

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1621

Short Title: Nonlagoon Systems Demonstrations.

(Public)

Sponsors: Representatives Watson; Earle and Hall.

Referred to: Environment, if favorable, Appropriations.

May 28, 1998

A BILL TO BE ENTITLED

1
2 **AN ACT TO ESTABLISH A DEMONSTRATION PROGRAM FOR PERMITTING**
3 **AND CLOSELY MONITORING ANIMAL WASTE MANAGEMENT SYSTEMS**
4 **THAT DO NOT USE AN ANAEROBIC LAGOON FOR THE PRIMARY**
5 **METHOD OF DISPOSING OF ANIMAL WASTE FOR THE PURPOSE OF**
6 **IDENTIFYING OTHER FEASIBLE ANIMAL WASTE MANAGEMENT**
7 **TECHNOLOGIES.**

8 The General Assembly of North Carolina enacts:

9 Section 1. Any person who has applied for a permit for an animal waste
10 management system for an animal operation under G.S. 143-215.10C for a system that
11 does not use an anaerobic lagoon for the primary method of disposing of animal waste
12 may apply to participate in the demonstration program under this act by submitting a
13 copy of that application to the Division of Soil and Water Conservation, Department of
14 Environment and Natural Resources. The interagency group created in Section 18 of
15 Chapter 626 of the 1995 Session Laws shall review all applications submitted pursuant to
16 this act and determine whether the proposed animal waste management system represents
17 a technology that merits a recommendation to participate in this program. The
18 interagency group may consult with a university in the State university system, the
19 Department of Environment and Natural Resources, or the Department of Agriculture and
20 Consumer Services in making this determination.

1 Section 2. The criteria to consider for recommending a technology for
2 participation in the demonstration program are:

- 3 (1) The system's impact on the environment and the quality of life of those
4 in the community in which the proposed demonstration site is located.
- 5 (2) The documented experience of the system when in operation.
- 6 (3) Whether the system has been tested in North Carolina.
- 7 (4) Whether the system was permitted in another state or country and, if so,
8 the requirements for receiving that permit.
- 9 (5) Whether the system has been in operation in soil, hydrologic, and
10 climate conditions similar to those at the proposed demonstration site.
- 11 (6) The cost of constructing, installing, operating, and maintaining the
12 system.
- 13 (7) The procedure and costs of closure for the proposed system, including
14 the procedure and costs of monitoring the site after closure.
- 15 (8) Whether the system has the potential of serving as a regional animal
16 waste management system for other animal operations, industries, or
17 municipalities in the vicinity of the proposed demonstration site.
- 18 (9) The system's potential for serving as a widespread economically
19 feasible alternative to animal waste management systems that use an
20 anaerobic lagoon for the primary method of disposing of animal waste.
- 21 (10) Whether a professional engineer licensed in North Carolina has
22 designed the system and affixed an engineer's seal to the animal waste
23 management plan.
- 24 (11) The applicant's history with respect to environmental compliance.
- 25 (12) Whether the local Soil and Water Conservation District recommends the
26 applicant as a responsible farmer.
- 27 (13) Any other criteria the interagency group determines is pertinent.

28 Section 3. An applicant to the demonstration program under this act shall
29 demonstrate that the applicant has the financial ability to construct, operate, and maintain
30 the system as well as provide for the proper closure of the system. Once recommended to
31 participate in the demonstration program under this act, the Department of Environment
32 and Natural Resources shall grant or deny the applicant's application for an individual
33 permit under G.S. 143-215.10C within 30 days. Once an individual permit is granted
34 under this act, the participant and the vendor of the demonstration system, or both, shall
35 provide a bond or other surety to be posted to ensure that, should the system fail, the
36 direct costs of the system's failure and the costs of any environmental remediation for
37 damage caused by the system's failure are provided by this surety. The amount of the
38 bond or other surety shall be determined by the interagency group but shall be no less
39 than two hundred fifty thousand dollars (\$250,000) and shall be based on the
40 interagency's estimates of the anticipated actual costs related to the system's failure based
41 on the specific circumstances and location of the demonstration system. The State, State
42 employees, and members of the interagency group shall not be liable for any costs or
43 damages associated with the failure of a system under the demonstration program and no

1 action may be brought against the State, State employees, or members of the interagency
2 group for damages related to such a failure.

3 Section 4. The participant shall be responsible for the costs of maintaining and
4 operating the demonstration system, as well as closure costs. The participant and the
5 vendor shall provide by contract for ultimate liability between them for any costs related
6 to the failure of the system.

7 Section 5. Participants in the demonstration program under this act shall
8 permit employees of the Department of Environment and Natural Resources and the
9 Department of Agriculture and Consumer Services, employees of the State university
10 system, and members of the interagency group to enter their property and shall cooperate
11 in monitoring the system and collecting data on a regular and frequent basis to determine
12 the performance of the demonstration system. Participants shall conduct tests of the soil
13 and wastewater and any other tests as frequently as needed to determine the performance
14 of the system. The interagency group and the Department of Environment and Natural
15 Resources jointly shall decide the level of monitoring and the type and frequency of
16 testing needed for each demonstration system.

17 Section 6. An applicant to the demonstration program who is recommended by
18 the interagency group to participate in the demonstration program under this act and who
19 receives a permit under this act shall enter into a contract with the Department of
20 Environment and Natural Resources. This contract shall include provisions regarding all
21 the requirements under this act and any other provisions determined by the interagency
22 group and the Department of Environment and Natural Resources to be reasonably
23 necessary to determine the performance of the demonstration system.

24 Section 7. (a) A person who has previously received cost share funds for an animal
25 operation under Part 9 of Article 21 of Chapter 143 of the General Statutes may apply to
26 participate in the demonstration program under this act.

27 (b) The interagency group may recommend and the Department of Environment
28 and Natural Resources may issue a permit for a demonstration system under this act even
29 though the system is the same or substantially similar to systems currently permitted in
30 this State, whether permitted under this act or otherwise permitted.

31 Section 8. The moratorium under S.L. 1997-458 does not apply to the
32 construction or expansion of animal waste management systems for swine farms that are
33 recommended by the interagency group and receive an individual permit to participate in
34 the demonstration program under this act.

35 Section 9. (a) There is appropriated from the General Fund to the Department of
36 Environment and Natural Resources the sum of one million dollars (\$1,000,000) for the
37 1998-99 fiscal year to be used for grants for demonstration projects under this act and for
38 the costs of evaluating this demonstration program. Grants shall be limited to seventy-
39 five percent (75%) of the estimated cost of constructing and installing the demonstration
40 system, with the participant providing the remaining twenty-five percent (25%) of these
41 costs.

42 (b) The interagency group and the Division of Soil and Water Conservation shall
43 jointly prepare a report that includes a list of demonstration projects that received funds

1 under this act, the results of testing and monitoring each project, findings regarding the
2 effectiveness of each project to manage animal waste in a cost-effective manner with
3 minimum adverse impact on the environment and quality of life of those in the same
4 community as the demonstration project, any recommendations as to whether any
5 demonstration project should be eligible for a general permit, and any recommendations
6 regarding the effectiveness of the demonstration program under this act.

7 Section 10. This act becomes effective July 1, 1998, and applies to
8 applications for animal waste management systems that do not use an anaerobic lagoon
9 for the primary method of disposing of animal waste at new, existing, and expanding
10 animal operations.