

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 1217*

Short Title: Animal Waste Csmn. Recommendations.

(Public)

Sponsors: Senators Albertson; Parnell, Perdue, Carpenter, Kerr, Hoyle, Soles, Speed, Jordan, Conder, Rand, Horton, Martin of Pitt, and Warren.

Referred to: Agriculture/Environment/Natural Resources.

May 20, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT RECOMMENDATIONS OF THE BLUE RIBBON STUDY
COMMISSION ON AGRICULTURAL WASTE.

The General Assembly of North Carolina enacts:

PART I. PERMITS/INSPECTIONS/FEEES FOR ANIMAL WASTE MANAGEMENT
SYSTEMS.

Section 1. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities ~~until or unless such that~~ person shall ~~have applied for and shall have~~ has received a permit from the Commission a ~~permit therefor and shall have~~ and has complied with ~~such conditions, if any, as are prescribed by such~~ all conditions set forth in the permit:

(1) Make any outlets into the waters of the ~~State;~~ State.

(2) Construct or operate any sewer system, treatment works, or disposal system within the ~~State;~~ State.

(3) Alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the ~~State;~~ State.

- 1 (4) Increase the quantity of waste discharged through any outlet or
2 processed in any treatment works or disposal system to any extent ~~which~~
3 that would result in any violation of the effluent standards or limitations
4 established for any point source or ~~which-that~~ would adversely affect the
5 condition of the receiving waters to the extent of violating any ~~of the~~
6 ~~standards applicable to such water;~~ applicable standards.
- 7 (5) Change the nature of the waste discharged through any disposal system
8 in any way ~~which-that~~ would exceed the effluent standards or limitations
9 established for any point source or ~~which-that~~ would adversely affect the
10 condition of the receiving waters in relation to any ~~of the standards~~
11 ~~applicable to such waters;~~ applicable standards.
- 12 (6) Cause or permit any waste, directly or indirectly, to be discharged to or
13 in any manner intermixed with the waters of the State in violation of the
14 water quality standards applicable to the assigned classifications or in
15 violation of any effluent standards or limitations established for any
16 point source, unless allowed as a condition of any permit, special order
17 or other appropriate instrument issued or entered into by the
18 Commission under the provisions of this ~~Article;~~ Article.
- 19 (7) Cause or permit any wastes for which pretreatment is required by
20 pretreatment standards to be discharged, directly or indirectly, from a
21 pretreatment facility to any disposal system or to alter, extend or change
22 the construction or method of operation or increase the quantity or
23 change the nature of the waste discharged from or processed in ~~such~~
24 ~~facility;~~ that facility.
- 25 (8) Enter into a contract for the construction and installation of any outlet,
26 sewer system, treatment works, pretreatment facility or disposal system
27 or for the alteration or extension of any such ~~facilities;~~ facilities.
- 28 (9) Dispose of sludge resulting from the operation of a treatment works,
29 including the removal of in-place sewage sludge from one location and
30 its deposit at another location, consistent with the requirement of the
31 Resource Conservation and Recovery Act and regulations promulgated
32 pursuant ~~thereto;~~ thereto.
- 33 (10) Cause or permit any pollutant to enter into a defined managed area of
34 the State's waters for the maintenance or production of harvestable
35 freshwater, estuarine, or marine plants or ~~animals;~~ animals.
- 36 (11) Cause or permit discharges regulated under G.S. 143-214.7 ~~which-that~~
37 result in water pollution.
- 38 (12) Subject to the provisions of G.S. 143-215.1B, construct or operate an
39 animal waste management system.

40 In the event that both effluent standards or limitations and classifications and water
41 quality standards are applicable to any point source or sources and to the waters to which
42 they discharge, the more stringent among the standards established by the Commission
43 shall be applicable and controlling.

1 In connection with the above, no such permit shall be granted for the disposal of
2 waste in waters classified as sources of public water supply where the head of the agency
3 which administers the public water supply program pursuant to Article 10 of Chapter
4 130A of the General Statutes, after review of the plans and specifications for the
5 proposed disposal facility, determines and advises the Commission that such disposal is
6 sufficiently close to the intake works or proposed intake works of a public water supply
7 as to have an adverse effect on the public health.

8 In any case where the Commission denies a permit, it shall state in writing the reason
9 for such denial and shall also state the Commission's estimate of the changes in the
10 applicant's proposed activities or plans which will be required in order that the applicant
11 may obtain a permit."

12 Sec. 2. (a) Part 1 of Article 21 of Chapter 143 of the General Statutes is
13 amended by adding two new sections to read:

14 **"§ 143-215.1B. Animal waste management systems; permit requirements.**

15 (a) No person shall construct or operate an animal waste management system that
16 satisfies any one of the following unless that person has applied for and obtained a permit
17 from the Department:

- 18 (1) The system is designed for or actually serves at least 100 head of cattle.
- 19 (2) The system is designed for or actually serves at least 75 horses.
- 20 (3) The system is designed for or actually serves at least 250 swine.
- 21 (4) The system is designed for or actually serves at least 1,000 sheep.
- 22 (5) The system is designed for or actually serves at least 30,000 birds with a
23 liquid animal waste management system.

24 (b) The Department shall not issue a permit for an animal waste management
25 system under subsection (a) of this section unless the applicant has obtained an animal
26 waste management plan that a technical specialist has certified meets the applicable
27 minimum standards and specifications.

28 (c) Animal waste management plans shall include all of the following
29 components:

- 30 (1) A checklist of potential odor sources and a choice of site-specific, cost-
31 effective remedial best management practices to minimize those
32 sources.
- 33 (2) A checklist of potential insect sources and a choice of site-specific, cost-
34 effective best management practices to minimize insect problems.
- 35 (3) Provisions that set forth acceptable methods of disposing of mortalities.
- 36 (4) Provisions regarding best management practices for riparian buffers or
37 equivalent controls, particularly along perennial streams.
- 38 (5) Provisions regarding the use of emergency spillways and site-specific
39 emergency management plans that set forth operating procedures to
40 follow during emergencies in order to minimize the risk of
41 environmental damage.
- 42 (6) Provisions regarding periodic testing of waste products used as nutrient
43 sources as close to the time of application as practical and at least within

1 60 days of the date of application and periodic testing, at least annually,
2 of soils at crop sites where the waste products are applied. Nitrogen
3 shall be the rate-determining element. Zinc and copper levels in the
4 soils shall be monitored, and alternative crop sites shall be used when
5 these metals approach excess levels.

6 (7) Provisions regarding waste utilization plans that assure a balance
7 between nitrogen application rates and nitrogen crop requirements, that
8 assure that lime is applied to maintain pH in the optimum range for crop
9 production, and that include corrective action, including revisions to the
10 waste utilization plan based on data of crop yields and crops analysis,
11 that will be taken if this balance is not achieved as determined by testing
12 conducted pursuant to subdivision (6) of this subsection.

13 (8) Provisions regarding the completion and maintenance of records on
14 forms developed by the Department, which records shall include
15 information addressed in subdivisions (6) and (7) of this subsection,
16 including the dates and rates that waste products are applied to soils at
17 crop sites, and shall be made available upon request by the Department.

18 (d) Except as provided in subsection (e) of this section, animal waste management
19 systems that are designed for and actually serve less than the numbers of animals listed in
20 subdivisions (1) through (4) of subsection (a) of this section and all other animal waste
21 management systems shall be deemed permitted and are not required to have an animal
22 waste management plan.

23 (e) Dry litter animal waste management systems that are designed or actually
24 serve at least 30,000 birds shall be deemed permitted. No later than December 31, 1999,
25 any operator of this type of system shall obtain an animal waste management plan that
26 complies with the testing and record-keeping requirements under subdivisions (6)
27 through (8) of subsection (c) of this section. Any operator of this type of system shall
28 retain records required under this section and by the Department on-site for three years.

29 (f) The Department may enforce the animal waste management plan under
30 subsection (c) of this section in the same manner as it enforces a condition of a permit.

31 (g) The Department shall conduct inspections of all animal waste management
32 systems that are subject to a permit under subsection (a) of this section at least annually
33 to determine whether the system is in violation of water quality standards or is not in
34 compliance with its animal waste management plan or any other condition of the permit.
35 The Department may conduct additional inspections of animal waste management
36 systems that are in violation of water quality standards or not in compliance with its
37 animal waste management plan or any other condition of the permit. No later than
38 October 1, 1996, and annually thereafter, the Department shall report the results of its
39 inspections under this subsection to the Environmental Review Commission.

40 (h) As used in this section:

41 (1) 'Animal waste' means livestock or poultry excreta or a mixture of
42 excreta with feed, bedding, litter, or other materials.

1 (2) 'Animal waste management system' means a combination of structural
2 and nonstructural practices that provide for the proper collection,
3 treatment, storage, or application of animal waste to the land such that
4 no discharge of pollutants occurs to surface waters of the State by any
5 means except as a result of chronic rainfall or a storm event more severe
6 than the 25-year, 24-hour storm.

7 (3) 'Deemed permitted' means that a facility is considered as having a
8 permit under this section and being in compliance with the permitting
9 requirements of G.S. 143-215.1(a) even though it has not received a
10 general or an individual permit for its construction or operation.

11 (4) 'Technical specialist' means an individual designated by the Soil and
12 Water Conservation Commission, pursuant to rules adopted by that
13 Commission, to certify animal waste management plans.

14 **"§ 143-215.1C. Written notice of swine farms.**

15 (a) Any person who intends to construct a swine farm whose animal waste
16 management system is subject to a permit under G.S. 143-215.1B(a) shall, after
17 completing a site evaluation and before the farm site is modified, attempt to notify all
18 adjoining property owners and all property owners who own property located across a
19 public road, street, or highway from the swine farm of that person's intent to construct the
20 swine farm. This notice shall be by certified mail sent to the address on record at the
21 property tax office in the county in which the land is located. The written notice shall
22 include all of the following:

23 (1) The name and address of the person intending to construct a swine farm.

24 (2) The type of swine farm and the design capacity of the animal waste
25 management system.

26 (3) The name and address of the technical specialist preparing the waste
27 management plan.

28 (4) The address of the local Soil and Water Conservation District office.

29 (5) Information informing the adjoining property owners and the property
30 owners who own property located across a public road, street, or
31 highway from the swine farm that they may submit written comments to
32 the Division of Environmental Management, Department of
33 Environment, Health, and Natural Resources.

34 (b) As used in this section, 'site evaluation' is defined in G.S. 106-802."

35 (b) Subsection (a) of this section does not repeal any rules that do not conflict
36 with the provisions of that section.

37 Sec. 3. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended
38 by adding a new section to read:

39 **"§ 143-215.3D. Fees for animal waste management systems.**

40 (a) The Department shall impose fees for the costs of permitting and inspecting
41 animal waste management systems as follows:

- 1 (1) For each animal waste management system with a design capacity of at
2 least 38,500 pounds steady state live weight and less than 100,000
3 pounds steady state live weight, an annual fee of fifty dollars (\$50.00).
4 (2) For each animal waste management system with a design capacity of at
5 least 100,000 pounds steady state live weight and less than 800,000
6 pounds steady state live weight, an annual fee of one hundred dollars
7 (\$100.00).
8 (3) For each animal waste management system with a design capacity of
9 greater than or equal to 800,000 pounds steady state live weight, an
10 annual fee of two hundred dollars (\$200.00).

11 (b) The total monies collected each year from fees under this section shall not
12 exceed forty percent (40%) of the total budgets from all sources of permitting and
13 compliance programs for animal waste management systems within the Department."

14 PART II. DUTIES OF STATE AGENCIES.

15 Sec. 4. (a) The Department of Environment, Health, and Natural Resources
16 shall design and, no later than October 1, 1996, begin to implement a system of permits
17 for animal waste management systems, as defined in G.S. 143-215.1B, as enacted by
18 Section 2 of this act. This system of permits shall be consistent with the provisions of
19 Section 2 of this act. This system of permits shall provide for the issuance of one type of
20 general permit for each type of species: swine, dairy cattle, poultry.

21 (b) The Department of Environment, Health, and Natural Resources shall develop
22 a systematic monitoring and inspection program for animal waste management systems.
23 This program shall include technical assistance provided by the Division of Soil and
24 Water Conservation, Department of Environment, Health, and Natural Resources; the
25 Agronomic Division, Department of Agriculture; and the Cooperative Extension Service,
26 with the Division of Environmental Management, Department of Environment, Health,
27 and Natural Resources, providing inspections required by G.S. 143-215.1B(g), as enacted
28 by Section 2 of this act. The Natural Resources Conservation Service is encouraged to
29 provide technical assistance to this monitoring and inspection program. Each animal
30 waste management system shall be subjected to an annual operations review to assure full
31 compliance with applicable laws and rules. Qualified staff from Soil and Water
32 Conservation Districts may conduct the annual operations review, shall inform operators
33 of animal waste management systems of any deficiency determined by the staff to be
34 minor so that the operator has a reasonable opportunity to correct the deficiency before
35 enforcement action is initiated, and shall inform the Division of Environmental
36 Management of any deficiency determined by the staff to be a major deficiency that
37 poses a threat to the environment or of any less serious deficiency that the operator
38 exhibits an unwillingness to correct.

39 Sec. 5. No later than October 1, 1996, the Environmental Management
40 Commission shall implement the provisions of G.S. 143-215.1B(c)(1) through (8), as
41 enacted by Section 2 of this act and define the term "chronic rainfall" as used in G.S. 143-
42 215.1B(h)(2), as enacted by Section 2 of this act. No later than October 1, 1996, the
43 Environmental Management Commission shall review the meaning of "no discharge of

1 pollutants" as used in G.S. 143-215.1B(h)(2), as enacted by Section 2 of this act;
2 determine whether this no discharge requirement is a performance standard or a
3 technology standard; and clarify the meaning of "no discharge" such that the no discharge
4 requirement for animal waste management systems is economically practical and
5 technologically achievable.

6 Sec. 6. No later than September 1, 1996, the Soil and Water Conservation
7 Commission shall specify odor control best management practices, insect control best
8 management practices, and best management practices for riparian buffers or equivalent
9 controls consistent with the provisions of G.S. 143-215.1B(c)(1), (2), and (4), as enacted
10 by Section 2 of this act.

11 Sec. 7. No later than October 1, 1996, the Environmental Management
12 Commission and the Soil and Water Conservation Commission, with technical assistance
13 from the Cooperative Extension Service, shall establish the record-keeping requirements
14 under G.S. 143-215.1B(c)(8), as enacted by Section 2 of this act. The Natural Resources
15 Conservation Service is encouraged to cooperate fully with establishing these
16 requirements.

17 Sec. 8. (a) An interagency group is created to:

- 18 (1) Address questions from technical specialists and provide uniform
19 interpretations to technical specialists regarding the requirements of the
20 animal waste management rules.
- 21 (2) Publish its decisions on these questions on a regular and recurring basis.
- 22 (3) Provide uniform strategies for operators of intensive livestock
23 operations to meet the December 31, 1997, deadline to obtain an
24 approved animal waste management plan.
- 25 (4) Develop, no later than August 1, 1996, a standard for the use of riparian
26 buffers or equivalent controls as best management practices, particularly
27 along perennial streams; decide whether a uniform State standard, a
28 uniform basinwide standard, or a site-specific standard best protects
29 water quality; and submit the standard that the group decides upon to
30 the Soil and Water Conservation Commission for adoption in
31 developing best management practices for riparian buffers and
32 equivalent controls under Section 6 of this act.

33 (b) The interagency group shall consist of two representatives from each of the
34 following State agencies: the Division of Soil and Water Conservation, Department of
35 Environment, Health, and Natural Resources; the Division of Environmental
36 Management, Department of Environment, Health, and Natural Resources; the
37 Department of Agriculture; and the Cooperative Extension Service. The General
38 Assembly encourages the Natural Resources Conservation Service, United States
39 Department of Agriculture, to provide two representatives from its agency to participate
40 fully as members of the interagency group. The interagency group shall remain in
41 existence until such time after December 31, 1997, that the Secretary of Environment,
42 Health, and Natural Resources determines the interagency group is no longer needed to
43 resolve issues related to certifying animal waste management plans.

1 PART III. ADDITIONAL ENFORCEMENT PROVISIONS.

2 Sec. 9. G.S. 143-215.2(a) reads as rewritten:

3 "(a) Issuance. – The Commission is hereby empowered, after the effective date of
4 classifications, standards and limitations adopted pursuant to G.S. 143-214.1 or G.S. 143-
5 215, or a water supply watershed management requirement adopted pursuant to G.S. 143-
6 214.5, to issue (and from time to time to modify or revoke) a special order, or other
7 appropriate instrument, to any person whom it finds responsible for causing or
8 contributing to any pollution of the waters of the State within the area for which
9 standards have been established. Such an order or instrument may direct such person to
10 take, or refrain from taking such action, or to achieve such results, within a period of time
11 specified by such special order, as the Commission deems necessary and feasible in order
12 to alleviate or eliminate such pollution. The Commission is authorized to enter into
13 consent special orders, assurances of voluntary compliance or other similar documents by
14 agreement with the person responsible for pollution of the water, subject to the provisions
15 of subsection (a1) of this section regarding proposed orders, and such consent order,
16 when entered into by the Commission after public review, shall have the same force and
17 effect as a special order of the Commission issued pursuant to hearing. ~~Provided, however,~~
18 ~~that the provisions of this section shall not apply to any agricultural operation, such as the use or~~
19 ~~preparation of any land for the purposes of planting, growing, or harvesting plants, crops, trees or~~
20 ~~other agricultural products, or raising livestock or poultry."~~

21 Sec. 10. G.S. 143-215(e) reads as rewritten:

22 "(e) Except as required by federal law or regulations, the Commission may not
23 adopt effluent standards or limitations applicable to animal and poultry feeding
24 operations. Notwithstanding the foregoing, where manmade pipes, ditches, or other
25 conveyances have been constructed for the purpose of willfully discharging pollutants to
26 the waters of the State, the Secretary shall have the authority to assess fines and penalties
27 not to exceed ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) for the first
28 offense. The definitions and provisions of 40 Code of Federal Regulations § 122.23 (July
29 1, 1990 Edition) shall apply to this subsection."

30 PART IV. TRAINING REQUIREMENTS FOR THE LAND APPLICATION OF
31 WASTE.32 Sec. 11. Part 9A of Article 21 of Chapter 143 of the General Statutes is
33 repealed.

34 Sec. 12. G.S. 143B-301(a) reads as rewritten:

35 "(a) The Water Pollution Control System Operators Certification Commission shall
36 consist of 11 members. Two members shall be from the animal agriculture industry and
37 shall be appointed by the Commissioner of Agriculture. ~~nine~~ Nine members shall be
38 appointed by the Secretary of Environment, Health, and Natural Resources with the
39 approval of the Environmental Management Commission with the following
40 qualifications:

- 41 (1) Two members shall be currently employed as water pollution control
42 facility operators, water pollution control system superintendents or

1 directors, water and sewer superintendents or directors, or equivalent
2 positions with a North Carolina municipality;

3 (2) One member shall be manager of a North Carolina municipality having
4 a population of more than 10,000 as of the most recent federal census;

5 (3) One member shall be manager of a North Carolina municipality having
6 a population of less than 10,000 as of the most recent federal census;

7 (4) One member shall be employed by a private industry and shall be
8 responsible for supervising the treatment or pretreatment of industrial
9 wastewater;

10 (5) One member who is a faculty member of a four-year college or
11 university and whose major field is related to wastewater treatment;

12 (6) One member who is employed by the Department of Environment,
13 Health, and Natural Resources and works in the field of water pollution
14 control, who shall serve as Chairman of the Commission;

15 (7) One member who is employed by a commercial water pollution control
16 system operating firm; and

17 (8) One member shall be currently employed as a water pollution control
18 system collection operator, superintendent, director, or equivalent
19 position with a North Carolina municipality."

20 Sec. 13. Existing Article 3 of Chapter 90A of the General Statutes shall be
21 designated Part 1 of that Article, to be entitled "Certification of Water Pollution Control
22 System Operators", and is amended by adding a new Part 2 to read:

23 "Part 2. Certification of Animal Waste Management System Operators.

24 "§ 90A-47. Purpose.

25 The purpose of this Part is to reduce nonpoint source pollution in order to protect the
26 public health and to conserve and protect the quality of the State's water resources, to
27 encourage the development and improvement of the State's agricultural land for the
28 production of food and other agricultural products, and to require the examination of
29 animal waste management system operators and certification of their competency to
30 operate or supervise the operation of those systems.

31 "§ 90A-47.1. Definitions.

32 As used in this Part:

33 (1) 'Animal waste' means liquid residuals resulting from the raising of
34 swine that are collected, treated, stored, or applied to the land through
35 an animal waste management system.

36 (2) 'Animal waste management system' is defined in G.S. 143-215.1B.

37 (3) 'Application' means laying, spreading on, irrigating, or injecting animal
38 waste onto land.

39 (4) 'Owner' means the person who owns or controls the land used for
40 agricultural purposes or the person's lessee or designee.

41 (5) 'Operator in charge' means a person who holds a currently valid
42 certificate to operate an animal waste management system and who has
43 primary responsibility for the operation of the system.

1 (6) 'Swine production facility' means a facility for the housing and raising
2 of swine designed to serve, and actually serving, more than 250 swine.

3 **"§ 90A-47.2. Certified operator required; qualifications for certification.**

4 (a) After December 31, 1997, no owner or other person in control of a swine
5 production facility having an animal waste management system shall allow the system to
6 be operated by a person who does not hold a valid certificate as an animal waste
7 management system operator issued by the Commission. After December 31, 1997, no
8 person shall perform the duties of an animal waste management system operator without
9 being certified under the provisions of this Part. Certifications that were issued for
10 animal waste management system operators under Part 9A of Article 21 of Chapter 143
11 of the General Statutes shall, subject to the provisions of this Part, continue in full force
12 and effect.

13 (b) The owner or other person in control of a swine production facility may
14 contract with a certified animal waste management system operator to provide for the
15 operation of the animal waste management system at that facility. The Commission may
16 adopt rules requiring that any certified animal waste management system operator
17 contracting with one or more owners or other persons in control of a swine production
18 facility file an annual report with the Commission as to the operations of each system at
19 which the operator's services are provided.

20 **"§ 90A-47.3. Qualifications for certification; training; examination.**

21 (a) The Commission, in cooperation with the Division of Environmental
22 Management, Department of Environment, Health, and Natural Resources, and the
23 Cooperative Extension Service, shall develop and administer a program of training for
24 animal waste management system operators. The educational program shall not exceed
25 eight hours of classroom instruction and four hours of instruction in the field. Training
26 materials shall be user-friendly and shall take into account the educational level of the
27 applicants.

28 (b) The Commission shall develop procedures for the receipt of applications for
29 certification, conduct of examinations, and investigation of the qualifications of
30 applicants. In developing the examination, provisions shall be made for those persons
31 with reading or learning difficulties and alternate testing methods provided upon request
32 of the applicant.

33 (c) The Commission shall issue a certificate as an operator in charge for each
34 person who completes the training program established in subsection (a) of this section
35 and demonstrates the operator's competence in the operation of animal waste
36 management systems by passing an appropriate exam.

37 **"§ 90A-47.4. Fees; certificate renewals.**

38 (a) An applicant for certification under this Part shall pay a fee of ten dollars
39 (\$10.00) for the examination and the certificate.

40 (b) The certificate shall be renewed annually upon payment of a renewal fee of ten
41 dollars (\$10.00). A certificate holder who fails to renew the certificate and pay the
42 renewal fee within 30 days of its expiration shall be required to take and pass the
43 examination for certification in order to renew the certificate.

1 **"§ 90A-47.5. Suspension; revocation of certificate.**

2 The Commission, in accordance with the provisions of Chapter 150B of the General
3 Statutes, may suspend or revoke the certificate of any operator found to:

- 4 (1) Have practiced fraud or deception in obtaining certification;
5 (2) Have failed to exercise reasonable care, judgement, or the application of
6 the operator's knowledge and ability in the performance of the duties of
7 an operator in charge; or
8 (3) Is incompetent or otherwise unable to properly perform the duties of an
9 operator in charge.

10 In addition to revocation of a certificate, the Commission may levy a civil penalty, not to
11 exceed one thousand dollars (\$1,000) per violation, for willful violation of the
12 requirements of this Part.

13 **"§ 90A-47.6. Rules.**

14 The Commission shall adopt rules to implement the provisions of this Part."

15 Sec. 14. The title of Article 3 of Chapter 90A of the General Statutes reads as
16 rewritten:

17 "Certification of Water Pollution Control System Operators: Certifications Issued by the
18 Water Pollution Control System Operators Certification Commission."

19 PART V. CLARIFICATION OF THE SWINE FARM SITING ACT.

20 Sec. 15. Article 67 of Chapter 106 of the General Statutes reads as rewritten:

21 **"ARTICLE 67.**

22 **"SWINE FARMS.**

23 **"§ 106-800. Title.**

24 This Article shall be known as the 'Swine Farm Siting Act'.

25 **"§ 106-801. Purpose.**

26 The General Assembly finds that certain limitations on the siting of swine houses and
27 lagoons for larger swine farms can assist in the development of pork production to
28 contribute production, which contributes to the economic development of the State while
29 minimizing any State, by lessening the interference with the use and enjoyment of
30 adjoining property.

31 **"§ 106-802. Definitions.**

32 As used in this Article, unless the context clearly requires otherwise:

- 33 (1) 'Lagoon' means a confined body of water to hold animal byproducts
34 including bodily waste from animals or a mixture of waste with feed,
35 bedding, litter or other agricultural ~~materials without discharge to surface~~
36 ~~waters of the State except in the event of a storm more severe than the 25-~~
37 ~~year, 24-hour storm materials.~~
38 (2) ~~'New swine farm' means any swine farm whose operations were sited on~~
39 ~~or after October 1, 1995. Renovation and reconstruction of existing~~
40 ~~farms does not constitute a 'new swine farm'.~~
41 (3) 'Occupied residence' means a dwelling actually inhabited by a person on
42 a continuous basis as exemplified by a person living in his or her home.

- 1 (4) ~~'Siting' or 'site'~~ 'Site evaluation' means an investigation to determine if a
2 site meets all federal and State standards as evidenced by the Waste
3 Management Facility Site Evaluation Report on file with the ~~Natural~~
4 ~~Resources Conservation Service~~ Soil and Water Conservation District
5 office or a comparable report certified by a professional engineer or a
6 comparable report certified by a technical specialist approved by the
7 North Carolina Soil and Water Conservation ~~Commission~~ and either of
8 ~~which report provides the basis for certification by the Division of~~
9 ~~Environmental Management pursuant to the rules appearing in the North~~
10 ~~Carolina Administrative Code governing waste not discharged to surface~~
11 ~~waters.~~ Commission.
- 12 (5) 'Swine farm' means a tract of land devoted to raising 250 or more
13 animals of the porcine species.
- 14 (6) 'Swine house' means a building that shelters porcine animals on a
15 continuous basis.

16 **"§ 106-803. Requirements ~~Siting requirements for siting swine houses and lagoons.~~**
17 **houses, lagoons, and land areas onto which waste is applied at swine**
18 **farms.**

19 (a) A swine house or a lagoon that is a component of a swine farm shall be located
20 at least 1,500 feet from any occupied residence; at least 2,500 feet from any school,
21 hospital, or church; and at least 100 feet from any property boundary. The outer perimeter
22 of the land area onto which waste is applied from a lagoon that is a component of a swine
23 farm shall be at least 50 feet from any ~~residential property boundary~~ boundary of property
24 on which an occupied residence is located and from any perennial stream or river, other
25 than an irrigation ditch or canal.

26 (b) A swine house or a lagoon that is a component of a swine farm may be ~~sited~~
27 located closer to a residence, school, hospital, church, or a property boundary than is
28 allowed under subsection (a) of this section if written permission is given by the owner of
29 the property and recorded with the Register of Deeds.

30 **"§ 106-804. Enforcement.**

31 (a) Any person owning property directly affected by the siting requirements of
32 G.S. 106-803 pursuant to subsection (b) of this section may bring a civil action against a
33 swine farmer who has violated G.S. 106-803 and may seek any one or more of the
34 following:

- 35 (1) Injunctive relief.
36 (2) An order enforcing the siting requirements under G.S. 106-803.
37 (3) Damages caused by the violation.

38 (b) A person is directly affected by the siting requirements of G.S. 106-803 only if
39 the person owns:

- 40 (1) An occupied residence located less than 1,500 feet from a swine house
41 or lagoon in violation of G.S. 106-803.
42 (2) A school, hospital, or church located less than 2,500 feet from a swine
43 house or lagoon in violation of G.S. 106-803.

1 (3) Property whose boundary is located less than 100 feet from a swine
2 house or lagoon in violation of G.S. 106-803.

3 (4) Property on which an occupied residence is located and whose boundary
4 is less than 50 feet from the outer perimeter of the land area onto which
5 waste is applied from a lagoon that is a component of a swine farm in
6 violation of G.S. 106-803.

7 (5) Property that abuts a perennial stream or river, or on which a perennial
8 stream or river is located, and that property and that perennial stream or
9 river are less than 50 feet from the outer perimeter of the land area onto
10 which waste is applied from a lagoon that is a component of a swine
11 farm in violation of G.S. 106-803.

12 (c) If the court determines it is appropriate, the court may award court costs,
13 including reasonable attorneys' fees and expert witness' fees, to any party. If a temporary
14 restraining order or preliminary injunction is sought, the court may require the filing of a
15 bond or equivalent security. The court shall determine the amount of the bond or
16 security.

17 (d) Nothing in this section shall restrict any other right that any person may have
18 under any statute or common law to seek injunctive or other relief."

19 Sec. 16. Section 2 of Chapter 420 of the 1995 Session Laws reads as rewritten:

20 "Sec. 2. This act becomes effective October 1, 1995, and applies to any new swine farm
21 for which a site evaluation is conducted on or after that date. 1995. This act applies to the
22 construction or enlargement, on or after October 1, 1995, of swine houses, lagoons, and
23 land areas onto which waste is applied from a lagoon that are components of a swine
24 farm. This act does not apply under each of the following circumstances:

25 (1) When the construction or enlargement occurs on or after October 1,
26 1995, for the purpose of increasing the swine population to that set forth
27 as the projected population in a registration of the swine operation filed
28 with the Department of Environment, Health, and Natural Resources
29 before October 1, 1995.

30 (2) When the construction or enlargement occurs on or after October 1,
31 1995, for the purpose of increasing the swine population to the
32 population that the animal waste management system is designed to
33 accommodate as that system is set forth in a registration of the swine
34 operation filed with the Department of Environment, Health, and
35 Natural Resources before October 1, 1995, or as that system is set forth
36 in an animal waste management plan approved before October 1, 1995.

37 (3) When the construction or enlargement occurs on or after October 1,
38 1995, for the purpose of complying with applicable animal waste
39 management rules and not for the purpose of increasing the swine
40 population."

41 Sec. 17. It is the intent of the General Assembly that Sections 15 and 16 of this
42 act, other than new G.S. 106-804, as enacted in Section 15 of this act, clarify ambiguous

1 language in the Swine Farm Siting Act, as enacted by Chapter 420 of the 1995 Session
2 Laws, and do not change the intent of that act.

3 PART VI. MISCELLANEOUS PROVISIONS.

4 Sec. 18. G.S. 143-215.74(b)(5) reads as rewritten:

5 "(5) Funding may be provided to assist practices including conservation
6 tillage, diversions, filter strips, field borders, critical area plantings,
7 sediment control structures, sod-based rotations, grassed waterways,
8 strip-cropping, terraces, cropland conversion to permanent vegetation,
9 grade control structures, water control structures, emergency spillways,
10 riparian buffers or equivalent controls, odor control best management
11 practices, insect control best management practices, and animal waste
12 managements systems and application. Funding for animal waste
13 management shall be allocated for practices in river basins such that the
14 funds will have the greatest impact in improving water quality."

15 Sec. 19. ♦G.S. 143-215.74(b)(6) reads as rewritten:

16 "(6) State funding shall be limited to seventy-five percent (75%) of the
17 average cost for each practice with the assisted farmer providing
18 twenty-five percent (25%) of the cost (which may include in-kind
19 support) with a maximum of ~~fifteen thousand dollars (\$15,000) per year~~
20 seventy-five thousand dollars (\$75,000) total to each applicant."

21 Sec. 20. (a) By September 1, 1996, all operators of animal waste management
22 systems, as defined in G.S. 143-215.1B(h), as enacted by Section 2 of this act, shall
23 contact their local Soil and Water Conservation District office and initiate the process to
24 obtain an approved animal waste management plan pursuant to 15A N.C.A.C. 2H.0217.
25 Operators who meet this September 1, 1996, deadline shall be placed on a list to receive
26 high priority for technical assistance. Operators who do not meet this deadline are not
27 assured of receiving technical assistance before December 31, 1997.

28 (b) The Environmental Management Commission may enter into special
29 agreements or contracts with operators who register by the September 1, 1996 deadline
30 under subsection (a) of this section and make a good faith effort to obtain an approved
31 animal waste management plan by December 31, 1997. The Environmental Management
32 Commission shall not issue a notice of violation of 15A N.C.A.C. 2H.0217 to these
33 operators. The special agreement or contract shall set forth a schedule for an operator to
34 follow to obtain an approved animal waste management plan by December 31, 1997.

35 (c) The Environmental Management Commission shall strictly enforce the
36 penalties available against those operators who fail to comply with subsection (a) of this
37 section or otherwise fail to make a good faith effort to obtain an approved animal waste
38 management plan by December 31, 1997.

39 (d) The board of each Soil and Water Conservation District shall develop a
40 strategy to help the operators of animal waste management systems in its district obtain
41 approved animal waste management plans by December 31, 1997.

42 Sec. 21. The Division of Environmental Management, Department of
43 Environment, Health, and Natural Resources, shall, as a matter of State policy, encourage

1 the development of alternative animal waste treatment and disposal technologies, shall
2 provide incentives to operators of animal waste management systems to participate in the
3 evaluation of new and innovative waste management technologies, and shall ensure that
4 the regulatory process does not limit the use of innovative technologies and that the
5 evaluation of these technologies is made in a timely manner.

6 PART VII. EFFECTIVE DATES.

7 Sec. 22. (a) Section 1 of this act becomes effective January 1, 1998.

8 (b) G.S. 143-215.1B(h), as enacted by Section 2 of this act, is effective upon
9 ratification. G.S. 143-215.1B(c)(1), (2), (3), (6), (7), and (8), as enacted by Section 2 of
10 this act, become effective September 1, 1996, and apply to all animal waste management
11 systems for which an approved animal waste management plan is obtained on or after
12 that date and apply to all other animal waste management systems as of January 1, 1998.
13 G.S. 143-215.1B(c)(4) and (5), as enacted by Section 2 of this act, become effective
14 September 1, 1996, and apply to all animal waste management systems that are
15 constructed or expanded beyond their design capacity on or after that date. G.S. 143-
16 215.1B(e), as enacted by Section 2 of this act, becomes effective December 31, 1997,
17 except the last sentence of that subsection becomes effective October 1, 1996. G.S. 143-
18 215.1B(g) and G.S. 143-215.1C, as enacted by Section 2 of this act, and Section 3 of this
19 act become effective October 1, 1996, and G.S. 143-215.1C applies to any new swine
20 farm constructed on or after that date and to any existing swine farm that expands its
21 animal waste management system beyond design capacity on or after that date. The
22 remainder of Section 2 of this act becomes effective January 1, 1998, and applies to all
23 animal waste management systems.

24 (c) Section 18 of this act becomes effective July 1, 1996. The remaining sections
25 of this act are effective upon ratification. Sections 9 and 10 of this act apply to violations
26 that occur on or after the date of ratification.