

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

2

SENATE BILL 1345

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/5/96

Short Title: Animal Waste Permits/Inspections.

(Public)

---

Sponsors:

---

Referred to:

---

May 27, 1996

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PERMITS FOR SPECIFIED ANIMAL WASTE MANAGEMENT SYSTEMS, TO REQUIRE ANNUAL OPERATION REVIEWS FOR SPECIFIED ANIMAL OPERATIONS, AND TO REQUIRE ENHANCED COMMUNICATION INCLUDING A PLAN TO DEVELOP SITE-SPECIFIC MANAGEMENT STRATEGIES.

The General Assembly of North Carolina enacts:

Section 1. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

**"PART 1A. ANIMAL WASTE MANAGEMENT SYSTEMS.**

**"§ 143-215.10A. Definitions.**

As used in this Part:

- (1) 'Animal operation' means any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, or 30,000 or more confined poultry with a liquid waste system.
- (2) 'Animal waste' means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.

1           (3) 'Animal waste management system' means a combination of structures  
2 and nonstructural practices that provide for the collection, treatment,  
3 storage, or land application of animal waste.

4           (4) 'Division' means the Division of Environmental Management of the  
5 Department.

6           (5) 'Technical specialist' means an individual designated by the Soil and  
7 Water Conservation Commission, pursuant to rules adopted by that  
8 Commission, to certify animal waste management plans.

9 **"§ 143-215.10B. Applications and permits.**

10          (a) No person shall construct or operate an animal waste management system  
11 without first obtaining a permit under this Part. The Commission shall develop a system  
12 of general permits for animal operations based on species, number of animals, and other  
13 relevant factors.

14          (b) An animal waste management system shall be designed, constructed, and  
15 operated so that the animal operation served by the animal waste management system  
16 does not cause water pollution in the surface waters of the State except as may result  
17 because of rainfall from a storm event more severe than the 25-year, 24-hour storm.

18          (c) The Commission shall act on a permit application as quickly as possible and  
19 may conduct any inquiry or investigation it considers necessary before acting on an  
20 application. If the Commission fails to act on an application for a permit, including a  
21 renewal of a permit, within 90 days after the applicant submits all information required  
22 by the Commission, the application is considered to be approved.

23          (d) All applications for permits or for renewal of an existing permit shall be in  
24 writing, and the Commission may prescribe the form of the applications. All applications  
25 shall include an animal waste management system plan approved by a technical  
26 specialist. The Commission may require an applicant to submit additional information the  
27 Commission considers necessary to evaluate the application. Permits and renewals  
28 issued pursuant to this section shall be effective until the date specified therein or until  
29 rescinded unless modified or revoked by the Commission.

30          (e) The Commission shall encourage the development of alternative and  
31 innovative animal waste management technologies. The Commission shall provide  
32 sufficient flexibility in the regulatory process to allow for the timely evaluation of  
33 alternative and innovative animal waste management technologies and shall encourage  
34 operators of animal waste management systems to participate in the evaluation of these  
35 technologies. The Commission shall provide sufficient flexibility in the regulatory  
36 process to allow for the prompt implementation of alternative and innovative animal  
37 waste management technologies that are demonstrated to provide improved protection to  
38 public health and the environment.

39 **"§ 143-215.10C. Operations review.**

40          (a) Each animal operation shall have an operations review on an annual basis as  
41 part of its animal waste management plan. The operations review shall be conducted by  
42 technical specialists of any of the following agencies: (i) a North Carolina Soil and Water  
43 Conservation District or federal Natural Resources Conservation Service; (ii)

1 Cooperative Extension Service; or (iii) North Carolina Department of Agriculture.  
2 During the operations review, if a technical specialist observes any of the following  
3 major violations, the technical specialist shall immediately notify the Division for  
4 immediate action:

5 (1) Use of a straight pipe into the waters of the State;

6 (2) Any major deterioration or leaks in a lagoon system;

7 (3) Overspraying animal waste either in excess of the limits set out in the  
8 animal waste management plan or where runoff enters a blue-line  
9 stream as identified on a U. S. Geological Survey Topographic Map; or

10 (4) Any discharge that bypasses a lagoon system.

11 (b) If a technical specialist observes any other violation that does not pose an  
12 immediate threat to the environment, the animal operation shall be given oral advice on  
13 corrective action needed, including technical assistance if requested. The animal  
14 operation shall be reinspected within 30 days to verify that the animal operation is in  
15 compliance with all permit requirements. If, upon reinspection, the operation has not  
16 made a good faith effort to comply with permit requirements, the technical specialist shall  
17 issue a written report of corrective actions required to the operator, with a copy filed in  
18 the District Soil and Water Conservation Office. The animal operation shall be  
19 reinspected within 30 days after the written report has been issued, and the technical  
20 specialist shall verify that the animal operation is in compliance with all permit  
21 requirements. If the animal operation is not in compliance, the technical specialist shall  
22 report the noncompliance, including recommended corrective action to the Division  
23 within five days.

24 (c) The Department may enforce the animal waste management plan required  
25 under G.S. 143-215.10B(d) in the same manner as it enforces a condition of a permit."

26 Sec. 2. G.S. 143-215.1(a) reads as rewritten:

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

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

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

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

38 (4) Increase the quantity of waste discharged through any outlet or  
39 processed in any treatment works or disposal system to any extent ~~which~~  
40 that would result in any violation of the effluent standards or limitations  
41 established for any point source or ~~which that~~ would adversely affect the  
42 condition of the receiving waters to the extent of violating any ~~of the~~  
43 standards applicable to such water; applicable standard.

- 1 (5) Change the nature of the waste discharged through any disposal system  
2 in any way ~~which that~~ would exceed the effluent standards or limitations  
3 established for any point source or ~~which that~~ would adversely affect the  
4 condition of the receiving waters in relation to any ~~of the standards~~  
5 ~~applicable to such waters;~~ applicable standards.
- 6 (6) Cause or permit any waste, directly or indirectly, to be discharged to or  
7 in any manner intermixed with the waters of the State in violation of the  
8 water quality standards applicable to the assigned classifications or in  
9 violation of any effluent standards or limitations established for any  
10 point source, unless allowed as a condition of any permit, special order  
11 or other appropriate instrument issued or entered into by the  
12 Commission under the provisions of this ~~Article;~~ Article.
- 13 (7) Cause or permit any wastes for which pretreatment is required by  
14 pretreatment standards to be discharged, directly or indirectly, from a  
15 pretreatment facility to any disposal system or to alter, extend or change  
16 the construction or method of operation or increase the quantity or  
17 change the nature of the waste discharged from or processed in ~~such~~  
18 ~~facility;~~ that facility.
- 19 (8) Enter into a contract for the construction and installation of any outlet,  
20 sewer system, treatment works, pretreatment facility or disposal system  
21 or for the alteration or extension of any such ~~facilities;~~ facility.
- 22 (9) Dispose of sludge resulting from the operation of a treatment works,  
23 including the removal of in-place sewage sludge from one location and  
24 its deposit at another location, consistent with the requirement of the  
25 Resource Conservation and Recovery Act and regulations promulgated  
26 pursuant ~~thereto;~~ thereto.
- 27 (10) Cause or permit any pollutant to enter into a defined managed area of  
28 the State's waters for the maintenance or production of harvestable  
29 freshwater, estuarine, or marine plants or ~~animals;~~ animals.
- 30 (11) Cause or permit discharges regulated under G.S. 143-214.7 ~~which that~~  
31 ~~result in water pollution.~~
- 32 (12) Construct or operate an animal waste management system, as defined in  
33 G.S. 143-215.10A, without obtaining a permit under Part 1A of this  
34 Article.

35 (a1) In the event that both effluent standards or limitations and classifications and  
36 water quality standards are applicable to any point source or sources and to the waters to  
37 which they discharge, the more stringent among the standards established by the  
38 Commission shall be applicable and controlling.

39 (a2) ~~In connection with the above, no such~~ No permit shall be granted for the disposal  
40 of waste in waters classified as sources of public water supply where the head of the  
41 agency ~~which that~~ administers the public water supply program pursuant to Article 10 of  
42 Chapter 130A of the General Statutes, after review of the plans and specifications for the  
43 proposed disposal facility, determines and advises the Commission that ~~such any outlet~~

1 for the disposal of waste ~~is~~ is, or would be, sufficiently close to the intake works or  
2 proposed intake works of a public water supply as to have an adverse effect on the public  
3 health.

4 (a3) ~~In any case where the Commission denies a permit, it~~ If the Commission denies an  
5 application for a permit, the Commission shall state in writing the reason for such the  
6 denial and shall also state the Commission's estimate of the changes in the applicant's  
7 proposed activities or plans ~~which will~~ that would be required in order that the applicant  
8 may obtain a permit."

9 Sec. 3. G.S. 143-215.2(a) reads as rewritten:

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

29 Sec. 4. The Division of Soil and Water Conservation of the Department of  
30 Environment, Health, and Natural Resources, the Cooperative Extension Service of North  
31 Carolina State University, and the North Carolina Department of Agriculture shall  
32 prepare a coordinated and comprehensive plan that includes how existing resources at the  
33 local level can be utilized for nonpoint source pollution prevention and control. The plan  
34 shall include mechanisms to be utilized that enhance communication, and provide  
35 information, technical assistance, environmental education, and enforcement strategies.  
36 The plan shall also include the following:

37 (1) Identify the needs of agricultural crop and livestock operations and the  
38 services provided by the various groups.

39 (2) Designate the Division of Soil and Water Conservation of the  
40 Department of Environment, Health, and Natural Resources as the lead  
41 agency with a defined line of authority for agricultural and other land-  
42 use activities affected by the nonpoint source pollution  
43 prevention/control plan.

- 1           (3)    Develop a strategic plan for interaction and communication with  
2                   farmers and livestock operations concerning best management practices,  
3                   nutrient management plans, and site-specific nutrient reduction efforts.

4   The Commissioner of Agriculture, the Secretary of the Department of Environment,  
5   Health, and Natural Resources, and the Director of the Cooperative Extension Service  
6   shall report their comprehensive plan to the Senate Select Committee on River Water  
7   Quality and Fish Kills and the Environmental Review Commission by September 30,  
8   1996.

9           Sec. 5. The Environmental Review Commission shall study the feasibility of  
10   modifying the permit and operations review requirements for animal operations  
11   established under this act. The Commission shall consider whether the requirements  
12   should be extended to additional animal operations including confined poultry operations  
13   with dry litter. The Commission shall report on its findings and recommendations to the  
14   General Assembly on or before the first day of the 1997 Regular Session.

15        Sec. 6. (a)    G.S. 143-215.10A, as enacted by Section 1 of this act, is effective  
16   upon ratification.

17        (b)    G.S. 143-215.10B, as enacted by Section 1 of this act, becomes effective  
18   December 31, 1997, provided that the Commission may adopt temporary rules upon  
19   ratification to design and begin to implement the permits and to develop alternative and  
20   innovative animal waste technologies.

21        (c)    G.S. 143-215.10C, as enacted by Section 1 of this act, becomes effective  
22   September 1, 1996.

23        (d)    Section 2 of this act becomes effective December 31, 1997.

24        (e)    Section 3 of this act is effective upon ratification and applies to violations  
25   that occur on or after that date.

26        (f)    Section 4 of this act is effective upon ratification.