

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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1

HOUSE BILL 1159

Short Title: Regulate Hog Operations.

(Public)

Sponsors: Representatives H. Hunter; and DeVane.

Referred to: Agriculture.

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE DISPOSAL OF ANIMAL WASTE AT INTENSIVE
3 HOG OPERATIONS.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 64.**
8 **"MANAGEMENT AND DISPOSAL OF WASTE**
9 **BY INTENSIVE HOG OPERATIONS.**
10 **"PART 1. GENERAL.**

11 **"§ 143-595. Purpose.**

12 The purpose of this Article is to protect the rural environment and the health of rural
13 residents by establishing minimum qualifications, standards, and procedures for the
14 issuance of permits for intensive hog operations using liquid animal waste management
15 systems within the State and for the issuance of permits for land application sites within
16 the State. This Article provides management, operational, and maintenance procedures
17 necessary to prevent point source pollution and minimize nonpoint source pollution to
18 the surface and groundwaters of the State and control to the degree practicable the
19 generation of offensive odors by regulated intensive hog operations.

20 The siting and separation requirements set forth in this Article are intended to
21 protect water quality, to protect public health, and to abate odor. In order to minimize
22 odor, the policy is to encourage permittees to use chemical or biological additives or
23 other best management practices in the operation of liquid animal waste management
24 systems.

1 This Article will help prevent conditions at intensive hog operations that are
 2 detrimental to the health, safety, and welfare of nearby residents.

3 **"§ 143-596. Applicability.**

4 The provisions of this Article are applicable to the operation of all intensive hog
 5 operations operated in North Carolina.

6 **"§ 143-597. Definitions.**

7 The following definitions apply to this Article:

8 (1) Animal Feeding Operations. – Lot, yard, corral, building or other areas
 9 where animals are confined, fed, and maintained for 45 days or more
 10 in any 12-month period. Two or more animal feeding operations
 11 under common ownership or management are considered to be a single
 12 operation if they are adjacent or use a common area or system for
 13 waste disposal.

14 (2) Animal Capacity. – The maximum number of animals that the owner
 15 or operator will confine in an animal feeding operation at one time.

16 (3) Anaerobic Lagoon. – An earthen impoundment designed and operated
 17 to provide both long-term storage and partial treatment of animal
 18 wastes from a confinement feeding operation.

19 (4) Animal Unit. – A unit of measurement used to determine the animal
 20 capacity of an animal-feeding operation containing two or more
 21 categories of animals. The animal unit capacity of an operation is
 22 determined by multiplying the number of animals of each category by
 23 the appropriate equivalency factor and summing the resulting totals for
 24 animal categories contained in the operation.

25 Animal Unit Equivalency Factors

<u>Animal Species</u>	<u>Factor</u>
<u>Swine - over 55 lbs.</u>	<u>0.5</u>
<u>Swine - under 55 lbs.</u>	<u>0.05</u>

29 (5) Applicant. – Any person who seeks a permit to establish, modify, or
 30 maintain an Intensive Livestock Operation.

31 (6) Commission. – Environmental Management Commission of the
 32 Department of Environment, Health, and Natural Resources.

33 (7) Confined Hog Operation. – Any lot or facility where hogs have been,
 34 are or will be, stabled or confined and fed or maintained and where
 35 crops, vegetation, forage growth, or postharvest residues are not
 36 sustained in the normal growing season over significant portions of the
 37 lot or facility.

38 (8) Confinement Feeding Operation. – Totally roofed animal feeding
 39 operations in which wastes are stored or removed as a liquid or
 40 semiliquid.

41 (9) Construction Permit. – A written approval of the Department to
 42 construct a waste control facility or part of one.

43 (10) Department. – The Department of Environment, Health, and Natural
 44 Resources.

- 1 (11) Director. – The Director of the Division of Environmental
2 Management, Department of Environment, Health, and Natural
3 Resources.
- 4 (12) Discontinued Animal-Feeding Operation. – An animal-feeding
5 operation whose use has been discontinued and the owner or operator
6 does not intend to resume its use for a period of 12 months or more.
- 7 (13) Earthen Waste Slurry Storage Basin. – An uncovered earthen
8 impoundment designed and operated to provide short-term storage of
9 wastes from a confinement feeding operation. An impoundment or
10 basin is considered earthen unless the bottom and sidewalls are
11 completely covered with human-made materials (e.g. concrete, asphalt,
12 or synthetic liner).
- 13 (14) Formed Waste Storage Tank. – A waste storage tank whose walls and
14 floor are constructed of materials such as concrete, concrete block,
15 wood, steel, or similar materials and used to store wastes from a
16 confinement feeding operation. Formed tanks may be located either
17 inside or outside the confinement feeding facilities.
- 18 (15) Freeboard. – The difference in height between the lowest point on the
19 lagoon dike and the level of wastes in the structure.
- 20 (16) Intensive Hog Operation or IHO. – Any enclosure, pen, feedlot,
21 building, or group of buildings intended to be used or used to feed,
22 confine, or maintain swine, where their dietary needs are met primarily
23 by means other than grazing and with at any time a total of 200 or
24 more animal units present. The term includes confined hog operation.
- 25 (17) Interested Person. – Any person interested in the impact that IHOs
26 may have on the public health, the environment, or human quality of
27 life.
- 28 (18) Liquid Animal Waste Management System. – Any system used for the
29 collection, storage, distribution, or disposal of animal waste in liquid
30 form generated by a confined animal operation.
- 31 (19) Man-Made Waste Drainage System. – A man-made drainage ditch,
32 flushing system, or other drainage device used for the purpose of
33 transporting wastes.
- 34 (20) Manure. – The feces, urine, litter, bedding, or feed waste from hog-
35 feeding operations.
- 36 (21) NPDES. – National Pollution Discharge Elimination System, pursuant
37 to 33 U.S.C. § 1342.
- 38 (22) NPDES Permit. – Permit to regulate and monitor discharge of
39 pollutants into the waters of the United States issued by the
40 Department, pursuant to G.S. 143-215.1.
- 41 (23) Operator. – Any individual, partnership, corporation, or association
42 doing business in the State of North Carolina.

- 1 (24) Person. – Any individual, corporation, partnership, association,
2 cooperative, State, municipality, commission, governmental agency or
3 subdivision, or other legal entity.
- 4 (25) Pollutant. – Substance adversely affecting water quality or public
5 health, including manure.
- 6 (26) Sewage Lagoon. – Animal waste storage system, including anaerobic
7 lagoon, earthen waste, slurry storage basin, or formed waste storage
8 tank.
- 9 (27) Site Management Plan. – A plan prepared by USDA Soil Conservation
10 Service, a North Carolina Soil and Water Conservation District water
11 quality technician, or a professional engineer registered in the State of
12 North Carolina that includes a detailed map of the land application site
13 showing all buffer zones, a description of the land use, the crops
14 grown on the site, and a land-use agreement if the site is not owned by
15 the permittee.
- 16 (28) Ten-Year Twenty-Four-Hour Storm. – A storm of a 24-hour duration
17 which yields a total precipitation of a magnitude which has a
18 probability of recurring once every 10 years.
- 19 (29) Twenty-Five-Year Twenty-Four-Hour Storm. – A storm of a 24-hour
20 duration which yields a total precipitation of a magnitude which has a
21 probability of recurring once every 25 years.
- 22 (30) USDA. – The United States Department of Agriculture.
- 23 (31) Waste Management Plan. – A plan prepared by the USDA Soil
24 Conservation Service, a North Carolina Soil and Water Conservation
25 District water quality technician, or a professional engineer registered
26 in the State of North Carolina detailing the management and disposal
27 of liquid wastes generated in a confined hog farm operation.
- 28 (32) Waters of the State. – All creeks, streams, rivers, lakes, marshes,
29 swamps, ponds, watercourses, waterways, wells, springs, irrigation
30 systems, drainage systems, and all other bodies or accumulations of
31 water, surface and underground, natural or artificial, public or private,
32 which are contained within, flow through, or border upon this State or
33 any portion of this State.

34 **"§ 143-598. Administration and interpretation.**

- 35 (a) The Department shall adopt rules to implement this Article.
- 36 (b) In interpreting and applying the provisions of this Article, the Department
37 shall apply the minimum requirements, except where maximum requirements are
38 expressly stated.
- 39 (c) Whenever any provision of this Article overlaps or contradicts a local
40 regulation, the local regulation shall govern if it imposes higher environmental
41 protection standards, unless it is the clear intent of this Article that only this Article shall
42 control.

1 (d) It is not intended that any provision of this Article shall restrict or impair the
2 right of any private or public person to bring any legal or equitable action for redress
3 against nuisances, hazards, or injuries to persons or property.

4 (e) Failure of the Department to observe or recognize conditions which violate
5 the intent and purpose of this Article, or to deny an IHO permit applied for under this
6 Article, shall not relieve the IHO owner from responsibility for the condition or
7 damages resulting from the violation and shall not result in the county, its officers, or
8 agents being responsible for conditions or damages resulting from the violation.

9 **"PART 2. PERMIT AND EDUCATION REQUIREMENTS.**

10 **"§ 143-599. Permit requirements.**

11 (a) No person shall initiate the construction, expansion, or operation of any IHO
12 without first having obtained a permit from the Department.

13 (b) IHO owners shall take all reasonable measures to protect the health,
14 environment, and human quality of life from adverse consequences of the operation of
15 IHOs.

16 (c) The Department shall review all existing and proposed IHOs to determine if
17 the IHOs must apply for a NPDES permit. A decision by the Department to require or
18 not require an application for a NPDES permit can be appealed by the applicant or any
19 interested person pursuant to Chapter 150B, Article 3, of the General Statutes.

20 (d) A new animal feeding operation or existing operation planning expansion
21 shall apply for an operation permit at least 180 days before the new or expanded facility
22 is scheduled to begin operation.

23 **"§ 143-600. Permit application.**

24 (a) To obtain a permit, an IHO shall submit a completed application form to the
25 Department on any form as the Department may require.

26 (b) The application shall include all of the following:

27 (1) An engineering report, design, plans and specifications, and related
28 design information covering all proposed waste control facilities.
29 Design plans submitted to the Department shall be prepared by a
30 professional engineer registered in this State or by the personnel of the
31 USDA Soil Conservation Service. Designs and waste management
32 plans shall be in accordance with the criteria listed in this Chapter and
33 the following USDA Soil Conservation Service technical publications:

- 34 - Field Office Technical Guide
- 35 - Annual Waste Management Field Manual
- 36 - Technical Note 716, Lining Requirements
- 37 - Technical Note 102, Supplementing Nutrient and Pest
- 38 Management Practice Standards.

39 (2) USDA Agriculture Stabilization and Conservation Service aerial
40 photos showing the location of existing and proposed animal feeding
41 operations and waste control systems, and the location of any
42 neighboring property or public use areas other than roads located
43 within one mile of the operation.

- 1 (3) Information on the amounts and location of the land areas on which
2 wastes will be disposed.
- 3 (4) Soil boring data for anaerobic lagoons, earthen waste slurry storage
4 basins, open feedlot runoff storage basins, and other earthen waste
5 storage structures.
- 6 (5) Plans for odor control, disposal of dead animals, and vermin control.
- 7 (6) The name, address, and description of similar facilities partly or
8 wholly operated or owned by the applicant or an entity such as a
9 corporation, subsidiary of the applicant, or the parent company of the
10 applicant, or affiliate of the company, that are owned by the applicant
11 or that owns the applicant. The information shall also include any
12 violations cited within the last 10 years by federal, State, regional, or
13 local regulatory agencies, approved plans for correcting such
14 violations, and evidence that corrections have occurred or are
15 occurring.

16 **"§ 143-601. Notice of application.**

17 (a) Prior to submission of an application to construct or operate an IHO, or prior
18 to submission of an application to modify any existing IHO, the applicant shall cause to
19 be published in a newspaper having general circulation, in each county where the
20 operation is to be located, a public notice of the application. The Department shall be
21 provided a copy of this notice. All notices shall be published at least weekly for two
22 consecutive weeks in a form prescribed by the Department. The notice shall call upon
23 all interested persons having questions or objections pertaining to the application to file
24 their questions or objections with the Department in writing, including their names and
25 addresses. Proof of publication shall be submitted to the Department with the permit
26 application. Publication of notices shall be at the applicant's expense and shall provide
27 the following information:

- 28 (1) The type of facility to be constructed or operated;
- 29 (2) The type of waste to be generated, and a description of the waste
30 treatment, handling, or disposal processes; and
- 31 (3) The legal description, including township and road and street
32 description, indicating the location of all properties to be used in the
33 treatment, handling, or disposal of waste.

34 (b) The Department shall provide a copy of the public notice or similar written
35 notification of the operation to the county zoning authority or, if located within an area
36 zoned by a city, the city zoning authority.

37 (c) Any interested person shall have 60 days from the date of first publication to
38 submit written comments to the Department.

39 **"§ 143-602. Permit review and public hearing.**

40 (a) Upon receipt of an application, the Department shall review the application,
41 determine if all required information has been submitted, and contact the applicant,
42 individual, or agency providing design assistance if additional information is needed. If
43 necessary, a departmental field office shall conduct an on-site inspection. The
44 Department shall review proposed waste controls for compliance with the Department's

1 rules and design standards, Soil Conservation Service standards and specifications, and
2 other applicable criteria.

3 (b) Should a hearing be deemed necessary by the Department, or in the event the
4 Department desires a hearing, the Department shall schedule a public hearing and shall
5 by certified mail, return receipt requested, notify the applicant and all persons who have
6 submitted comments of the date, time, and place of the public hearing.

7 (c) If the Department determines that the proposed waste controls do not meet
8 the statutory and regulatory requirements, the operation will be asked to modify its
9 plans and permit applications. Once all the Department's requirements are met, a permit
10 will be issued.

11 (d) If a final permit is issued, the applicant or any interested party has 30 days to
12 appeal the decision pursuant to Chapter 150B, Article 3, of the General Statutes.

13 (e) If a final permit is denied, the Department shall provide to the applicant a
14 written statement setting out the basis for the denial. The applicant has 30 days from
15 the date of the denial notice to appeal the denial pursuant to Chapter 150B, Article 3, of
16 the General Statutes.

17 (f) The Department shall issue a notice of its decision to the applicant and any
18 interested party that submitted written comments pursuant to this section.

19 **"§ 143-603. Permit contents.**

20 (a) An operation permit shall describe the minimum waste control requirements
21 an animal feeding operation must follow. The permit shall also list monitoring and
22 reporting requirements, acceptable methods for disposing stored wastes, as well as other
23 conditions the Department determines necessary to prevent water pollution.

24 (b) An operation permit is issued up to five years, but may be revoked,
25 suspended, or modified by the Department if the permit terms are violated or unlawful
26 waste discharges occur.

27 (c) When necessary to comply with a present standard or a standard which must
28 be met at a future date, an operation permit shall include a schedule for modification of
29 the permitted facility to meet the standard. The schedule shall not relieve the permittee
30 of the duty to obtain a permit. A compliance schedule shall not exceed two years from
31 its date of issuance.

32 **"§ 143-604. Permit modification, suspension, or revocation.**

33 (a) The operator shall notify and describe to the Department in writing prior to
34 any change in operational procedures of the permitted facility, including, but not limited
35 to, the following:

36 (1) Change in ownership and control of the facility;

37 (2) Increase in the number of confined animals greater than ten percent
38 (10%) or more of the existing permitted confined animal operation;

39 (3) Change in land application sites; or

40 (4) Change in waste treatment, handling, or disposal.

41 (b) Any changes in procedures as described in subsection (a) of this section shall
42 require a permit modification. The Department in its discretion may require the
43 operator to modify its permit with regard to waste treatment, handling, or disposal.

44 (c) All permit modifications will follow the requirements of this Chapter.

1 (d) The Department may in its discretion require the operator to provide
2 construction plans and specifications, amended plans of operation, or any other
3 information required by this Chapter.

4 (e) The Department may modify, suspend, or revoke in whole or in part any
5 operation permit for cause. Cause for modification, suspension, or revocation of a
6 permit may include the following:

7 (1) Violation of any term or condition of the permit;

8 (2) Obtaining a permit by misrepresentation of fact or failure to disclose
9 fully all material facts;

10 (3) A change in any condition that requires either a temporary or
11 permanent reduction or elimination of the permitted discharge; or

12 (4) Failure to timely submit the records and information that the
13 Department requires in order to assure compliance with the operation
14 and discharge conditions of the permit.

15 **"§ 143-605. Permit renewals.**

16 Requests for permit renewals are to be submitted to the Director at least 180 days
17 prior to expiration unless revoked in accordance with this Chapter. Such requests must
18 be submitted with a processing fee as shown in Section 27, in the form of a check or
19 money order made payable to the N.C. Department of Environment, Health, and Natural
20 Resources. All applications are incomplete until required processing fees are received
21 and may be returned to the applicant.

22 **"§ 143-606. Fees.**

23 (a) For every application for a new or revised animal waste disposal permit under
24 this Chapter, a nonrefundable application processing fee of no less than four hundred
25 dollars (\$400.00) and no more than eight hundred dollars (\$800.00) shall be submitted
26 at the time of application. The exact amount of the fee shall be determined by the
27 Department by regulation, based on the size of the IHO.

28 (b) Each permit or renewal application is incomplete until the application
29 processing fee is received.

30 (c) No processing fee will be charged for modification of unexpired permits
31 when the modifications are initiated by the Director.

32 (d) A processing fee of fifty dollars (\$50.00) will be charged for name changes.

33 (e) A full application processing fee will be charged for all modifications except
34 for name changes.

35 (f) An annual fee for administering and compliance monitoring shall be charged
36 in each year of the term of every renewable permit in the amount of no less than four
37 hundred dollars (\$400.00) and no more than eight hundred dollars (\$800.00) shall be
38 submitted at the time of application. The exact amount of the fee shall be determined
39 by the Department by regulation, based on the size of the IHO.

40 (g) Collection of annual fees shall begin on the effective date of this Chapter.

41 (h) A person with only one permit will be billed annually on an anniversary date
42 to be determined by the Division. This will normally be the first day of the month of
43 permit issuance.

1 (i) A person with multiple permits may have annual administering and
2 compliance monitoring fees consolidated into one annual bill.

3 (j) A change in the facility which changes the annual fee will result in the
4 revised annual fee being billed in all remaining whole permit years. The amount of the
5 fee shall be no less than four hundred dollars (\$400.00) and no more than eight hundred
6 dollars (\$800.00) shall be submitted at the time of application. The exact amount of the
7 fee shall be determined by the Department by regulation, based on the size of the IHO.

8 (1) Failure to pay an annual administering and compliance monitoring fee
9 within 30 days after being billed may cause the Division to initiate
10 action to revoke the permit.

11 (2) All funds collected in fees pursuant to this section shall be transferred
12 into the Animal Waste Disposal Best Management Practices Fund.

13 **"§ 143-607. Educational requirements.**

14 (a) Commencing six months from the effective date of this Article, applicants for
15 permits and all managing owners or managing operators of the proposed operation must
16 provide certification of satisfactory completion of formal education or training in the
17 areas of waste management and odor control. Proof of certification of a minimum of
18 four hours of individualized training and education shall be submitted with the permit
19 application or within one year of the effective date of the issued permit. Appropriate
20 curricula and course content must be developed under the supervision of the North
21 Carolina State Cooperative Extension Service which shall provide certification to the
22 Department.

23 (b) Commencing one year from the effective date of this Article, all managing
24 owners or managing operators of all permitted liquid animal waste disposal systems
25 subject to this Article, which have been in operation for no less than 18 months, must
26 provide certification of satisfactory completion of annual refresher training in the areas
27 of waste management and odor control as described in and in addition to the educational
28 requirements provided in subsection (a) of this section. Appropriate curricula and
29 course content shall be developed under the supervision of the North Carolina State
30 Cooperative Extension Service which shall provide certification to the Department.

31 (c) Failure to obtain the prerequisite and annual training and education as
32 provided in the section shall be deemed a violation of this Article.

33 **"PART 3. REGULATION OF INTENSIVE HOG OPERATIONS.**

34 **"§ 143-608. Minimum requirements for storage of waste.**

35 (a) Confinement feeding operations shall collect and store all wastes produced in
36 the operation between periods of waste disposal and dispose of the stored wastes by
37 land application unless the Department determines that a NPDES permit is required.
38 Additional storage shall be provided if precipitation or wastes from other sources can
39 enter waste control structures.

40 (1) Wastes shall be removed from the control structures as needed to
41 prevent overflow or discharge. For earthen waste control structures
42 (anaerobic lagoons, earthen waste slurry storage basins, and other
43 earthen waste storage basins), wastes shall be removed from the
44 structures as needed to maintain a minimum of two feet of freeboard.

1 unless additional freeboard is necessary to protect the structure or
2 prevent waste discharge.

3 (2) Confinement feeding operations shall dispose of wastes before periods
4 when disposal is impossible due to adverse weather conditions, lack of
5 suitable disposal areas, etc., to ensure that adequate capacity exists to
6 store all wastes produced during such periods. The Department may
7 approve other methods of disposal as long as they are feasible and do
8 not pose a threat to public health or the environment.

9 (b) The direct discharge of wastes from confinement feeding operations into
10 waters of the United States is prohibited. This includes discharge to a publicly owned
11 lake, sinkhole, an agricultural drainage well, or to ditches or tile lines that drain into
12 waters of the United States.

13 (c) All wastes removed from a confinement feeding operation or its waste control
14 facilities shall be disposed on land in a manner that does not cause surface water or
15 groundwater pollution. The Department shall adopt rules, not inconsistent with this
16 Article, to provide general requirements on how and when to dispose of waste.

17 (d) The Department may require a greater level of waste control from a
18 confinement feeding operation if it is determined following an on-site inspection that
19 the minimum level of waste control is inadequate to prevent water pollution.

20 A construction permit is issued only after the Department has reviewed the plans and
21 determined that the system will comply with the applicable State and federal laws and
22 the Department's rules.

23 (e) Confinement buildings, settling basins, holding ponds, and other liquid
24 animal waste containment structures shall not be constructed within 2,500 feet of the
25 adjoining property unless the adjoining property owner consents by written agreement,
26 notarized and recorded with the county register of deeds office. Confined animal
27 operations existing as of the effective date of this Chapter and proposing to construct a
28 liquid animal waste containment structure in order to reduce waste/wastewater runoff to
29 waters of the State may be considered exempt from the buffer distances by the Director.
30 These buffer distances do not apply to confinement buildings, settling basins, holding
31 ponds, or other liquid animal waste containment structures existing as of the effective
32 date of this Chapter; nor do they apply to existing structures when a liquid animal waste
33 permit modification is required due to a change in ownership.

34 (f) The subsurface investigation for earthen holding ponds and treatment lagoons
35 suitability and liner requirements may consist of auger holes, dozer pits, or backhoe pits
36 that should extend at least two feet below the planned bottom of the excavation. In
37 those situations where this depth is not practical in the initial on-site subsurface
38 investigation, the applicant shall provide additional subsurface investigation
39 documentation to the Department.

40 (g) The waste management plan shall be developed in accordance with the
41 USDA Soil Conservation Service Technical Guide and shall address the timing of land
42 application of wastes with respect to nutrient uptake cycle of the vegetation found on
43 the land application site and, to the extent practicable, shall include measures to
44 minimize off-site obnoxious and offensive odors.

1 (h) There is a minimum separation distance requirement to neighboring property
2 or public use areas for the construction of new or the expansion of existing anaerobic
3 lagoons and earthen waste slurry storage basins. The separation distance is measured
4 from the closest edge of the lagoon or basin to the neighbor's property.

5 (i) Lagoons or earthen waste slurry storage basins used as part of a confinement
6 feeding operation shall be located at least 3,500 feet from land not owned by the
7 operation and from public use areas other than roads if the operation has a capacity of
8 more than 625,000 pounds live animal weight. However, lagoons or earthen waste
9 slurry storage basins may be constructed closer to a neighbor's property if the neighbor
10 consents by written agreement, notarized and recorded with the county register of deeds
11 office.

12 (j) Hog waste lagoons and hog confinement buildings shall not be placed in any
13 identified flood plain.

14 (k) Hog waste lagoons shall not be placed within 250 feet of the waters of the
15 United States. There shall be a strip of ground cover vegetation, such as alfalfa or
16 lespedeza, at least 100 feet wide between the waste lagoons and the waters of the United
17 States.

18 (l) Hog waste lagoons shall at least comply with the requirements for livestock
19 waste lagoons of the USDA Soil Conservation Service.

20 (m) All vehicles used to transport livestock waste and livestock shall be
21 leakproof.

22 (n) IHOs shall be limited in the amount of livestock allowed to be on site to the
23 amount the approved waste management plan indicates, according to scientifically
24 supported standards, can be disposed of without damage to the environment, health, or
25 human quality of life.

26 (o) No IHO shall be located within three-fourths of a mile of 10 or more
27 contiguous existing-dwelling lots or residential lots of two acres or less in size. IHOs
28 may be constructed closer to these neighbors' property if all of the neighbors within
29 three-fourths of a mile consent to the waiving of these requirements by written
30 agreement, notarized and recorded with the county register of deeds office.

31 (p) No IHO shall be closer than 1,000 feet from any primary street, road, or
32 highway as defined by the North Carolina Department of Transportation.

33 (q) No IHO shall be closer than 500 feet away from any secondary street, road, or
34 highway as defined by the North Carolina Department of Transportation.

35 **§ 143-609. Waste disposal.**

36 (a) All animal feeding operations shall dispose of wastes in a manner that will
37 not pollute surface water or groundwater.

38 (b) All permitted facilities must have a waste management plan for the operation
39 and a site management plan for each land application site prepared by a professional
40 engineer registered in the State of North Carolina, the USDA Soil Conservation Service,
41 or a water quality technician of the North Carolina Soil and Water Conservation District
42 and approved by the Department. The Department shall require proof of land
43 ownership or of contractual agreements for use of the land as a land application site.
44 This plan shall include the following information:

- 1 - cropping system schedule
- 2 - harvesting schedule
- 3 - frequency of nitrogen application
- 4 - projected nitrogen removal by crops
- 5 - other projected nitrogen losses (volatilization,
- 6 surface runoff, leaching, etc.)

7 (c) All permittees with permits issued prior to the effective date of this Chapter
8 that do not have a waste management plan approved by the Department or are applying
9 waste/wastewater on sites for which a site management plan has not been approved by
10 the Department shall submit a waste management plan and site management plans for
11 each site in compliance with this Article no later than one year from the effective date of
12 this Article. Requests of time extensions may be approved at the Department's
13 discretion.

14 (d) Irrigation of fields with lagoon waste water or application to fields of
15 livestock waste or waste lagoon sludge shall not occur within 1,000 feet of neighboring
16 property. Irrigation of fields within 1,000 feet of neighboring property may be
17 undertaken if the neighbors waive these requirements by written agreement, notarized
18 and recorded with the county register of deeds office.

19 (e) Irrigation of fields with lagoon waste water and application to fields of
20 livestock waste or waste lagoon sludge shall not occur within 250 feet of the waters of
21 the United States. Application of waste/wastewater shall not be made within 500 feet of
22 outstanding resource waters as defined by the Department. Buffer distances for streams,
23 ponds, and lakes shall be measured from the ordinary high watermark. The Department
24 may require additional buffer distances deemed necessary to protect the waters of the
25 United States.

26 (f) There shall be a strip of ground cover vegetation, such as alfalfa or lespedeza,
27 at least 100 feet wide between the fields irrigated with lagoon waste water and the
28 waters of the United States.

29 (g) Application of waste/wastewater shall not be made in areas where the land
30 application of waste/wastewater is prohibited by the Department's regulations for the
31 protection of public water supplies.

32 (h) Records shall be kept by the IHO of all waste/wastewater applies. These
33 records shall be kept in sufficient detail to determine the application rate. A log shall be
34 kept of all land applied to waste/wastewater. The log should include the date, weight,
35 and/or volume, destination, and acreage over which the load was spread. All records
36 and logs shall be kept at the facility and provided to the Department in monthly reports.

37 (i) A representative sample of the waste/wastewater to be land applied shall be
38 collected monthly and analyzed for the following parameters: pH, Total Nitrogen,
39 Ammonium, Potassium, Total Phosphorus, Arsenic, Copper, and total suspended solids.
40 The Department may require more frequent testing deemed necessary to protect the
41 waters of the State.

42 (j) The soils of each field where liquid animal waste has been land applied shall
43 be sampled and analyzed monthly prior to the application of the wastes for the
44 following parameters: pH, Potassium, Phosphorus, Nitrates, Arsenic, and Copper.

1 (k) Methods and timing of the sample and analysis described in this section shall
 2 be in accordance with the North Carolina State Cooperative Extension Service
 3 Guidelines.

4 (l) Monthly reports for the previous month shall be submitted to the Department
 5 prior to the 30th of each month and must include the following:

6 - waste/wastewater analyses required under this section

7 - soil analyses required under this section

8 - locations, volumes, and nitrogen application rates

9 for previous month

10 - methods of application

11 - types of crops grown on each land application site

12 (m) Reports must be submitted on forms provided by the Department.

13 (n) Waste Application Rates:

14 (1) Annual reports for the previous calendar year shall be submitted to the
 15 Department prior to May 30 of each year. The annual report shall
 16 include the following: annual volumes, nitrogen application rates, and
 17 waste application locations for the previous year; methods of
 18 application; types and yields of crops grown on each land application
 19 site. Reports shall be submitted on forms provided by the Department.

20 (2) Nitrogen application from all sources including animal wastes,
 21 legumes, and commercial fertilizers should not exceed the annual
 22 nitrogen requirement of the crop being grown.

23 (3) The following nitrogen loading rates shall be used, and the total annual
 24 nitrogen application rates shall not exceed the use requirement of the
 25 crops that are grown:

CROP NUTRIENT UTILIZATION

<u>Crop</u>	<u>Yield</u>	<u>Nitrogen - lb/acre</u>
<u>Corn</u>	<u>80 bu</u>	<u>121</u>
		<u>100 bu</u>
		<u>160</u>
		<u>150 bu</u>
		<u>185</u>
		<u>180 bu</u>
		<u>240</u>
<u>Corn silage</u>		<u>16 tons</u>
		<u>130</u>
		<u>32 tons</u>
		<u>200</u>
<u>Soybeans</u>	<u>30 bu</u>	<u>123</u>
		<u>40 bu</u>
		<u>180</u>
		<u>50 bu</u>
		<u>257</u>
		<u>60 bu</u>
		<u>336</u>
<u>Grain Sorghum</u>		<u>4 tons</u>
		<u>250</u>

1	<u>Wheat</u> <u>40 bu</u>	<u>70</u>	
2			<u>60 bu</u> <u>125</u>
3			<u>80 bu</u> <u>186</u>
4			
5	<u>Oats</u> <u>80 bu</u>	<u>75</u>	
6			<u>100 bu</u> <u>150</u>
7			
8	<u>Barley</u> <u>65 bu</u>	<u>74</u>	
9			<u>100 bu</u> <u>150</u>
10			
11	<u>Alfalfa</u> <u>4 tons</u>	<u>180</u>	
12			<u>8 tons</u> <u>450</u>
13			
14	<u>Orchardgrass</u>		<u>6 tons</u> <u>300</u>
15			
16	<u>Bromegrass</u>		<u>5 tons</u> <u>166</u>
17			
18	<u>Tall Fescue</u>		<u>3.5 tons</u> <u>135</u>
19			
20	<u>Blue Grass</u>		<u>3 tons</u> <u>200</u>
21			
22	<u>Coastal Bermuda</u>		
23	<u>Grass</u> <u>4 tons</u>	<u>225</u>	
24			<u>10 tons</u> <u>535</u>
25			
26	<u>Clover Grass</u>		<u>4.5 tons</u> <u>185</u>
27			<u>6.0 tons</u> <u>300</u>
28			
29	<u>Sugar Beets</u>		<u>30 tons</u> <u>275</u>
30			
31	<u>Rice</u> <u>2.25 tons</u>	<u>110</u>	
32			<u>3.5 tons</u> <u>112</u>
33			
34	<u>Timothy</u> <u>4 tons</u>	<u>150</u>	
35			
36	<u>Pangola Grass</u>		<u>12 tons</u> <u>299</u>
37			
38	<u>Sorghum-Sudan</u>		
39	<u>Grass</u> <u>8 tons</u>	<u>319</u>	
40			

41 Total nitrogen refers to the total amount of nitrogen contained in animal waste.
 42 Available nitrogen refers to the portion of the nitrogen readily available to crops.
 43 (4) During the first crop season following waste application, the available
 44 nitrogen content is:

1 Seventy-five percent (75%) of the total nitrogen content of the applied waste
2 if the waste is injected or incorporated into the soil immediately following application;
3 or

4 Fifty percent (50%) of the total nitrogen content of the applied waste if the
5 waste is surface-applied and allowed to dry before incorporation into the soil.

6 (5) During the second crop season following waste application, the
7 available nitrogen carry-over from the waste applied during the first
8 crop season is twelve and five-tenths percent (12.5%) of the original
9 nitrogen content of the waste.

10 (6) During the third crop season following waste application, the available
11 nitrogen carry-over from the waste applied during the first crop season
12 is seven percent (7%) of the original nitrogen content of the waste.

13 (7) After more than three crop seasons, no more carry-over of nitrogen
14 from the waste applied during the first crop season is assumed.

15 (8) To minimize phosphorus movement to surface waters, phosphorus
16 shall be applied at rates equivalent to crop uptake when soil tests
17 indicate adequate phosphorus levels (between 40 and 60 pounds per
18 acre or equivalent to 20-30 parts per million).

19 (9) Land application of waste/wastewater shall not be undertaken when
20 soil is saturated, frozen, covered with ice or snow, or when significant
21 precipitation is reasonably anticipated in the next 24 hours.

22 (10) Fields and other areas in the 50-year flood plain shall not be irrigated
23 with lagoon waste water nor used as the site for disposal of other
24 noncomposted livestock waste and waste lagoon sludge.

25 (11) Waste disposal on tilled land with greater than ten percent (10%)
26 slopes shall be limited to areas where erosion is adequately controlled.
27 Injection or incorporation of wastes is recommended and should be
28 done in a manner that maintains an adequate level of erosion control.

29 (12) Waste/wastewater shall not be applied on slopes with a grade more
30 than fifteen percent (15%) if in any manner that will allow waste to
31 enter waters of the State or to run into adjacent property without the
32 written consent of the affected adjacent property owner.

33 environmental or human quality of life consequences.

34 (h) A decision by the Department to reduce the amount of livestock allowed at an
35 IHO may be appealed pursuant to Chapter 150B, Article 3, of the General Statutes.

36 (i) The Department shall receive, investigate, and as appropriate, refer for
37 appropriate action by other offices and agencies of local, State, and federal government
38 citizen complaints regarding odor, runoff, and groundwater contamination from the
39 IHOs.

40 **"§ 143-610. Facility closure.**

41 (a) If a permitted confined animal operation using a liquid waste management
42 system ceases operation, the permittee shall submit to the Department a closure plan for
43 the liquid waste system storage/treatment structure(s) within 60 days of the final day of
44 operation. This plan shall be prepared by the USDA Soil Conservation Service, a North

1 Carolina Soil and Water Conservation District water quality technician, or a
2 professional engineer registered in the State of North Carolina.

3 (b) All wastes from the feeding operation and its waste control system must be
4 removed and disposed on land as soon as practical but not more than six months after
5 closure.

6 (c) In order to adequately guarantee the proper closure and post closure and care
7 of livestock sewage lagoons, any party or person that desires to construct and/or
8 maintain a sewage lagoon must file with the Department a surety bond or cash in lieu
9 thereof in the following amounts - twenty-five thousand dollars (\$25,000) for each acre
10 foot of capacity over 10 acre feet. No bond or cash deposited is required for lagoons of
11 10 acre feet or less. The principal amount of the bond or the cash deposited in lieu of
12 bond may be expended by the Department to consummate the proper closure or post
13 closure of any abandoned or unused livestock sewage lagoons as contemplated in this
14 ordinance. Any unexpended sums remaining on deposit after the cleanup has been
15 completed shall be refunded to the party or the party making the deposit.

16 **"§ 143-611. Transfer of legal responsibilities or title.**

17 If legal responsibility for a permitted animal-feeding operation and its associated
18 waste control system is transferred, the person to whom legal responsibility is
19 transferred shall be subject to all terms and conditions of the permit and of this Chapter.
20 The person to whom the permit was issued shall notify the Department of the transfer of
21 legal responsibility or title of the operation within 30 days of the transfer. Within 30
22 days of receiving a written request from the Department, the person to whom legal
23 responsibility is transferred shall submit to the Department all information needed to
24 modify the permit to reflect the transfer of legal responsibility.

25 **"§ 143-612. Inspections and enforcement procedures.**

26 (a) The Department shall at least annually, including an inspection during July or
27 August, inspect the IHO sites for which permits have been issued. The inspectors are to
28 determine whether the activity is being conducted in accordance with the livestock
29 waste management, odor control, dead animal, and vermin control plans and to
30 determine whether the measures required in the plans are effective in preventing adverse
31 consequences for public health, the environment, or human quality of life. The
32 Department has the authority without prior notice to the IHO owner to collect samples
33 of livestock waste lagoon water which is being field-applied. The Department may
34 collect subsurface soil samples from the IHO tract. Such samples may be analyzed by
35 offices certified by the Department to have requisite expertise.

36 (b) If through inspection it is determined that a person engaged in construction,
37 expansion, and/or operation of an IHO has failed to comply with an approved plan, a
38 Notice of Violation shall be served upon that person by registered or certified mail. The
39 notice shall set forth the measures necessary to achieve compliance with the plan,
40 specify a reasonable time period within which such measures must be completed, and
41 warn that failure to correct the violation within the time period will result in the
42 assessment of a civil penalty or other enforcement action. If the person engaged in IHO
43 construction, expansion, or operation fails to comply within the time specified,
44 enforcement action shall be initiated.

1 (c) The Department shall have the power to conduct such investigations as are
2 reasonably necessary to carry out its duties as prescribed in this Article. For this
3 purpose, the Department may enter at reasonable times upon any property, public or
4 private, for the purpose of investigating and inspecting the sites of any IHO. No person
5 shall refuse entry or access to any of the Department's authorized representative or agent
6 who requests entry for purposes of inspection, and who presents appropriate credentials.
7 Nor shall any person obstruct, hamper, or interfere with any such representative while in
8 the process of carrying out his or her official duties.

9 (d) The Department shall also have the power to require written statements, or
10 the filing of reports under oath, with respect to pertinent questions relating to IHO
11 construction, expansion, and operation.

12 (e) The holder of the IHO permit shall notify the Department when the permitted
13 activity is to begin.

14 (f) The owner of each IHO regulated under this Article shall be responsible to
15 report the IHO inventory of livestock, with indication of approximate live weight, to the
16 Department within five working days of January 15th, April 15th, July 15th, and
17 October 15th.

18 (g) When the Department determines that competently conducted research
19 clearly indicates that an approved waste management plan of an IHO either
20 underestimates or overestimates the amount of livestock the waste of which can be
21 accommodated without adverse environmental, or quality of human life consequences at
22 an IHO, the Department may communicate to the IHO permit holders indicated
23 increases or decreases in the amount of livestock allowed to be located at the IHO. The
24 IHO to which decreases in allowable livestock have been communicated shall have six
25 months from the date of notice to reduce the amount of livestock at the site to the new
26 limit or obtain approval of a new waste management plan providing for disposal of the
27 waste of the previously indicated amount of livestock without adverse health,
28 environmental or human quality of life consequences.

29 (h) A decision by the Department to reduce the amount of livestock allowed at an
30 IHO may be appealed pursuant to Chapter 150B, Article 3, of the General Statutes.

31 (i) The Department shall receive, investigate, and as appropriate, refer for
32 appropriate action by other offices and agencies of local, State, and federal government
33 citizen complaints regarding odor, runoff, and groundwater contamination from the
34 IHOs.

35 **"§ 143.613. Groundwater contamination.**

36 (a) The Department and the local health departments shall test local wells upon
37 the well owner's request even though the wells may not meet State specifications. The
38 Department shall not use the fact that a local well may not meet State specifications as a
39 means to dissuade the well owner from requesting testing.

40 (b) Upon receiving proof that people living near IHOs have their wells
41 contaminated with fecal indicator bacteria or nitrate levels over 8.0 mg/l, the
42 Department shall conduct an investigation to determine the source of the contamination.
43 The Department shall drill monitoring wells in and around the irrigated fields and near
44 the lagoons in such a manner as will show whether the IHO is the source of the

1 groundwater contamination. The Department shall conduct weekly tests for fecal
2 indicator bacteria and nitrates in these wells to see if the IHO is the source of the
3 contamination. The Department shall also test nearby ditches, streams, and other waters
4 of the United States to see if runoff from the irrigated fields may be contaminating these
5 water bodies. The Department shall conduct water quality testing that can demonstrate
6 contamination. These tests can include the following parameters: fecal indicator
7 bacteria; total phosphorus; total nitrogen; dissolved oxygen; biochemical oxygen
8 demand; total suspended solids; pH; chlorophyll a; and nitrates.

9 (c) The Department shall also test the soil in the irrigated field for nitrates at foot
10 long intervals to a depth of six feet.

11 (d) The Department shall also place lysimeters in the soil in the irrigation field
12 and near the lagoon in order to test the nitrate levels in the groundwater. These tests
13 shall be conducted weekly.

14 (e) The results of all these tests are public information.

15 (f) If the IHO is found to be the source of the contamination, the IHO shall pay
16 the costs of the investigation, including the monitoring wells, soil and surface and
17 groundwater testing, and the Department's administrative costs.

18 (g) If the IHO is found to be the source of the groundwater contamination, the
19 Department shall declare the IHO an imminent health hazard. The IHO shall remedy
20 the situation by stopping or reducing irrigation and cleaning out its lagoon and
21 resurfacing it so that no waste seeps into the groundwater. The IHO shall pay for all
22 remediation costs.

23 (h) Under no circumstance shall the local homeowners or other businesses be
24 penalized by the Department or any other federal, State, or county departments for
25 having wells that are not State certified and for not upgrading their wells to a State-
26 certified condition when these wells are contaminated by an IHO. IHOs that
27 contaminate nearby wells shall pay to drill new State-certified wells for the people or
28 businesses whose wells are contaminated. If the water from these new wells does not
29 meet State and Environmental Protection Agency water quality standards, the IHOs
30 shall provide the people or businesses with a source of water that does meet these
31 standards.

32 **"§ 143-614. Dead animal disposal.**

33 (a) All existing and new IHOs must have a plan to dispose of dead animals
34 owned by the IHOs. The plans must be designed by engineers licensed in North
35 Carolina and approved by the local county Soil and Water Conservation Service and the
36 local county health department. Where the animals, while alive, are owned by
37 corporations that contract animals out to farmers, the corporations will design and
38 implement a dead animal disposal plan such that the growers will not be responsible for
39 dead animal disposal.

40 (1) Existing animal operations or corporations must have their plans
41 approved within six months of this Article's enactment. Existing
42 animal operations or corporations must have their dead animal disposal
43 plans in operation within one year of this Article's enactment.

1 (2) New animal operations or corporations must have their plans approved
2 and ready for operation before animals are placed at the facilities.

3 (b) Dead animals can be disposed of by placing them in fabricated pits,
4 incineration, composting, or removal to a rendering plant.

5 (1) The fabricated pits must be made of concrete block, poured concrete,
6 or treated timbers and built to Soil Conservation Service standards.

7 (2) The incinerators must have dual-burning chambers or afterburners.
8 The animal operation must apply to DEM for an air permit before the
9 incinerator begins operation.

10 (3) All composters must have a roof, concrete foundation, and pressure-
11 treated wood or other rot-resistant building materials.

12 (c) Before disposal, all animal operations must keep dead animals inside a
13 building to prevent dogs or wild animals from having any contact with the dead
14 animals.

15 **"§ 143-615. Violations.**

16 (a) If there is substantial evidence that any person has violated or is violating any
17 provision of this Article, then:

18 (1) The Director may issue an order directing the person to desist in the
19 practice which constitutes the violation or to take any corrective action
20 as may be necessary to ensure that the violation will cease. The person
21 to whom the order is issued may cause to be commenced a contested
22 hearing pursuant to Chapter 150B, Article 3, of the General Statutes by
23 filing with the Director within 30 days a notice of appeal.

24 (2) If it is determined by the Director that an emergency exists respecting
25 any matter affecting or likely to affect the public health, the Director
26 may issue any order necessary to terminate the emergency without
27 notice and without hearing. Any order shall be binding and effective
28 immediately and until the order is modified or vacated at a hearing
29 pursuant to Chapter 150B, Article 3, of the General Statutes or by a
30 court.

31 (3) The Department may request the Attorney General to institute legal
32 proceedings pursuant to the penalties section.

33 **"§ 143-616. Penalties.**

34 (a) Any person who violates any provision of this Article is subject to a civil
35 penalty of up to five thousand dollars (\$5,000) for each day of the violation.

36 (b) Any person who negligently dumps, deposits, or discharges a pollutant into
37 any water of the State in violation of this Article is guilty of a misdemeanor punishable
38 as follows:

39 (1) For a first conviction, the person shall be fined up to twenty-five
40 thousand dollars (\$25,000) for each day of the violation, imprisoned
41 for a term of up to one year, or both.

42 (2) For a second or subsequent conviction, the person shall be fined up to
43 fifty thousand dollars (\$50,000) for each day of the violation,
44 imprisoned for a term of up to two years, or both.

1 (c) Any person who knowingly dumps, deposits, or discharges a pollutant into
2 any water of the State in violation of this Article:

3 (1) For a first conviction, the person is guilty of a misdemeanor
4 punishable by a fine of up to fifty thousand dollars (\$50,000), a term of
5 imprisonment not to exceed two years, or both.

6 (2) For a second or subsequent conviction is guilty of a Class I felony,
7 punishable by a fine of up to one hundred thousand dollars (\$100,000)
8 for each day of the violation, imprisonment for a term not to exceed
9 five years, or both.

10 (d) Any person who knowingly makes any false statement, representation, or
11 certification in any application, record, report, plan, or other document filed or required
12 to be maintained under this Article, or who falsifies, tampers with, or knowingly renders
13 inaccurate any monitoring device or method required to be maintained under this Article
14 is guilty of a misdemeanor punishable by a fine of not more than ten thousand dollars
15 (\$10,000), imprisonment in the county jail for not more than six months, or both.

16 (e) The Attorney General shall, at the request of the Department, institute any
17 legal proceeding, including an action for injunctive relief, necessary to enforce the
18 penalty provisions of this Article or to obtain compliance with this Article. In any such
19 action, any previous findings of fact of the Director or the Commission after notice and
20 hearing shall be conclusive if supported by substantial evidence in the record when the
21 record is viewed as a whole.

22 (f) In all proceedings with respect to any alleged violation of this Article, the
23 burden of proof shall be upon the Commission or the Department except in an action for
24 contempt.

25 (g) If the Attorney General has instituted legal proceedings in accordance with
26 this section, all related issues which could otherwise be raised by the alleged violator in
27 a proceeding for judicial review shall be raised in the legal proceedings instituted in
28 accordance with this section.

29 **"§ 143-617. Injunctive relief.**

30 (a) Whenever the Department has reasonable cause to believe that any person is
31 violating or threatening to violate this Article or any rule or order adopted or issued
32 pursuant to this Article, or any term condition, or provision of an approved IHO
33 construction, expansion, and/or operation plan or other approved plan required under
34 this Article, it may request the Attorney General to institute a civil action for injunctive
35 relief to restrain the violation or threatened violation.

36 (b) Upon determination by a court that an alleged violation is occurring or is
37 threatened, it shall enter such orders or judgments as are necessary to abate the violation
38 or to prevent the threatened violation. The institution of an action for injunctive relief
39 under this section shall not relieve any party to such proceedings from any civil or
40 criminal penalty prescribed for violations of this Article.

41 **"§ 143-618. Citizen actions.**

42 (a) Except as provided in subdivision (2) of this subsection, a person with
43 standing as provided in subdivision (3) of this subsection may commence a civil action
44 in superior court on the person's own behalf against any of the following:

1 (1) A person, including the State of North Carolina, for violating any
2 provision of this Article; or

3 (2) The Director or any official or employee of the Department where
4 there is an alleged failure to perform any act or duty under this Article
5 or a rule adopted pursuant to this Article which is not a discretionary
6 act or duty.

7 (b) An action shall not be commenced pursuant to subsection (a)(1), unless the
8 person commencing the action has provided the Director and the alleged violator with a
9 written notice at least 60 days prior to commencing the action. The written notice shall
10 specify the nature of the violation and that legal action is contemplated under this
11 section if the violation is not abated and, if necessary, remedial action is not taken. The
12 State may intervene in such an action as a matter of right. An action shall not be
13 commenced pursuant to subsection (a)(1) if the Department or the State has commenced
14 and is actively prosecuting a civil action or is actively negotiating an out-of-court
15 settlement to require abatement of the violation and, if necessary, remediation of
16 damages. However, any person may intervene as a matter of right in such an action.

17 (c) A person shall have standing to commence an action pursuant to subsection
18 (a)(1) or to intervene in an action pursuant to subsection (a)(2) if the person is adversely
19 affected by the alleged violation or the alleged failure to perform a duty or act.

20 (d) In an action commenced pursuant to subsection (a)(1), the court may award
21 costs of litigation including reasonable attorneys' fees and expert witness fees, to a
22 prevailing party who had standing to sue or intervene.

23 (e) This section does not restrict any right under statutory or common law of a
24 person or class of persons to seek enforcement of provisions of this Article or a rule
25 adopted pursuant to this Article or seek other relief permitted under the law.

26 **"§ 143-619. Court actions.**

27 All civil and criminal actions instituted pursuant to this Article shall be brought in
28 the Superior Court of Wake County, unless the action is initiated by a private citizen, in
29 which event the action may be initiated in either the Superior Court of Wake County or
30 the county in which the IHO is located.

31 **"§ 143-620. Animal Waste Disposal Best Management Practices Fund.**

32 There is established an account within the Department of Environment, Health, and
33 Natural Resources to be known as the Animal Waste Disposal Best Management
34 Practices Fund. Funds collected pursuant to G.S. 143-605 shall be credited to that
35 account.

36 Growers who need financial assistance in implementing the best management
37 practices which are required by this Article may apply to the Animal Waste Disposal
38 Best Management Practices Fund for funds to help pay for their best management
39 practice implementation costs. These funds should be distributed on a sliding scale with
40 preference being given to growers who have the lowest incomes and least number of
41 animal units at their operations."

42 Sec. 2. An animal feeding operation that exists on July 1, 1993, that is
43 required to have a permit under this act, shall apply for a permit no later than one year
44 from the effective date of this act.

1 Sec. 3. If any paragraph, subparagraph, sentence, clause, phrase, or word of
2 this Chapter, or any part thereof, be declared unconstitutional or invalid for any reason,
3 the remainder of said Chapter shall not be affected thereby and shall remain in full force
4 and effect, and to that end, this Chapter is declared to be severable.

5 Sec. 4. There is appropriated from the General Fund to the Department of
6 Environment, Health, and Natural Resources the sum of five hundred thousand dollars
7 (\$500,000) for the 1993-94 fiscal year and the sum of five hundred thousand dollars
8 (\$500,000) for the 1994-95 fiscal year to establish the Animal Waste Disposal Best
9 Management Practices Fund.

10 Sec. 5. This act becomes effective July 1, 1993.