

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1532

Short Title: Clean Hog Farms Act of 2005. (Public)

Sponsors: Representatives Justice, McComas, Farmer-Butterfield (Primary Sponsors); Harrison, Insko, Martin, Underhill, and Weiss.

Referred to: Environment and Natural Resources.

April 21, 2005

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 of those evaluations, research, and studies; and to allow for the implementation of any~~

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

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

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

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

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

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

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

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

37 **SECTION 3.** This act becomes effective 1 September 2005, and applies to
38 any application for a new permit or to modify a permit for an animal waste management
39 system that serves a swine farm.