

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH30306-SB-6 (02/15)

Short Title: Swine Farm Env. Performance Standards/Funds. (Public)

Sponsors: Representatives Justice, Lucas, McComas, and Carney (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CODIFY AND MAKE PERMANENT THE SWINE FARM ANIMAL WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS THAT THE GENERAL ASSEMBLY ENACTED IN 1998, TO ASSIST FARMERS WITH THE EARLY ADOPTION OF INNOVATIVE SWINE WASTE MANAGEMENT SYSTEMS, TO RENAME THE EMERGENCY DRINKING WATER FUND THE BERNARD ALLEN CLEAN WELL WATER FUND, AND TO ESTABLISH A REPORTING REQUIREMENT UNDER THE BERNARD ALLEN CLEAN WELL WATER FUND.

The General Assembly of North Carolina enacts:

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

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

(a) As used in this section:

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

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

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

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

(b) The Commission shall not issue or modify a permit to authorize the construction, operation, or expansion of an animal waste management system that serves a swine farm that employs an anaerobic lagoon as the primary method of

1 treatment and land application of waste by means of a sprayfield as the primary method
2 of waste disposal. The Commission may issue a permit for the construction, operation,
3 or expansion of an animal waste management system that serves a swine farm under this
4 Article only if the Commission determines that the animal waste management system
5 will meet or exceed all of the following performance standards:

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

16 **SECTION 1.(b)** Continued Operation. – An animal waste management
17 system that serves a swine farm for which a permit was issued prior to September 1,
18 2007, and that does not meet the requirements of G.S. 143-215.10I, as enacted by
19 subsection (a) of this section, may continue to operate under and shall operate in
20 compliance with the permit, including any renewal of the permit.

21 **SECTION 1.(c)** Rule making. – The Environmental Management
22 Commission shall adopt rules to implement G.S. 143-215.10I, as enacted by subsection
23 (a) of this section. Until rules to implement G.S. 143-215.10I become effective, the
24 Commission, in implementing G.S. 143-215.10I, shall refer to the report entitled,
25 "Development of Environmentally Superior Technologies – Phase 3 Report: for
26 Technology Determinations per Agreements Between the Attorney General of North
27 Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers" dated
28 8 March 2006. The Commission may consult with the Animal and Poultry Waste
29 Management Center of North Carolina State University regarding the application and
30 modification of technical standards required to implement G.S. 143-215.10I.

31 **SECTION 2.(a)** Definitions. – As used in this section:

- 32 (1) "Grower" has the same meaning as in G.S. 143-215.10H.
- 33 (2) "Integrator" has the same meaning as in G.S. 143-215.10H.
- 34 (3) "Innovative swine waste management system" means an animal waste
35 management system that serves a swine farm that is permissible under
36 subsection (b) of G.S. 143-215.10I, as enacted by Section 1 of this act.
- 37 (4) 'Swine farm' has the same meaning as in G.S. 106-802.

38 **SECTION 2.(b)** Early Adoption of Innovative Swine Waste Management
39 Systems Program Established. – The Early Adoption of Innovative Swine Waste
40 Management Systems Program is established as a voluntary program to facilitate the
41 installation of innovative swine waste management systems by growers. The Program
42 shall be administered by the Division of Soil and Water Conservation in the Department
43 of Environment and Natural Resources through the Agriculture Cost Share Program for
44 Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74. The

1 Division shall administer the Program as provided in Part 9 of Article 21 of Chapter 143
2 of the General Statutes as modified by this section. The purpose of the Program is to
3 facilitate the installation of innovative swine waste management systems on at least 100
4 swine farms that were in operation on or before September 1, 2007, and that have at
5 least 65,000,000 pounds steady state live weight cumulative capacity.

6 **SECTION 2.(c)** Program Functions. – Under the Early Adoption of
7 Innovative Swine Waste Management Systems Program, the Division of Soil and Water
8 Conservation in the Department of Environment and Natural Resources, through the
9 Agriculture Cost Share Program for Nonpoint Source Pollution Control, with the
10 assistance of the Task Force for Innovative Swine Waste Management Systems
11 established pursuant to subsection (d) of this section, shall:

- 12 (1) Within available funds, provide grants for the installation of innovative
13 swine waste management systems on swine farms in operation on or
14 before September 1, 2007, subject to the following provisions:
 - 15 a. Grants shall be limited to ninety percent (90%) of the average
16 cost for each practice with the assisted farmer providing ten
17 percent (10%) of the cost, which may include in-kind support of
18 the practice.
 - 19 b. An integrator is not eligible to receive a grant under the
20 Program.
 - 21 c. Any person, other than an integrator, that is developing,
22 licensing, or otherwise providing an animal waste management
23 technology that will serve a swine farm and that will meet the
24 requirements of G.S. 143-215.10I, as enacted by subsection (a)
25 of this section, is eligible to receive a grant under the Program.
 - 26 d. Grants may be used to assist in the closure of sprayfield and
27 lagoon systems that are replaced by innovative animal waste
28 management systems if the closure is performed in accordance
29 with applicable federal and State laws, regulations, and rules.
- 30 (2) Establish criteria to prioritize installation of innovative swine waste
31 management systems, including the cost of purchasing and
32 maintaining the systems, potential markets for by-products generated
33 from the systems, and appropriateness for centralization of waste
34 collection and treatment.
- 35 (3) Establish priorities to guide the selection of swine farms that are
36 eligible for participation in the Program, including the swine farm's
37 geographic location and the grower's compliance history.
- 38 (4) Develop a process for soliciting and reviewing applications from
39 growers and for selecting growers to participate in the Program.
- 40 (5) Investigate and pursue other funding sources to supplement State
41 funds, including federal, local, and private funding sources.
- 42 (6) Provide technical assistance to participating growers to assist with
43 modifications of waste management systems and facilitate the timely
44 transfer of technology among participating growers.

1 **SECTION 2.(d)** Task Force for Innovative Swine Waste Management
2 Systems. –

- 3 (1) The Task Force for Innovative Swine Waste Management Systems
4 shall be made up of the following members:
5 a. The Director of the Division of Soil and Water Conservation in
6 the Department of Environment and Natural Resources, who
7 shall be the Chair.
8 b. The Director of the Division of Water Quality in the
9 Department of Environment and Natural Resources or the
10 Director's designee.
11 c. The Director of the Division of Air Quality in the Department
12 of Environment and Natural Resources or the Director's
13 designee.
14 d. The Coordinator of the Waste Management Programs in the
15 College of Agricultural Life Sciences at North Carolina State
16 University.
17 e. The President of Frontline Farmers or the President's designee.
18 f. The Director of the North Carolina Office of Environmental
19 Defense or the Director's designee.
20 g. The Director of the Environmental Justice Network or the
21 Director's designee.
22 h. The President of the North Carolina Pork Council or the
23 President's designee.
24 i. The Attorney General of North Carolina or the Attorney
25 General's designee.
26 (2) Members of the Task Force shall receive per diem, subsistence, and
27 travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as
28 appropriate.
29 (3) The Division of Soil and Water Conservation in the Department of
30 Environment and Natural Resources shall assign professional and
31 clerical staff to the Task Force to assist it in its work.
32 (4) In addition to assisting the Division of Soil and Water Conservation as
33 provided in subsection (c) of this section, the Task Force shall
34 evaluate:
35 a. Markets for by-products derived from swine waste and make
36 recommendations for development of the markets, including
37 identification of regulatory obstacles.
38 b. Methods to encourage growers, integrators, and electric power
39 suppliers to cooperate in the production and use of renewable
40 energy or other marketable by-products derived from swine
41 waste, including an examination of tax incentives, carbon
42 sequestration credits, and trading mechanisms.

43 **SECTION 2.(e)** Report. – No later than November 1 of each year, the
44 Division of Soil and Water Conservation in the Department of Environment and Natural

1 Resources shall report to the Environmental Review Commission on the implementation
2 of the Early Adoption of Innovative Swine Waste Management Systems Program. The
3 first report required by this subsection shall be submitted no later than November 1,
4 2007.

5 **SECTION 3.(a)** Steady State Live Weight Limitation. – The Environmental
6 Management Commission shall not issue or modify a permit to authorize the
7 construction, operation, or expansion of an animal waste management system that
8 serves a swine farm unless the system is permissible under G.S. 143-215.10I(b) and
9 sufficient steady state live weight (SSLW) allowances have been allocated to the swine
10 farm pursuant to subsection (b) of this section.

11 **SECTION 3.(b)** Steady State Live Weight Allowances. – The
12 Environmental Management Commission shall establish a system of steady state live
13 weight (SSLW) allowances within which swine farms must operate. For a swine farm
14 that was in operation on or before September 1, 2007, the Commission shall allocate
15 steady state live weight (SSLW) allowances equivalent to the steady state live weight
16 (SSLW) referenced in the swine farm's operating permit. The owner of a swine farm
17 may transfer or retire steady state live weight (SSLW) allowances with the approval of
18 the Commission. The Commission may approve the transfer or retirement of steady
19 state live weight (SSLW) allowances if the Commission determines that any anaerobic
20 lagoons located on the swine farm to which the allowances were allocated have been
21 closed in compliance with all applicable federal and State laws, regulations, and rules.

22 **SECTION 3.(c)** Sunset. – Upon the adoption of innovative swine waste
23 management systems by all swine farms in operation on or before September 1, 2007,
24 this section expires, and the Environmental Management Commission may permit the
25 construction or expansion of additional swine farms in compliance with all applicable
26 laws in effect during the time of permit application.

27 **SECTION 4.(a)** Account. – There is hereby established the Swine Farm
28 Waste Management System Conversion Account within the Division of Soil and Water
29 Conservation of the Department of Environment and Natural Resources. Funds in the
30 Account shall be used only for installation of innovative swine waste management
31 systems on swine farms in operation on or before September 1, 2007, as provided in this
32 act. The Account shall consist of funds appropriated to the Account by the General
33 Assembly; any federal funds available for this purpose; and any grants, gifts, or
34 contributions to the State for this purpose. Funds in the Account shall not revert.

35 **SECTION 4.(b)** Appropriation. – There is appropriated from the General
36 Fund to the Swine Farm Waste Management System Conversion Account within the
37 Division of Soil and Water Conservation of the Department of Environment and Natural
38 Resources the sum of ten million dollars (\$10,000,000) for fiscal year 2007-2008 and
39 the sum of ten million dollars (\$10,000,000) for the 2008-2009 fiscal year to implement
40 the provisions of this act. It is the intent of the General Assembly that this appropriation
41 be a recurring appropriation through the 2011-2012 fiscal year.

42 **SECTION 4.(c)** Limit on Operating and Administrative Expenses. – No
43 more than five percent (5%) of the annual balance of the Fund on July 1 or a total sum
44 of two hundred fifty thousand dollars (\$250,000), whichever is greater, may be used

1 each fiscal year for administrative and operating expenses of the Task Force and the
2 Program.

3 **SECTION 5.(a)** G.S. 87-98 reads as rewritten:

4 "**§ 87-98. ~~Emergency Drinking Water Fund.~~The Bernard Allen Clean Well Water**
5 **Fund.**

6 (a) ~~The Emergency Drinking Water Fund~~Bernard Allen Clean Well Water Fund
7 is established within the Department. Monies in the Fund shall not revert.

8 (b) The Fund may be used to pay for notification, to the extent practicable, of
9 persons aged 18 and older who reside in any dwelling unit, and the senior official in
10 charge of any business, at which drinking water is supplied from a private drinking
11 water well that is located within 1,500 feet of, and at risk from, known groundwater
12 contamination. The senior official in charge of the business shall take reasonable
13 measures to notify all employees of the business of the groundwater contamination,
14 including posting a notice of the contamination in a form and at a location that is readily
15 accessible to the employees of the business. The funds may also be used to cover the
16 costs of testing private drinking water wells for ~~contamination and~~contamination,
17 whether from a known or unknown source of contamination; for repair or replacement
18 of defective or contaminated wells; and for the provision of alternative drinking water
19 supplies to persons whose drinking water well is contaminated.

20 (c) The Department shall disburse monies from the Fund based on financial need
21 and on the risk to public health posed by groundwater contamination and shall give
22 priority to the provision of services under this section to instances when an alternative
23 source of funds is not available. The funds shall not be used for remediation of
24 groundwater contamination. Nothing in this section expands, contracts, or modifies the
25 obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General
26 Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify
27 receptors, or remediate groundwater or soil contamination.

28 (d) The Department shall establish criteria by which the Department is to
29 evaluate applications and disburse funds from this Fund and may adopt any rules
30 necessary to implement this section.

31 (e) No later than November 1 of each year, the Department shall submit a report
32 to the Environmental Management Commission on the implementation of the Bernard
33 Allen Clean Well Water Fund, including a summary of applications to and expenditures
34 from the Fund as well as an estimate of the well water remediation needs of the State."

35 **SECTION 5.(b)** Initial Report. – The first report required by G.S. 87-98(e),
36 as enacted by Section 5(a) of this act, shall be submitted no later than November 1,
37 2007.

38 **SECTION 5.(c)** Appropriation. – There is appropriated from the General
39 Fund to the Bernard Allen Clean Well Water Fund the sum of ten million dollars
40 (\$10,000,000) for fiscal year 2007-2008.

41 **SECTION 6.** Effective Dates. – Section 1 of this act becomes effective
42 September 1, 2007. Section 2 of this act becomes effective July 1, 2007, and expires
43 July 1, 2012. Sections 3, 4, 5, and 6 of this act become effective July 1, 2007.