

**Article 21B.**

**Air Pollution Control.**

**§ 143-215.105. Declaration of policy; definitions.**

The declaration of public policy set forth in G.S. 143-211, the definitions in G.S. 143-212, and the definitions in G.S. 143-213, applicable to the control and abatement of air pollution, shall be applicable to this Article. (1973, c. 821, s. 6; 1987, c. 827, s. 203.)

**Article 21.**

**Water and Air Resources.**

**Part 1. Organization and Powers Generally; Control of Pollution.**

**§ 143-211. Declaration of public policy.**

(a) It is hereby declared to be the public policy of this State to provide for the conservation of its water and air resources. Furthermore, it is the intent of the General Assembly, within the context of this Article and Articles 21A and 21B of this Chapter, to achieve and to maintain for the citizens of the State a total environment of superior quality. Recognizing that the water and air resources of the State belong to the people, the General Assembly affirms the State's ultimate responsibility for the preservation and development of these resources in the best interest of all its citizens and declares the prudent utilization of these resources to be essential to the general welfare.

(b) It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina. Further, it is the public policy of the State that the cumulative impact of transfers from a source river basin shall not result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 1997 Edition) and the statewide antidegradation policy adopted pursuant thereto.

(c) It is the purpose of this Article to create an agency which shall administer a program of water and air pollution control and water resource management. It is the intent of the General Assembly, through the duties and powers defined herein, to confer such authority upon the Department of Environment and Natural Resources as shall be necessary to administer a complete program of water and air conservation, pollution abatement and control and to achieve a coordinated effort of pollution abatement and control with other jurisdictions. Standards of water and air purity shall be designed to protect human health, to prevent injury to plant and animal life, to prevent damage to public and private property, to insure the continued enjoyment of the natural attractions of the State, to encourage the expansion of employment opportunities, to provide a permanent foundation for healthy industrial development and to secure for the people of North Carolina, now and in the future, the beneficial uses of these great natural resources. It is the intent of the General Assembly that the powers and duties of the Environmental Management Commission and the Department of Environment and Natural Resources be construed so as to enable the Department and the Commission to qualify to administer federally mandated programs of environmental management and to qualify to accept and administer funds from the federal government for such programs. (1951, c. 606; 1967, c. 892, s. 1; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1979, 2nd Sess., c. 1158, s. 2; 1989, c. 135, s. 1; c. 727, s. 218(102); 1997-443, s. 11A.119(a); 1998-168, s. 1.)

**§ 143-212. Definitions.**

Unless a different meaning is required by the context, the following definitions apply to this Article and Articles 21A and 21B of this Chapter:

- (1) "Area of the State" means a municipality, a county, a portion of a county or a municipality, or other substantial geographic area of the State designated by the Commission.
- (2) "Commission" means the North Carolina Environmental Management Commission.
- (3) "Department" means the Department of Environment and Natural Resources.
- (4) "Person" includes individuals, firms, partnerships, associations, institutions, corporations, municipalities and other political subdivisions, and governmental agencies.
- (5) "Secretary" means the Secretary of Environment and Natural Resources.
- (6) "Waters" means any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of this State, including any portion of the Atlantic Ocean over which the State has jurisdiction. (1987, c. 827, s. 152A; 1989, c. 727, s. 218(103); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991 (Reg. Sess., 1992), c. 1028, s. 1; 1997-443, s. 11A.119(a).)

**§ 143-213. Definitions.**

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

- (1) The term "air cleaning device" means any method, process or equipment which removes, reduces, or renders less noxious air contaminants discharged into the atmosphere.
- (2) The term "air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, or vapor or any combination thereof.
- (3) The term "air contamination" means the presence in the outdoor atmosphere of one or more air contaminants which contribute to a condition of air pollution.
- (4) The term "air contamination source" means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant.
- (5) The term "air pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, to animal or plant life or to property or that interferes with the enjoyment of life or property.
- (6) to (8) Repealed by Session Laws 1987, c. 827, s. 153.
- (9) Whenever reference is made in this Article to the "discharge of waste," it shall be interpreted to include discharge, spillage, leakage, pumping, placement, emptying, or dumping into waters of the State, or into any unified sewer system or arrangement for sewage disposal, which system or arrangement in turn discharges the waste into the waters of the State.
- (10) The term "disposal system" means a system for disposing of waste, and including sewer systems and treatment works.
- (11) Repealed by Session Laws 1987, c. 827, s. 153.
- (12) The term "emission" means a release into the outdoor atmosphere of air contaminants.
- (13) The term "outlet" means the terminus of a sewer system, or the point of emergence of any waste or the effluent therefrom, into the waters of the State.
- (14) Repealed by Session Laws 1987, c. 827, s. 153.

- (15) The term "sewer system" means pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal.
- (16) The term "standard" or "standards" means such measure or measures of the quality of water and air as are established by the Commission pursuant to G.S. 143-214.1 and G.S. 143-215.
- (16a) "Stormwater" means the flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.
- (17) The term "treatment works" means any plant, septic tank disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein, installed for the purpose of treating, equalizing, neutralizing, stabilizing or disposing of waste.
- (18) "Waste" shall mean and include the following:
- a. "Sewage," which shall mean water-carried human waste discharged, transmitted, and collected from residences, buildings, industrial establishments, or other places into a unified sewerage system or an arrangement for sewage disposal or a group of such sewerage arrangements or systems, together with such ground, surface, storm, or other water as may be present.
  - b. "Industrial waste" shall mean any liquid, solid, gaseous, or other waste substance or a combination thereof resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource.
  - c. "Other waste" means sawdust, shavings, lime, refuse, offal, oil, tar chemicals, dissolved and suspended solids, sediment, and all other substances, except industrial waste, sewage, and toxic chemicals which may be discharged into or placed in such proximity to the water that drainage therefrom may reach the water.
  - d. "Toxic waste" means that waste, or combinations of wastes, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformities, in such organisms or their offspring.
- (19) The term "water pollution" means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the waters of the State, including, but specifically not limited to, alterations resulting from the concentration or increase of natural pollutants caused by man-related activities.
- (20) Repealed by Session Laws 1987, c. 827, s. 153.
- (21) The term "watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission.
- (22) The term "complex sources" means any facility which is or may be an air pollution source or which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to, shopping centers; sports complexes; drive-in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources.
- (23) The term "effluent standards or limitations" means any restrictions established pursuant to this Article on quantities, rates, characteristics and concentrations of chemical, physical,

- biological and other constituents of wastes which are discharged from any pretreatment facility or from any outlet or point source to the waters of the State.
- (24) The term "point source" means any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal-feeding operation from which wastes are or may be discharged to the waters of the State.
- (25) The term "pretreatment facility" means any treatment works installed for the purpose of treating, equalizing, neutralizing or stabilizing waste from any source prior to discharge to any disposal system subject to effluent standards or limitations.
- (26) The term "pretreatment standards" means effluent standards or limitations applicable to waste discharged from a pretreatment facility.
- (27) The term "Clean Air Act" refers to the federal Clean Air Act, as amended, codified generally at 42 U.S.C. § 7401 **et seq.**
- (28) The term "nonattainment area" refers to an area which is shown to exceed any national ambient air quality standard for such pollutant.
- (29) The term "prevention of significant deterioration" refers to the statutory and regulatory requirements arising from the Clean Air Act designed to prevent the significant deterioration of air quality in areas with air quality better than required by the national ambient air quality standards.
- (29a) Reserved.
- (29b) "Title II" means Title II of the 1990 amendments to the federal Clean Air Act and the National Emission Standards Act (Pub. L. 101-549, 104 Stat. 2471, 42 U.S.C. § 7521 **et seq.**).
- (29c) "Title III" means Title III of the 1990 amendments to the federal Clean Air Act (Pub. L. 101-549, 104 Stat. 2531, 42 U.S.C. § 7412 **et seq.**).
- (29d) "Title IV" means Title IV of the 1990 amendments to the federal Clean Air Act (Pub. L. 101-549, 104 Stat. 2584, 42 U.S.C. § 7651 **et seq.**).
- (29e) "Title V" means Title V of the 1990 amendments to the federal Clean Air Act (Pub. L. 101-549, 104 Stat. 2635, 42 U.S.C. § 7661 **et seq.**).
- (29f) through (29o) Reserved.
- (29p) "Title V Account" means the Account established in G.S. 143-215.3A(b).
- (30) The term "waste treatment management practice" means any method, measure or practice to control plant site runoff, spillage or leaks, sludge or waste disposal and drainage from raw material storage which are associated with, or ancillary to the industrial manufacturing or treatment process of the class or category of point sources to which the management practice is applied. Waste treatment management practices may only be imposed, supplemental to effluent limitations, for a class or category of point sources, for any specific pollutant which has been designated as toxic or hazardous pursuant to sections 307(a)(1) or 311 of the Federal Water Pollution Control Act. (1951, c. 606; 1957, c. 1275, s. 1; 1959, c. 779, s. 8; 1967, c. 892, s. 1; 1971, c. 1167, s. 4; 1973, c. 821, ss. 1-3; c. 1262, s. 23; 1977, c. 771, s. 4; 1979, c. 545, ss. 8-10; c. 633, s. 1; 1987, c. 827, ss. 153, 154; 1989, c. 135, s. 2, c. 447, s. 1, c. 742, s. 7; 1991, c. 287, s. 1, c. 403, s. 1, c. 552, s. 1; 1991 (Reg. Sess., 1992), c. 889, ss. 1, 2, c. 1028, s. 2, c. 1039, s. 13; 1993, c. 400, ss. 1(a)-(c).)