

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH30296-SB-19 (04/12)

Short Title: Clean Hog Farms Act of 2005-2.

(Public)

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Sponsors: Representative Justice.

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Referred to:

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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 AND TO PHASE OUT THE USE OF THE LAGOON AND SPRAYFIELD ANIMAL WASTE MANAGEMENT SYSTEM FOR SWINE FARMS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 1.1 of S.L. 1997-458, as amended by Section 2 of S.L. 1998-188, Section 2.1 of S.L. 1999-329, Section 1 of S.L. 2001-254, and Section 1 of S.L. 2003-266, is codified as G.S. 143-215.10I and reads as rewritten:

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

(a) ~~Moratorium Established.~~—As used in this section:

(1) 'Swine farm' and 'lagoon' have the same meaning as in G.S. 106-802.

(2) ~~'Animal waste management system' has the same meaning as in G.S. 143-215.10B.~~

(3)(2) '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.

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

(a1) ~~There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are to allow time for the completion of ongoing evaluations of animal waste management technologies and related research and studies; to allow the General Assembly to receive and act on the findings and recommendations~~

1 of those evaluations, research, and studies; and to allow for the implementation of any  
2 legislation that may be enacted. Except as provided in subsection (b) of this section, the  
3 Environmental Management Commission shall not issue a permit for an animal waste  
4 management system for a new swine farm or the expansion of an existing swine farm  
5 for a period beginning on 1 March 1997 and ending on 1 September 2007. The  
6 construction or expansion of a swine farm or animal waste management system for a  
7 swine farm is prohibited during the period of the moratorium regardless of the date on  
8 which a site evaluation for the swine farm is completed and regardless of whether the  
9 animal waste management system is permitted under G.S. 143-215.1 or Part 1A of  
10 Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North  
11 Carolina Administrative Code 2H.0217.

12 (b) Exceptions.—The moratorium established by subsection (a1) of this section  
13 does not prohibit:

- 14 (1) Construction to repair a component of an existing swine farm or  
15 lagoon.
- 16 (2) Construction to replace a component of an existing swine farm or  
17 lagoon if the replacement does not result in an increase in swine  
18 population, except as provided in subdivision (3) (7), or (8) of this  
19 subsection.
- 20 (3) Construction or expansion for the purpose of increasing the swine  
21 population to the projected population or to the population that the  
22 animal waste management system serving that swine farm is designed  
23 to accommodate, as set forth in a certified animal waste management  
24 plan filed with the Department of Environment, Health, and Natural  
25 Resources prior to 1 March 1997.
- 26 (4) Construction or expansion for the purpose of complying with  
27 applicable animal waste management rules and not for the purpose of  
28 increasing the swine population.
- 29 (5) Construction or expansion, if the person undertaking the construction  
30 or expansion of the swine farm, lagoon, or animal waste management  
31 system has been issued a permit for that construction or expansion  
32 under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the  
33 General Statutes prior to the date this act becomes effective.
- 34 (6) Construction or expansion, if the person undertaking the construction  
35 or expansion of the swine farm, lagoon, or animal waste management  
36 system has, prior to 1 March 1997, either:
  - 37 a. Laid a foundation for a component of the swine farm, lagoon, or  
38 animal waste management system.
  - 39 b. Entered into a bona fide written contract for the construction or  
40 expansion of the swine farm, lagoon, or animal waste  
41 management system.
  - 42 c. Been approved for a loan or line of credit to finance the  
43 construction or expansion of the swine farm, lagoon, or animal

- 1 waste management system and has obligated or expended funds  
2 derived from the loan or line of credit.
- 3 (7) ~~Construction or expansion of an animal waste management system that  
4 does not employ an anaerobic lagoon as the primary method of  
5 treatment, does not employ land application of waste except by  
6 injection into soil or by surface application if the injection or surface  
7 application meets the requirements of sub-subdivisions a. through e. of  
8 this subdivision, and is designed to be the subject of a research project.  
9 The Environmental Management Commission shall issue a permit for  
10 the construction or expansion of an animal waste management system  
11 under this subdivision only if the Commission determines, after  
12 consultation with the Animal and Poultry Waste Management Center  
13 of North Carolina State University, that additional research is  
14 necessary to evaluate whether the animal waste treatment system will:~~
- 15 a. ~~Eliminate the discharge of animal waste to surface waters and  
16 groundwater through direct discharge, seepage, or runoff.~~
  - 17 b. ~~Substantially eliminate atmospheric emissions of ammonia.~~
  - 18 c. ~~Substantially eliminate the emission of odor that is detectable  
19 beyond the boundaries of the parcel or tract of land on which  
20 the swine farm is located.~~
  - 21 d. ~~Substantially eliminate the release of disease transmitting  
22 vectors and airborne pathogens.~~
  - 23 e. ~~Substantially eliminate nutrient and heavy metal contamination  
24 of soil and groundwater.~~
- 25 (8) ~~Construction~~ The Department shall not issue or modify a permit to  
26 authorize the construction, operation, or expansion of an animal waste  
27 management system that serves a swine farm and that does not  
28 employ employs an anaerobic lagoon as the primary method of  
29 treatment and does not employ land application of waste by means of a  
30 sprayfield as the method of waste disposal, except by injection into  
31 soil or by surface application if the injection or surface application  
32 meets the requirements of sub-subdivisions a. through e. of this  
33 subdivision. The Environmental Management Commission may issue  
34 permits under this subdivision only in a manner consistent with  
35 G.S. 143-215.1(b)(2). ~~The Commission shall~~ may issue a permit for  
36 the construction construction, operation, or expansion of an animal  
37 waste management system that serves a swine farm under this  
38 subdivision ~~Article~~ only if the Commission determines, after  
39 consultation with the Animal and Poultry Waste Management Center  
40 of North Carolina State University, that the animal waste management  
41 system has been in use on a swine farm with climatic conditions and  
42 soil characteristics that are similar to those that will be encountered at  
43 the proposed site of the swine farm for at least a year, that the animal  
44 waste management system has been evaluated for at least a year, and

1           ~~that sufficient data exists to establish~~determines that the animal waste  
2           management system ~~will~~will meet or exceed all of the following  
3           ~~performance standards:~~

4           ~~a.~~(1) Eliminate the discharge of animal waste to surface ~~waters~~water and  
5           groundwater through direct discharge, seepage, or runoff.

6           ~~b.~~(2) Substantially eliminate atmospheric ~~emissions~~emission of ammonia.

7           ~~c.~~(3) Substantially eliminate the emission of odor that is detectable beyond  
8           the boundaries of the parcel or tract of land on which the swine farm is  
9           located.

10          ~~d.~~(4) Substantially eliminate the release of disease-transmitting vectors and  
11          airborne pathogens.

12          ~~e.~~(5) Substantially eliminate nutrient and heavy metal contamination of soil  
13          and groundwater.

14          ~~(e) Establishing Eligibility for an Exemption. It shall be the responsibility of an~~  
15          ~~applicant for a permit for an animal waste management system for a new swine farm or~~  
16          ~~for the expansion of an existing swine farm under subdivisions (1) through (8) of~~  
17          ~~subsection (b) of this section to provide information and documentation to the~~  
18          ~~Department of Environment, Health, and Natural Resources that establishes, to the~~  
19          ~~satisfaction of the Department, that the applicant is eligible for the permit. In~~  
20          ~~demonstrating eligibility for a permit under this section, the burden of proof shall be on~~  
21          ~~the applicant.~~

22          ~~(d) Rule Making Not Required; Administrative and Judicial Review.~~  
23          ~~Notwithstanding the provisions of Article 2A of Chapter 150B of the General Statutes,~~  
24          ~~this section shall not be construed to obligate the Commission or the Department to~~  
25          ~~adopt a temporary or permanent rule to implement this section. The Commission and~~  
26          ~~the Department shall implement the provisions of this section by evaluating each~~  
27          ~~application for a permit for an animal waste management system on a case by case~~  
28          ~~basis. A decision of the Commission or the Department under this section is subject to~~  
29          ~~administrative and judicial review as provided in Articles 3 and 4 of Chapter 150B of~~  
30          ~~the General Statutes."~~

31          **SECTION 2.** An animal waste management system that serves a swine farm  
32          for which a permit was issued prior to 1 September 2005, and that does not meet the  
33          requirements of G.S. 143-215.10I, as enacted by Section 1 of this act, may continue to  
34          operate under, and shall operate in compliance with, that permit until the later of 1  
35          September 2010 or 10 years from the date on which the animal waste management  
36          system was first permitted or deemed permitted. The owner or operator of an animal  
37          waste management system that serves a swine farm and that employs a lagoon and  
38          sprayfield system that is phased out pursuant to this act shall close all of the components  
39          of the animal waste management system in compliance with all applicable federal and  
40          State laws, regulations, and rules.

41          **SECTION 3.(a)** North Carolina State University and the University of North  
42          Carolina at Chapel Hill shall jointly develop an implementation plan to convert animal  
43          waste management systems that serve swine farms and that employ anaerobic lagoons  
44          as the primary method of treatment and land application of waste by means of a

1 sprayfield as a method of waste disposal to alternative animal waste management  
2 systems that achieve the performance standards required by G.S. 143-215.10I(b), as  
3 enacted by Section 1 of this act. The implementation plan shall include, but not be  
4 limited to, all of the following:

- 5 (1) One or more business models for the implementation of alternative  
6 animal waste management systems.
- 7 (2) An assessment of the capital needs and labor and construction resource  
8 availability associated with each business model identified.
- 9 (3) An analysis of the full costs associated with each business model  
10 identified.
- 11 (4) Identification and assessment of the potential revenue streams  
12 generated by each alternative animal waste management system that  
13 achieves the performance standards required by G.S. 143-215.10I(b),  
14 as enacted by Section 1 of this act. This shall include identification of  
15 new markets for by-products, including consideration of the purchase  
16 of by-products by State agencies.
- 17 (5) An assessment of ways to minimize conversion costs and to help  
18 finance conversion for contract and independent swine growers. This  
19 shall include an assessment of financial mechanisms that could be used  
20 by swine farmers who are unable to fully afford the costs to convert to  
21 alternative animal waste management systems. Financial mechanisms  
22 assessed shall include, but not be limited to, existing and potential  
23 federal and State cost-share and other financial assistance programs,  
24 tax and other incentive programs, and financial and technical  
25 assistance by private processors and other companies in the pork  
26 industry.
- 27 (6) An assessment of new institutional and public policy mechanisms that  
28 may be needed to facilitate the conversion of the swine industry in  
29 North Carolina to alternative animal waste management systems,  
30 including prioritization of alternative animal waste management  
31 systems and of the order in which the conversion of existing swine  
32 farms to alternative animal waste management systems should occur.
- 33 (7) Recommendations for permitting of alternative animal waste  
34 management systems.
- 35 (8) An evaluation of the Department of Environment and Natural  
36 Resources and other agency staff needed to process permit applications  
37 and provide for technology transfer.

38 **SECTION 3.(b)** North Carolina State University and the University of North  
39 Carolina at Chapel Hill shall jointly present the implementation plan developed  
40 pursuant to subsection (a) of this section to the Environmental Review Commission no  
41 later than 1 April 2006.

42 **SECTION 4.** There is appropriated from the General Fund to The University  
43 of North Carolina the sum of two hundred thousand dollars (\$200,000) for fiscal year  
44 2005-2006 to develop the implementation plan required by Section 3 of this act.

1           **SECTION 5.** Sections 1 and 2 of this act become effective 1 September  
2 2005 and apply to any application for a new permit or to modify a permit for an animal  
3 waste management system that serves a swine farm. Sections 3, 4, and 5 of this act  
4 become effective 1 July 2005.