

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1188**

Short Title: Phase Out Swine Waste Lagoons & Sprayfields. (Public)

Sponsors: Representatives Luebke; Bordsen, Weiss, Parmon, Insko, Jones, and Womble.

Referred to: Environment and Natural Resources.

April 10, 2003

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, and Section 1 of S.L. 2001-254, 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 counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999 General Assembly to receive and act on the findings~~

1 and recommendations of those studies. Except as provided in subsection (b) of this  
2 section, the Environmental Management Commission shall not issue a permit for an  
3 animal waste management system for a new swine farm or the expansion of an existing  
4 swine farm for a period beginning on 1 March 1997 and ending on 1 September 2003.  
5 The construction or expansion of a swine farm or animal waste management system for  
6 a 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 sub-~~  
30          ~~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.** This act becomes effective September 1, 2003, and applies to  
29 any application for a new permit or to modify a permit for an animal waste management  
30 system that serves a swine farm. An animal waste management system that serves a  
31 swine farm for which a permit was issued prior to September 1, 2003, and that does not  
32 meet the requirements of G.S. 143-215.10I, as enacted by Section 1 of this act, may  
33 continue to operate under, and shall operate in compliance with, that permit until the  
34 later of September 1, 2008, or 10 years from the date on which the animal waste  
35 management was first permitted or deemed permitted. The owner or operator of an  
36 animal waste management system that employs a lagoon and sprayfield system that is  
37 phased out pursuant to this act shall close all of the components of the animal waste  
38 management system in compliance with all applicable federal and State laws,  
39 regulations, and rules.