

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1465
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/17/07

Short Title: Swine Farm Env. Performance Standards.

(Public)

Sponsors:

Referred to:

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY AND MAKE PERMANENT THE SWINE FARM ANIMAL
3 WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS THAT
4 THE GENERAL ASSEMBLY ENACTED IN 1998 AND TO ASSIST FARMERS
5 TO VOLUNTARILY CONVERT TO INNOVATIVE ANIMAL WASTE
6 MANAGEMENT SYSTEMS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1.(a) Part 1A of Article 21 of Chapter 143 of the General Statutes
9 is amended by adding a new section to read:

10 "**§ 143-215.10I. Performance standards for animal waste management systems
11 that serve swine farms; lagoon and sprayfield systems prohibited.**

12 (a) As used in this section:

13 (1) 'Anaerobic lagoon' means a lagoon that treats waste by converting it
14 into carbon dioxide, methane, ammonia, and other gaseous
15 compounds; organic acids; and cell tissue through an anaerobic
16 process.

17 (2) 'Anaerobic process' means a biological treatment process that occurs in
18 the absence of dissolved oxygen.

19 (3) 'Lagoon' has the same meaning as in G.S. 106-802.

20 (4) 'Swine farm' has the same meaning as in G.S. 106-802.

21 (b) The Commission shall not issue or modify a permit to authorize the
22 construction, operation, or expansion of an animal waste management system that
23 serves a swine farm that employs an anaerobic lagoon as the primary method of
24 treatment and land application of waste by means of a sprayfield as the primary method
25 of waste disposal. The Commission may issue a permit for the construction, operation,
26 or expansion of an animal waste management system that serves a swine farm under this
27 Article only if the Commission determines that the animal waste management system
28 will meet or exceed all of the following performance standards:

- 1 (1) Eliminate the discharge of animal waste to surface water and
2 groundwater through direct discharge, seepage, or runoff.
- 3 (2) Substantially eliminate atmospheric emission of ammonia.
- 4 (3) Substantially eliminate the emission of odor that is detectable beyond
5 the boundaries of the parcel or tract of land on which the swine farm is
6 located.
- 7 (4) Substantially eliminate the release of disease-transmitting vectors and
8 airborne pathogens.
- 9 (5) Substantially eliminate nutrient and heavy metal contamination of soil
10 and groundwater."

11 **SECTION 1.(b)** Continued Operation. – An animal waste management
12 system that serves a swine farm for which a permit was issued prior to September 1,
13 2007, and that does not meet the requirements of G.S. 143-215.10I, as enacted by
14 subsection (a) of this section, may continue to operate under, and shall operate in
15 compliance with, that permit, including any renewal of the permit.

16 **SECTION 1.(c)** Rule Making. – The Environmental Management
17 Commission shall adopt rules to implement G.S. 143-215.10I, as enacted by subsection
18 (a) of this section. Until rules to implement G.S. 143-215.10I become effective, the
19 Commission, in implementing G.S. 143-215.10I, shall refer to the report entitled
20 "Development of Environmentally Superior Technologies – Phase 3 Report: for
21 Technology Determinations per Agreements Between the Attorney General of North
22 Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers" dated
23 March 8, 2006. The Commission shall consult with the Animal and Poultry Waste
24 Management Center of North Carolina State University regarding the application and
25 modification of technical standards required to implement G.S. 143-215.10I.

26 **SECTION 2.(a)** Definitions. – The definitions set out in
27 G.S. 143-215.10I(a), as enacted by Section 1 of this act, apply to this section. As used
28 in this section, an "innovative animal waste management system" means an animal
29 waste management system that serves a swine farm that may be permitted under
30 G.S. 143-215.10I(b), as enacted by Section 1 of this act.

31 **SECTION 2.(b)** Lagoon Conversion Program. – The Lagoon Conversion
32 Program is hereby established. The Program shall provide grants to assist in the
33 conversion of animal waste management systems that serve swine farms in operation on
34 or before September 1, 2007, that employ anaerobic lagoons as the primary method of
35 treatment to innovative animal waste management systems. Grants under the Program
36 may also be used to:

- 37 (1) Assist in the closure of sprayfield and lagoon systems that are replaced
38 by innovative animal waste management systems if the closure is
39 performed in accordance with applicable federal and State laws,
40 regulations, and rules.
- 41 (2) Establish centralized waste collection and treatment systems that serve
42 innovative animal waste management systems.

43 **SECTION 2.(c)** Program Administration. – The Program shall be
44 administered by the Division of Soil and Water Conservation in the Department of

1 Environment and Natural Resources through the Agriculture Cost Share Program for
2 Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74. The
3 Division shall administer the Program as provided in this section and Part 9 of Article
4 21 of Chapter 143 of the General Statutes.

5 **SECTION 2.(d)** Program Functions. – Under the Lagoon Conversion
6 Program, the Division of Soil and Water Conservation in the Department of
7 Environment and Natural Resources, through the Agriculture Cost Share Program for
8 Nonpoint Source Pollution Control, shall:

9 (1) Within available funds, provide grants subject to all of the following
10 limitations and requirements:

11 a. For grants approved on or before June 30, 2012, State funding
12 shall be limited to:

13 1. Ninety percent (90%) of the average cost for each
14 practice with the assisted person providing ten percent
15 (10%) of the cost, which may include in-kind support of
16 the practice.

17 2. A maximum of five hundred thousand dollars (\$500,000)
18 per year to each applicant.

19 b. For grants approved on or after July 1, 2012, and on or before
20 June 30, 2017, State funding shall be limited to:

21 1. Eighty percent (80%) of the average cost for each
22 practice with the assisted person providing twenty
23 percent (20%) of the cost, which may include in-kind
24 support of the practice.

25 2. A maximum of four hundred fifty thousand dollars
26 (\$450,000) per year to each applicant.

27 c. For grants approved on or after July 1, 2017, State funding shall
28 be limited to:

29 1. Seventy-five percent (75%) of the average cost for each
30 practice with the assisted person providing twenty-five
31 percent (25%) of the cost, which may include in-kind
32 support of the practice.

33 2. A maximum of four hundred thousand dollars
34 (\$400,000) per year to each applicant.

35 d. All other limitations and requirements set out in Part 9 of
36 Article 21 of Chapter 143 of the General Statutes, as modified
37 by this section.

38 (2) Establish criteria to prioritize the installation of innovative animal
39 waste management systems that serve swine farms. Priority shall be
40 given to systems that are affordable, easily maintained, produce
41 marketable by-products, reduce or eliminate the emission of ammonia
42 and greenhouse gases, and are capable of being connected to a
43 centralized waste collection and treatment.

- 1 (3) Establish criteria for the selection of applicants who are eligible for
2 participation in the Program. Priority shall be given to applicants
3 whose participation in the program will result in the removal of animal
4 waste management systems from floodplains; who have substantially
5 complied with federal and State laws, regulations, and rules for the
6 protection of the environment, natural resources, and public health;
7 and who have a limited ability to pay for or finance an innovative
8 swine waste management system through private or cooperative credit
9 at reasonable rates and terms.
- 10 (4) Develop a process for soliciting and reviewing applications and for
11 selecting persons to participate in the Program.
- 12 (5) Investigate and pursue other funding sources to supplement State
13 funds, including federal, local, and private funding sources.
- 14 (6) Provide technical assistance to participating persons to assist with
15 modifications of waste management systems and facilitate the timely
16 transfer of technology among participating persons.

17 **SECTION 2.(e)** The Director of the Division of Soil and Water
18 Conservation may establish an advisory committee to assist the Division with the
19 implementation of this act. If the Director establishes an advisory committee, the
20 Director may direct the advisory committee to evaluate:

- 21 (1) Markets for by-products derived from swine waste and make
22 recommendations for development of the markets, including
23 identification of regulatory obstacles.
- 24 (2) Methods to encourage growers, integrators, and electric power
25 suppliers to cooperate in the production and use of renewable energy
26 or other marketable by-products derived from swine waste, including
27 an examination of tax incentives, carbon sequestration credits, and
28 trading mechanisms.

29 **SECTION 2.(f)** Report. – No later than November 1 of each year, the
30 Division of Soil and Water Conservation in the Department of Environment and Natural
31 Resources shall report to the Environmental Review Commission on the implementation
32 of the Lagoon Conversion Program. The first report required by this subsection shall be
33 submitted no later than November 1, 2007.

34 **SECTION 3.** Account. – There is hereby established the Swine Farm Waste
35 Management System Conversion Account within the Division of Soil and Water
36 Conservation of the Department of Environment and Natural Resources. Funds in the
37 Account shall be used only as provided in subsection (b) of Section 2 of this act. The
38 Account shall consist of funds appropriated to the Account by the General Assembly;
39 any federal funds available for this purpose; and any grants, gifts, or contributions to the
40 State for this purpose. Funds in the Account shall not revert.

41 **SECTION 4.** Effective Dates. – Section 1 of this act becomes effective
42 September 1, 2007. All other sections of this act become effective July 1, 2007.