

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 570\***  
**Corrected Copy 3/13/01**  
**Committee Substitute Favorable 4/24/01**

Short Title: Tar-Pamlico Agricultural Rule.

(Public)

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Sponsors:

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Referred to:

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March 12, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE  
3 ADMINISTRATIVE RULE ENTITLED TAR-PAMLICO RIVER BASIN-  
4 NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY:  
5 AGRICULTURAL NUTRIENT CONTROL STRATEGY WITH CERTAIN  
6 MODIFICATIONS, TO AUTHORIZE THE ENVIRONMENTAL  
7 MANAGEMENT COMMISSION TO INCORPORATE THESE  
8 MODIFICATIONS INTO A REVISED ADMINISTRATIVE RULE, AND TO  
9 DIRECT THE SOIL AND WATER CONSERVATION COMMISSION TO  
10 ADOPT STANDARD BEST MANAGEMENT PRACTICES AND A NUTRIENT  
11 LOADING ACCOUNTING METHODOLOGY.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** Notwithstanding G.S. 150B-21.3(b), 15A NCAC 2B .0256,  
14 (Tar-Pamlico River Basin-Nutrient Sensitive Waters Management Strategy:  
15 Agricultural Nutrient Control Strategy), as adopted by the Environmental Management  
16 Commission on 12 October 2000 and approved by the Rules Review Commission on 20  
17 November 2000, shall become effective on 1 July 2001 and shall be implemented as  
18 provided in Sections 2 and 3 of this act.

19 **SECTION 2.(a)** On or before 1 September 2001, a Local Advisory  
20 Committee shall be appointed as provided in this section in each county or watershed,  
21 as specified by the Basin Oversight Committee, within the Tar-Pamlico River Basin.  
22 The Local Advisory Committees shall terminate upon a finding by the Environmental  
23 Management Commission that the long-term maintenance of nutrient loads in the  
24 Tar-Pamlico River Basin is assured.

25 **SECTION 2.(b)** Each Local Advisory Committee shall consist of:

- 26 (1) One representative of the local Soil and Water Conservation District.  
27 (2) One local representative of the United States Department of  
28 Agriculture – Natural Resources Conservation Service.

- 1 (3) One local representative of the North Carolina Cooperative Extension  
2 Service.
- 3 (4) One local representative of the North Carolina Division of Soil and  
4 Water Conservation.
- 5 (5) One local representative of the North Carolina Department of  
6 Agriculture and Consumer Services appointed by the Commissioner of  
7 Agriculture.
- 8 (6) At least five, but not more than 10 farmers who reside in the county or  
9 watershed.

10 **SECTION 2.(c)** The Director of the Division of Water Quality and the  
11 Director of the Division of Soil and Water Conservation of the Department of  
12 Environment and Natural Resources shall jointly appoint members described in  
13 subdivisions (1) through (4) of subsection (b) of this section. The Commissioner of  
14 Agriculture shall appoint the members described in subdivision (6) of subsection (b) of  
15 this section from persons nominated by non governmental organizations whose  
16 members produce or maintain significant agricultural commodities in each county or  
17 watershed.

18 **SECTION 2.(d)** Members of the Local Advisory Committees serve at the  
19 pleasure of their appointing authority.

20 **SECTION 3.(a)** For purposes of 15A NCAC 2B .0256, "agricultural  
21 operation" is an activity that relates to any of the following pursuits:

- 22 (1) The commercial production of crops or horticultural products.
- 23 (2) The harvesting of trees established on or after 1 July 2001 on land that  
24 was previously used primarily for another agricultural operation, as  
25 defined in subdivisions (1), (3), and (4) of this subsection and the  
26 harvesting of trees established prior to 1 July 2001 pursuant to a  
27 cost-share contract on land previously used primarily for another  
28 agricultural operation, as defined in subdivisions (1), (3) and (4) of this  
29 subsection. Harvesting trees for silviculture or for any pursuit other  
30 than those set out in subdivisions (1), (3), and (4) of this subsection is  
31 not an agricultural operation for purposes of 15A NCAC 2B .0256.
- 32 (3) Research activities in support of commercial production.
- 33 (4) The production or management of any of the following number of  
34 livestock or poultry, excluding nursing young:
  - 35 a. 20 or more horses.
  - 36 b. 20 or more cattle.
  - 37 c. 25 or more swine.
  - 38 d. 15 or more sheep.
  - 39 e. 20 or more goats.
  - 40 f. 160 or more turkeys.
  - 41 g. 1,000 or more chickens.

- 1           h.     A number of any other single species of livestock or poultry  
2                 that exceeds 4,000 pounds of live weight at any time.  
3           i.     A combination of livestock or poultry species where the number  
4                 of any single species is equal to or greater than the number  
5                 under sub-subdivisions a. through h. of this subdivision.

6           **SECTION 3.(b)** For purposes of 15A NCAC 2B .0256, "commercial" means  
7 a pursuit conducted primarily for financial gain or profit.

8           **SECTION 3.(c)** The nutrient removal function of trees that are harvested in  
9 connection with an agricultural operation shall be replaced through other measures to  
10 meet local nutrient reduction goals and to maintain local nutrient control strategies.

11           **SECTION 4.** No person who is subject to 15A NCAC 2B .0256 shall be  
12 required to implement a best management practice for pasture-based production or  
13 management of livestock until the Soil and Water Conservation Commission has  
14 adopted standard best management practices for livestock and poultry production and  
15 management and until the Soil and Water Conservation Commission adopts a nutrient  
16 loading accounting methodology that includes credit for reductions in nutrient loading  
17 that have been achieved since 1 January 1992. The Soil and Water Conservation  
18 Commission shall involve Local Advisory Committees established pursuant to Section 2  
19 of this act, persons engaged in the production and management of livestock and poultry,  
20 and organizations that represent these persons in the development of standard best  
21 management practices and the nutrient loading accounting methodology. The Soil and  
22 Water Conservation Commission shall adopt standard best management practices and a  
23 nutrient loading accounting methodology no later than 1 July 2002.

24           **SECTION 5.(a)** This act constitutes a recent act of the General Assembly  
25 within the meaning of G.S. 150B-21.1(a).

26           **SECTION 5.(b)** The Environmental Management Commission may adopt a  
27 temporary rule that incorporates the provisions of Sections 2 and 3 of this act.  
28 Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this  
29 section shall remain in effect until a temporary or permanent rule adopted to replace the  
30 temporary rule becomes effective.

31           **SECTION 5.(c)** If the Environmental Management Commission adopts a  
32 temporary rule as provided in subsection (b) of this section, the Commission may  
33 thereafter amend the temporary rule to revise the number of livestock or poultry that  
34 constitutes an animal operation by adopting a temporary rule. In revising the number of  
35 livestock or poultry that constitutes an animal operation, the Commission shall consider  
36 the behavior characteristic of each species, equivalent nutrient production of each  
37 species, and other relevant factors. Prior to the adoption of a temporary rule under this  
38 subsection, the Commission shall publish a notice of intent to adopt a temporary rule in  
39 the North Carolina Register. The notice shall set out the text of the proposed temporary  
40 rule and include the name of the person to whom questions and written comment on the  
41 proposed temporary rule may be addressed. The Commission shall accept written

1 comment on the proposed temporary rule for at least 30 days after the notice of intent to  
2 adopt a temporary rule is published in the North Carolina Register.

3       **SECTION 6.** Except as provided by Sections 2 and 3 of this act, this act  
4 does not limit the authority of the Environmental Management Commission to adopt  
5 rules to improve water quality and to limit nutrient loading from agricultural operations  
6 pursuant to Article 21 of Chapter 143 of the General Statutes.

7       **SECTION 7.** This act is effective retroactively to the date on which it is  
8 ratified. If the Environmental Management Commission adopts a temporary rule as  
9 provided in subsection (b) of Section 5 of this act, Sections 2 and 3 of this act expire  
10 when the temporary rule becomes effective.