

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1730

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

Sponsors: Representatives Justice; Harrison, Luebke, Underhill, and Weiss.

Referred to: Environment and Natural Resources, if favorable, Appropriations.

May 12, 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 legislation that may be enacted. Except as provided in subsection (b) of this section, the~~

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

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

12 (1) Construction to repair a component of an existing swine farm or  
13 lagoon.

14 (2) Construction to replace a component of an existing swine farm or  
15 lagoon if the replacement does not result in an increase in swine  
16 population, except as provided in subdivision (3) (7), or (8) of this  
17 subsection.

18 (3) Construction or expansion for the purpose of increasing the swine  
19 population to the projected population or to the population that the  
20 animal waste management system serving that swine farm is designed  
21 to accommodate, as set forth in a certified animal waste management  
22 plan filed with the Department of Environment, Health, and Natural  
23 Resources prior to 1 March 1997.

24 (4) Construction or expansion for the purpose of complying with  
25 applicable animal waste management rules and not for the purpose of  
26 increasing the swine population.

27 (5) Construction or expansion, if the person undertaking the construction  
28 or expansion of the swine farm, lagoon, or animal waste management  
29 system has been issued a permit for that construction or expansion  
30 under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the  
31 General Statutes prior to the date this act becomes effective.

32 (6) Construction or expansion, if the person undertaking the construction  
33 or expansion of the swine farm, lagoon, or animal waste management  
34 system has, prior to 1 March 1997, either:

35 a. Laid a foundation for a component of the swine farm, lagoon, or  
36 animal waste management system.

37 b. Entered into a bona fide written contract for the construction or  
38 expansion of the swine farm, lagoon, or animal waste  
39 management system.

40 c. Been approved for a loan or line of credit to finance the  
41 construction or expansion of the swine farm, lagoon, or animal  
42 waste management system and has obligated or expended funds  
43 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 serves a swine farm and that does not~~  
26          ~~employ~~ employs ~~an anaerobic lagoon as the primary method of~~  
27          ~~treatment and does not employ land application of waste by means of a~~  
28          ~~sprayfield as the method of waste disposal. except by injection into~~  
29          ~~soil or by surface application if the injection or surface application~~  
30          ~~meets the requirements of sub-subdivisions a. through e. of this~~  
31          ~~subdivision. The Environmental Management Commission may issue~~  
32          ~~permits under this subdivision only in a manner consistent with~~  
33          ~~G.S. 143-215.1(b)(2). The Commission shall~~ may ~~issue a permit for~~  
34          ~~the construction~~ construction, operation, or expansion of an animal  
35          ~~waste management system that serves a swine farm under this~~  
36          ~~subdivision~~ Article ~~only if the Commission determines, after~~  
37          ~~consultation with the Animal and Poultry Waste Management Center~~  
38          ~~of North Carolina State University, that the animal waste management~~  
39          ~~system has been in use on a swine farm with climatic conditions and~~  
40          ~~soil characteristics that are similar to those that will be encountered at~~  
41          ~~the proposed site of the swine farm for at least a year, that the animal~~  
42          ~~waste management system has been evaluated for at least a year, and~~  
43          ~~that sufficient data exists to establish~~ determines ~~that the animal waste~~

1 management system ~~will~~ will meet or exceed all of the following  
2 performance standards:

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

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

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

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

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

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

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

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

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

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

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

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

41 **SECTION 4.** There is appropriated from the General Fund to The University  
42 of North Carolina the sum of two hundred thousand dollars (\$200,000) for fiscal year  
43 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.