, and the Commission
11 may prescribe the form of such applications. All applications shall be filed
12 with the Commission at least 180 days in advance of the date on which it is
13 desired to commence the discharge of wastes or the date on which an
14 existing permit expires, as the case may be. The Commission shall act on a
15 permit application as quickly as possible. The Commission may conduct any
16 inquiry or investigation it considers necessary before acting on an
17 application and may require an applicant to submit plans, specifications, and
18 other information the Commission considers necessary to evaluate the
19 application.

- 20 (2) a. The Department shall refer each application for permit, or renewal of
21 an existing permit, for outlets and point sources and treatment works
22 and disposal systems discharging to the surface waters of the State to
23 its staff for written evaluation and proposed determination with
24 regard to issuance or denial of the permit. If the Commission concurs
25 in the proposed determination, it shall give notice of intent to issue or
26 deny the permit, along with any other data that the Commission may
27 determine appropriate, to be given to the appropriate State, interstate
28 and federal agencies, to interested persons, and to the public.

- 29 a1. The Commission shall prescribe the form and content of the notice.
30 Public notice shall be given at least 45 days prior to any proposed
31 final action granting or denying the permit. Public notice shall be
32 given by publication ~~of the notice one time in a newspaper having~~
33 ~~general circulation within the county, both electronically on the~~
34 Department's Web site and via electronic mail transmission to a list
35 of interested parties who have requested notification.

- 36 b. Repealed by Session Laws 1987, c. 734.

- 37 (3) If any person desires a public hearing on any application for permit or
38 renewal of an existing permit provided for in this subsection, he shall so
39 request in writing to the Commission within 30 days following date of the
40 notice of intent. The Commission shall consider all such requests for
41 hearing, and if the Commission determines that there is a significant public
42 interest in holding such hearing, at least 30 days' notice of such hearing shall
43 be given to all persons to whom notice of intent was sent and to any other
44 person requesting notice. At least 30 days prior to the date of hearing, the
45 Commission shall also ~~cause a copy of the notice thereof to be published at~~
46 ~~least one time in a newspaper having general circulation in such county. In~~
47 ~~any county in which there is more than one newspaper having general~~
48 ~~circulation in that county, the Commission shall cause a copy of such notice~~
49 ~~to be published in as many newspapers having general circulation in the~~
50 ~~county as the Commission in its discretion determines may be necessary to~~
51 assure that such notice is generally available throughout the county. publish

1 a copy of the notice both electronically on the Department's Web site and via
2 electronic mail transmission to a list of interested parties who have requested
3 notification. The Commission shall prescribe the form and content of the
4 notices.

5 The Commission shall prescribe the procedures to be followed in
6 hearings. If the hearing is not conducted by the Commission, detailed
7 minutes of the hearing shall be kept and shall be submitted, along with any
8 other written comments, exhibits or documents presented at the hearing, to
9 the Commission for its consideration prior to final action granting or
10 denying the permit.

11 "

12 **SECTION 2.(b)** G.S. 143-215.2 reads as rewritten:

13 **"§ 143-215.2. Special orders.**

14 ...

15 (a1) Public Notice and Review of Consent Orders.

16 (1) The Commission shall give notice of a proposed consent order to the proper
17 State, interstate, and federal agencies, to interested persons, and to the
18 public. The Commission may also provide any other data it considers
19 appropriate to those notified. The Commission shall prescribe the form and
20 content of the notice. The notice shall be given at least 45 days prior to any
21 final action regarding the consent order. Public notice shall be given by
22 publication of the notice ~~one time in a newspaper having general circulation~~
23 ~~within the county in which the pollution originates.~~ both electronically on the
24 Department's Web site and via electronic mail transmission to a list of
25 interested parties who have requested notification.

26 (2) Any person who desires a public meeting on any proposed consent order
27 may request one in writing to the Commission within 30 days following date
28 of the notice of the proposed consent order. The Commission shall consider
29 all such requests for meetings. If the Commission determines that there is
30 significant public interest in holding a meeting, the Commission shall
31 schedule a meeting and shall give notice of such meeting at least 30 days in
32 advance to all persons to whom notice of the proposed consent order was
33 given and to any other person requesting notice. At least 30 days prior to the
34 date of meeting, the Commission shall also have a copy of the notice of the
35 meeting ~~published at least one time in a newspaper having general~~
36 ~~circulation within the county in which the pollution originates.~~ both
37 electronically on the Department's Web site and via electronic mail
38 transmission to a list of interested parties who have requested notification.
39 The Commission shall prescribe the form and content of notices under this
40 subsection.

41 (3) The Commission shall prescribe the procedures to be followed in such
42 meetings. If the meeting is not conducted by the Commission, detailed
43 minutes of the meeting shall be kept and shall be submitted, along with any
44 other written comment, exhibits or other documents presented at the
45 meeting, to the Commission for its consideration prior to final action
46 granting or denying the consent order.

47 (4) The Commission shall take final action on a proposed consent not later than
48 60 days following notice of the proposed consent order or, if a public
49 meeting is held, within 90 days following such meeting.

50 "

51 **SECTION 2.(c)** G.S. 143-215.4 reads as rewritten:

1 "§ 143-215.4. Mailing list for rules; procedures for public input; form of order or
2 decision; seal; official notice.

3 ...

4 (b) Procedures for Public Input. –

5 (1) The Commission may, on its own motion or when required by federal law,
6 request public comments on or hold public hearings on matters within the
7 scope of its authority under this Article or Articles 21A or 21B of this
8 Chapter. To request public comments on a matter, the Commission shall
9 notify appropriate agencies of the opportunity to submit written comments to
10 the Commission on the matter and shall publish a ~~notice in a newspaper~~
11 ~~having general circulation in the affected area,~~ notice, both electronically on
12 the Department's Web site and via electronic mail transmission to a list of
13 interested parties who have requested notification, stating the matter under
14 consideration by the Commission and informing the public of its opportunity
15 to submit written comments to the Commission on the matter. A public
16 comment period shall extend for at least 30 days after the notice is
17 published.

18 (2) To hold a public hearing on a matter, the Commission shall notify, by
19 personal service or certified mail, persons directly affected by the matter
20 under consideration and shall publish a ~~notice in a newspaper having general~~
21 ~~circulation in the affected area,~~ notice, both electronically on the
22 Department's Web site and via electronic mail transmission to a list of
23 interested parties who have requested notification, stating the matter under
24 consideration by the Commission and the time, date, and place of a public
25 hearing to be held on the matter. A public hearing shall be held no sooner
26 than 20 days after the notice is published. The proceedings at a public
27 hearing held under this subsection shall be recorded. Upon payment of a fee
28 established by the Commission, any person may obtain a copy of the record
29 of the public hearing. After a public hearing, the Commission shall accept
30 written comments for the time period prescribed by the Commission.

31 (3) This subsection does not apply to rule-making proceedings, contested case
32 hearings, or the issuance of permits required under Title V. The Commission
33 shall establish procedures for public hearings, public notice, and public
34 comment respecting permits required by Title V as provided by
35 G.S. 143-215.111(4).

36 (4) The Commission may hold a public meeting on any matter within its scope
37 of authority. The Commission may hold a public meeting in addition to any
38 public hearing that is required under any provision of law, but a public
39 meeting may not be substituted for any required public hearing. Except as
40 may be otherwise provided by law, the Commission may determine the
41 procedures for any public meeting it holds.

42"

43 **SECTION 3.** The Department of Environment and Natural Resources shall review
44 the notification requirements in the General Statutes and rules under its purview and identify
45 those notification requirements for which electronic notice would provide for adequate public
46 notice. The Department shall report its findings and recommendations to the Environmental
47 Review Commission on or before October 1, 2013.

48 **SECTION 4.** Section 3 of this act becomes effective when this act becomes law.
49 The remainder of this act is effective July 1, 2013.