

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 1301

Short Title: Phosphorous Nutrient Mgt./Animal Feedlots. (Public)

Sponsors: Senators Albertson; Carpenter, Dorsett, Kinnaird, and Weinstein.

Referred to: Agriculture/Environment/Natural Resources.

May 24, 2004

A BILL TO BE ENTITLED
AN ACT TO IMPLEMENT REQUIREMENTS APPLICABLE TO NATIONAL
POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND
ANIMAL WASTE MANAGEMENT PLANS GOVERNING ANIMAL FEEDING
OPERATIONS TO MAKE THE STATE PERMIT REQUIREMENTS
CONSISTENT WITH FEDERAL REQUIREMENTS, AS RECOMMENDED BY
THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"§ 143-215.10B. Definitions.

As used in this Part:

- (1) "Animal operation" means any agricultural ~~farming-feedlot~~ activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management ~~system-system~~, or any smaller agricultural feedlot activity with a liquid animal waste management system that discharges to the surface waters of the State. A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.
- (2) "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.
- (3) "Animal waste management system" means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.
- (4) "Division" means the Division of Water Quality of the Department.
- (4a) "Dry litter poultry facility" means any agricultural feedlot activity involving poultry that does not utilize a liquid animal waste management system.

1 (5) "Feedlot" means a lot or building or combination of lots and buildings
2 intended for the confined feeding, breeding, raising, or holding of
3 animals and either specifically designed as a confinement area in
4 which animal waste may accumulate or where the concentration of
5 animals is such that an established vegetative cover cannot be
6 maintained. A building or lot is not a feedlot unless animals are
7 confined for 45 or more days, which may or may not be consecutive,
8 in a 12-month period. Pastures shall not be considered feedlots for
9 purposes of this Part.

10 (6) "Technical specialist" means an individual designated by the Soil and
11 Water Conservation Commission, pursuant to rules adopted by that
12 Commission, to certify animal waste management plans."

13 **SECTION 2.** G.S. 143-215.10C reads as rewritten:

14 **"§ 143-215.10C. Applications and permits.**

15 (a) No person shall construct or operate an animal waste management system for
16 an animal operation or a dry litter poultry facility subject to federal discharge permit
17 regulations without first obtaining an individual permit or a general permit under this
18 ~~Article-section.~~ The Commission shall develop a system of individual and general
19 permits for animal operations and dry litter poultry facilities based on species, number
20 of animals, and other relevant factors. It is the intent of the General Assembly that most
21 animal waste management systems be permitted under a general permit. The
22 Commission, in its discretion, may require that an animal waste management system be
23 permitted under an individual permit if the Commission determines that an individual
24 permit is necessary to protect water quality, public health, or the environment.

25 (b) An animal waste management system shall be designed, constructed, and
26 operated so that the animal operation served by the animal waste management system
27 does not cause pollution in the waters of the State except as may result because of
28 rainfall from a storm event more severe than the ~~25-year, 24-hour storm~~ storm of the
29 100-year, 24-hour storm if required by federal discharge permit regulations.

30 (c) The Commission shall act on a permit application as quickly as possible and
31 may conduct any inquiry or investigation it considers necessary before acting on an
32 application.

33 (d) All applications for permits or for renewal of an existing permit shall be in
34 writing, and the Commission may prescribe the form of the applications. All
35 applications shall include an animal waste management system plan approved by a
36 technical specialist. The Commission may require an applicant to submit additional
37 information the Commission considers necessary to evaluate the application. Permits
38 and renewals issued pursuant to this section shall be effective until the date specified
39 therein or until rescinded unless modified or revoked by the Commission.

40 (e) Animal waste management plans for animal operations shall include all of the
41 following components:

42 (1) A checklist of potential odor sources and a choice of site-specific,
43 cost-effective remedial best management practices to minimize those
44 sources.

- 1 (2) A checklist of potential insect sources and a choice of site-specific,
2 cost-effective best management practices to minimize insect problems.
- 3 (3) Provisions that set forth acceptable methods of disposing of
4 mortalities.
- 5 (4) Provisions regarding best management practices for riparian buffers or
6 equivalent controls, particularly along perennial streams.
- 7 (5) Provisions regarding the use of emergency spillways and site-specific
8 emergency management plans that set forth operating procedures to
9 follow during emergencies in order to minimize the risk of
10 environmental damage.
- 11 (6) Provisions regarding periodic testing of waste products used as
12 nutrient sources as close to the time of application as practical and at
13 least within 60 days of the date of application and periodic testing, at
14 least annually, of soils at crop sites where the waste products are
15 applied. Nitrogen shall be the rate-determining ~~element~~element,
16 except that phosphorous provisions of the most current nutrient
17 management standard approved by the Soil and Water Conservation
18 Commission or the Natural Resources Conservation Service of the
19 United States Department of Agriculture may also be a
20 rate-determining factor for facilities subject to federal discharge permit
21 regulations. Zinc and copper levels in the soils shall be monitored, and
22 alternative crop sites shall be used when these metals approach excess
23 levels.
- 24 (7) Provisions regarding waste utilization plans that assure a balance
25 between nitrogen application rates and nitrogen crop requirements, that
26 assure that lime is applied to maintain pH in the optimum range for
27 crop production, and that include corrective action, including revisions
28 to the waste utilization plan based on data of crop yields and crops
29 analysis, that will be taken if this balance is not achieved as
30 determined by testing conducted pursuant to subdivision (6) of this
31 subsection.
- 32 (8) Provisions regarding the completion and maintenance of records on
33 forms developed by the Department, which records shall include
34 information addressed in subdivisions (6) and (7) of this subsection,
35 including the dates and rates that waste products are applied to soils at
36 crop sites, and shall be made available upon request by the
37 Department.
- 38 (f) ~~Any operator of an animal operation with a dry litter animal waste~~
39 ~~management system~~Animal waste management plans for dry litter poultry facilities not
40 subject to federal discharge permit requirements, but involving 30,000 or more birds
41 shall develop an animal waste management plan that complies with the testing and
42 record-keeping requirements under subdivisions (6) through (8) of subsection (e) of this
43 section. Any operator of this type of animal waste management system shall retain
44 records required under this section and by the Department on-site for three years.

1 (f1) Animal waste management plans for dry litter poultry facilities subject to
2 federal discharge permit regulations shall include the components listed in subsection
3 (e) of this section.

4 (g) The Commission shall encourage the development of alternative and
5 innovative animal waste management technologies. The Commission shall provide
6 sufficient flexibility in the regulatory process to allow for the timely evaluation of
7 alternative and innovative animal waste management technologies and shall encourage
8 operators of animal waste management systems to participate in the evaluation of these
9 technologies. The Commission shall provide sufficient flexibility in the regulatory
10 process to allow for the prompt implementation of alternative and innovative animal
11 waste management technologies that are demonstrated to provide improved protection
12 to public health and the environment.

13 (h) The owner or operator of an animal waste management system shall:

14 (1) In the event of a discharge of 1,000 gallons or more of animal waste to
15 the surface waters of the State, issue a press release to all print and
16 electronic news media that provide general coverage in the county
17 where the discharge occurred setting out the details of the discharge.
18 The owner or operator shall issue the press release within 48 hours
19 after the owner or operator has determined that the discharge has
20 reached the surface waters of the State. The owner or operator shall
21 retain a copy of the press release and a list of the news media to which
22 it was distributed for at least one year after the discharge and shall
23 provide a copy of the press release and the list of the news media to
24 which it was distributed to any person upon request.

25 (2) In the event of a discharge of 15,000 gallons or more of animal waste
26 to the surface waters of the State, publish a notice of the discharge in a
27 newspaper having general circulation in the county in which the
28 discharge occurs and in each county downstream from the point of
29 discharge that is significantly affected by the discharge. The Secretary
30 shall determine, at the Secretary's sole discretion, which counties are
31 significantly affected by the discharge and shall approve the form and
32 content of the notice and the newspapers in which the notice is to be
33 published. The notice shall be captioned "NOTICE OF DISCHARGE
34 OF ANIMAL WASTE". The owner or operator shall publish the
35 notice within 10 days after the Secretary has determined the counties
36 that are significantly affected by the discharge and approved the form
37 and content of the notice and the newspapers in which the notice is to
38 be published. The owner or operator shall file a copy of the notice and
39 proof of publication with the Department within 30 days after the
40 notice is published. Publication of a notice of discharge under this
41 subdivision is in addition to the requirement to issue a press release
42 under subdivision (1) of this subsection.

43 (i) A person who obtains an individual permit under G.S. 143-215.1 for an
44 animal waste management system that serves a public livestock market shall not be

1 required to obtain a permit under this Part and is not subject to the requirements of this
2 Part.

3 (j) New and expanding animal operations or dry litter poultry facilities subject to
4 federal discharge permit regulations must apply for and receive coverage under a
5 discharge permit and comply with the phosphorous provisions of the most current
6 nutrient management standard before receiving a permit or stocking animals.

7 (k) Existing animal operations subject to federal discharge permit regulation shall
8 comply with the phosphorous provisions of the most current nutrient management
9 standard on or before 1 July 2007.

10 (l) Existing dry litter poultry facilities subject to federal discharge permit
11 regulations or that have been notified by the Department that they are subject to federal
12 discharge permit regulation because of an unpermitted discharge must apply for and
13 receive coverage under a discharge permit by 13 April 2008."

14 **SECTION 3.** G.S. 143-215.10G(a) reads as rewritten:

15 "(a) The Department shall charge an annual permit fee of all animal operations
16 and dry litter poultry facilities that are subject to a permit under G.S. 143-215.10C for
17 animal waste management systems according to the following schedule:

- 18 (1) For a system with a design capacity of 38,500 or more and less than
19 100,000 pounds steady state live weight, fifty dollars (\$50.00).
- 20 (2) For a system with a design capacity of 100,000 or more and less than
21 800,000 pounds steady state live weight, one hundred fifty dollars
22 (\$150.00).
- 23 (3) For a system with a design capacity of 800,000 pounds or more steady
24 state live weight, three hundred dollars (\$300.00)."

25 **SECTION 4.** The Department of Environment and Natural Resources shall
26 evaluate the application of phosphorous provisions of the most current nutrient
27 management standard approved by the Soil and Water Conservation Commission or the
28 Natural Resources Conservation Service of the United States Department of Agriculture
29 to permitted animal operations and dry litter poultry facilities as provided in subsections
30 (j), (k), and (l) of G.S. 143-215.10C. In the course of the study required by this section,
31 the Department shall also consider the application of the phosphorous provisions of the
32 nutrient management standard to existing animal operations and dry litter poultry
33 facilities not subject to the permit requirements of subsections (j), (k), and (l) of G.S.
34 143-215.10C. The Department shall give emphasis to the proper role for nonregulatory
35 programs and the development of innovative partnerships with producers and business
36 interests in the livestock and poultry industry in its recommendations for these small-
37 and medium-sized animal facilities. If the Department recommends that a regulatory
38 process be implemented, the Department shall propose an implementation schedule for
39 compliance with the phosphorous provisions of the nutrient management standard. The
40 Department shall report its findings and recommendations to the Environmental Review
41 Commission on or before 1 April 2008.

42 **SECTION 5.** This act becomes effective 1 January 2005.