

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1254*

Short Title: Swine Farm Env. Performance Standards/Funds. (Public)

Sponsors: Representatives Hill; Carney, Cotham, Faison, Spear, and Wray.

Referred to: Agriculture, if favorable, Environment and Natural Resources and, if favorable, to the Com on Appropriations.

April 2, 2007

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 ASSIST FARMERS
TO VOLUNTARILY CONVERT TO INNOVATIVE ANIMAL WASTE
MANAGEMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

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

(a) As used in this section:

(1) '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.

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

(3) 'Lagoon' has the same meaning as in G.S. 106-802.

(4) 'Swine farm' has the same meaning as in G.S. 106-802.

(b) The Commission shall not issue or modify a permit to authorize the construction, operation, or expansion of an animal waste management system that serves a swine farm that employs an anaerobic lagoon as the primary method of treatment and land application of waste by means of a sprayfield as the primary method of waste disposal. The Commission may issue a permit for the construction, operation, or expansion of an animal waste management system that serves a swine farm under this Article only if the Commission determines that the animal waste management system will meet or exceed all of the following performance standards:

- 1 (1) Eliminate the discharge of animal waste to surface water and
2 groundwater through direct discharge, seepage, or runoff.
- 3 (2) Substantially eliminate atmospheric emission of ammonia.
- 4 (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 (4) Substantially eliminate the release of disease-transmitting vectors and
8 airborne pathogens.
- 9 (5) Substantially eliminate nutrient and heavy metal contamination of soil
10 and groundwater."

11 **SECTION 1.(b)** Continued Operation. – An animal waste management
12 system that serves a swine farm for which a permit was issued prior to 1 September
13 2007 and that does not meet the requirements of G.S. 143-215.10I, as enacted by
14 subsection (a) of this section, may continue to operate under, and shall operate in
15 compliance with, that permit, including any renewal of the permit.

16 **SECTION 1.(c)** Rule Making. – The Environmental Management
17 Commission shall adopt rules to implement G.S. 143-215.10I, as enacted by subsection
18 (a) of this section. Until rules to implement G.S. 143-215.10I become effective, the
19 Commission, in implementing G.S. 143-215.10I, shall refer to the report entitled,
20 "Development of Environmentally Superior Technologies – Phase 3 Report: for
21 Technology Determinations per Agreements Between the Attorney General of North
22 Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers" dated
23 8 March 2006. The Commission may consult with the Animal and Poultry Waste
24 Management Center of North Carolina State University regarding the application and
25 modification of technical standards required to implement G.S. 143-215.10I.

26 **SECTION 2.(a)** Definitions. – The definitions set out in
27 G.S. 143-215.10I(a), as enacted by Section 1 of this act, apply to this section. As used
28 in this section, an "innovative animal waste management system" means an animal
29 waste management system that serves a swine farm that is permissible under
30 G.S. 143-215.10I(b), as enacted by Section 1 of this act.

31 **SECTION 2.(b)** Lagoon Conversion Program. – The Lagoon Conversion
32 Program is hereby established. The Program shall provide grants to assist in the
33 conversion of animal waste management systems that serve swine farms in operation on
34 or before 1 September 2007 that employ anaerobic lagoons as the primary method of
35 treatment to innovative animal waste management systems. Grants under the Program
36 may be used to assist in the closure of sprayfield and lagoon systems that are replaced
37 by innovative animal waste management systems if the closure is performed in
38 accordance with applicable federal and State laws, regulations, and rules. The Program
39 shall be administered by the Division of Soil and Water Conservation in the Department
40 of Environment and Natural Resources through the Agriculture Cost Share Program for
41 Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74. The
42 Division shall administer the Program as provided in this section and Part 9 of Article
43 21 of Chapter 143 of the General Statutes as modified by this section.

1 **SECTION 2.(c)** Program Functions. – Under the Lagoon Conversion
2 Program, the Division of Soil and Water Conservation in the Department of
3 Environment and Natural Resources, through the Agriculture Cost Share Program for
4 Nonpoint Source Pollution Control shall:

5 (1) Within available funds, provide grants for conversion to innovative
6 animal waste management systems subject to all of the following
7 limitations and requirements:

8 a. For cost share contracts approved on or before 30 June 2012
9 State funding shall be limited to:

10 1. Ninety percent (90%) of the average cost for each
11 practice with the assisted farmer providing ten percent
12 (10%) of the cost, which may include in-kind support of
13 the practice.

14 2. A maximum of five hundred thousand dollars (\$500,000)
15 per year to each applicant.

16 b. For cost share contracts approved on or after 1 July 2012 and on
17 or before 30 June 2017 State funding shall be limited to:

18 1. Eighty percent (80%) of the average cost for each
19 practice with the assisted farmer providing twenty
20 percent (20%) of the cost, which may include in-kind
21 support of the practice.

22 2. A maximum of four hundred fifty thousand dollars
23 (\$450,000) per year to each applicant.

24 c. For cost share contracts approved on or after 1 July 2017 State
25 funding shall be limited to:

26 1. Seventy-five percent (75%) of the average cost for each
27 practice with the assisted farmer providing twenty-five
28 percent (25%) of the cost, which may include in-kind
29 support of the practice.

30 2. A maximum of four hundred thousand dollars
31 (\$400,000) per year to each applicant.

32 d. All other limitations and requirements set out in Part 9 of
33 Article 21 of Chapter 143 of the General Statutes.

34 (2) Establish criteria to prioritize installation of innovative swine waste
35 management systems, including the cost of purchasing and
36 maintaining the systems, potential markets for by-products generated
37 from the systems, and appropriateness for centralization of waste
38 collection and treatment.

39 (3) Establish priorities to guide the selection of swine farms that are
40 eligible for participation in the Program, including the swine farm's
41 geographic location and the grower's compliance history.

42 (4) Develop a process for soliciting and reviewing applications from
43 growers and for selecting growers to participate in the Program.

- 1 (5) Investigate and pursue other funding sources to supplement State
2 funds, including federal, local, and private funding sources.
- 3 (6) Provide technical assistance to participating growers to assist with
4 modifications of waste management systems and facilitate the timely
5 transfer of technology among participating growers.

6 **SECTION 2.(d)** Report. – No later than 1 November of each year, the
7 Division of Soil and Water Conservation in the Department of Environment and Natural
8 Resources shall report to the Environmental Review Commission on the implementation
9 of the Lagoon Conversion Program. The first report required by this subsection shall be
10 submitted no later than 1 November 2007.

11 **SECTION 3.(a)** Account. – There is hereby established the Swine Farm
12 Waste Management System Conversion Account within the Division of Soil and Water
13 Conservation of the Department of Environment and Natural Resources. Funds in the
14 Account shall be used only for installation of innovative swine waste management
15 systems on swine farms in operation on or before 1 September 2007, as provided in this
16 act. The Account shall consist of funds appropriated to the Account by the General
17 Assembly; any federal funds available for this purpose; and any grants, gifts, or
18 contributions to the State for this purpose. Funds in the Account shall not revert.

19 **SECTION 3.(b)** Appropriation. – There is appropriated from the General
20 Fund to the Swine Farm Waste Management System Conversion Account within the
21 Division of Soil and Water Conservation of the Department of Environment and Natural
22 Resources the sum of ten million dollars (\$10,000,000) for the 2007-2008 fiscal year
23 and the sum of ten million dollars (\$10,000,000) for the 2008-2009 fiscal year. It is the
24 intent of the General Assembly that this appropriation be a recurring appropriation
25 through the 2011-2012 fiscal year.

26 **SECTION 3.(c)** Limit on Operating and Administrative Expenses. – No
27 more than five percent (5%) of the annual balance of the Fund on 1 July or a total sum
28 of two hundred fifty thousand dollars (\$250,000), whichever is greater, may be used
29 each fiscal year for administrative and operating expenses of the Task Force and the
30 Program.

31 **SECTION 4.** Effective Dates. – Section 1 of this act becomes effective 1
32 September 2007. All other sections of this act become effective 1 July 2007.