

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-322
HOUSE BILL 1100**

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH STORMWATER CONTROL BEST MANAGEMENT PRACTICES AND PROCESS WATER TREATMENT PROCESSES FOR COMPOSTING OPERATIONS FOR THE PURPOSE OF PROTECTING WATER QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Environment and Natural Resources shall establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water Quality in the Department and the Division of Waste Management in the Department. These practices, processes, and standards shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, and by reducing the opportunities for generation of such waters.

SECTION 1.(b) The Division of Water Quality shall clarify that stormwater is water that does not contact anything considered a feedstock, intermediate product, or final product of composting operations. The Division of Water Quality shall clarify that wastewater is leachate and water that contacts feedstocks, intermediate products, or final product, of composting operations. The clarifications shall incorporate available scientifically valid information obtained from sampling and analyses of North Carolina composting facilities and from valid representative data from other states. In addition, the Division of Water Quality shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required.

SECTION 1.(c) The Department shall establish revised water quality permitting procedures for the composting industry. The revised permitting procedures shall identify the various circumstances that determine which water quality permit is required for various composting activities. The Department shall determine whether selected low-risk subsets of the composting industry may be suitable for expedited or reduced water quality permitting procedures. The determination shall include consideration of the economic impact of regulatory decisions.

SECTION 1.(d) In developing the practices, processes, and standards and the revised water quality permitting procedures required by this section, the Department shall review practices, processes, and standards and permitting procedures adopted by other states and similar federal programs.

SECTION 1.(e) The Department shall form a Compost Operation Stakeholder Advisory Group composed of representatives from the North Carolina Chapter of the United States Composting Council, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North America, the North Carolina Septic Tank Association, and any individual or group commenting to the Department on issues related to water quality at composting operations. The Compost Operation Stakeholder Advisory Group shall be convened periodically to provide input and assistance to the Department.

SECTION 1.(f) The practices, processes, and standards and the revised permitting procedures shall address the site size of an operation, the nature of the feedstocks composted, the type of compost production method employed, the quantity and water quality of the



stormwater or process water associated with composting facilities, the water quality of the receiving waters, as well as operation and maintenance requirements for the resulting standard stormwater control best management practices and standard process water treatment processes.

SECTION 2. Not later than December 31, 2009, the Department shall report to the Environmental Review Commission on the progress of the implementation of the provisions of this act and any recommendations from the Compost Operation Stakeholder Advisory Group and other commenters. The Department shall periodically make other progress reports as the Commission may subsequently direct.

SECTION 3.(a) For the period of time between the effective date of this act and phase-in provided by Section 3(d) of this act, permits for composting facilities shall be handled as follows:

- (1) The Division of Water Quality shall issue interim water quality permit extensions to all composting facilities applying for a water quality permit renewal until the revised final water quality permitting procedures are phased in, as provided in Section 3(d) of this act. The issuance of interim water quality permit extensions shall be contingent upon no significant changes to the existing quantities, feedstocks, and composting methods permitted by the Division of Waste Management. For any facility found to be causing or contributing to a violation of water quality standards, the Division of Water Quality may subsequently determine that the facility is ineligible for continued coverage under an interim water quality permit extension.
- (2) For facilities renewing permits issued by the Division of Waste Management prior to the phase-in provided in Section 3(d) of this act, but operating without the appropriate water quality permits, the Division of Water Quality will work with those facilities on a case-by-case basis to establish appropriate permit coverage.
- (3) New water quality permit applications filed after July 1, 2009, shall be handled on a case-by-case basis.

SECTION 3.(b) Not later than January 1, 2010, the Department shall request comments and recommendations from the Compost Operation Stakeholder Advisory Group as to standard stormwater control best management practices, standard process water treatment processes, and performance standards and the elements of the revised water quality permitting procedures.

SECTION 3.(c) Not later than January 1, 2011, the Department shall establish standard stormwater control best management practices and standard process water treatment processes or performance standards, including standard methods for the reduction in volume for both of these waters.

SECTION 3.(d) Not later than January 1, 2011, the Department shall begin the phase-in of the revised water quality permitting procedures for the composting industry. Complete phase in of the revised water quality permitting procedures shall be accomplished not later than October 1, 2012.

SECTION 3.(e) Water quality permits for the composting industry shall include a reopener clause that may be used to revise permit conditions to reflect the results of the stakeholder process.

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 13th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 5:51 p.m. this 17th day of July, 2009