

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH30262-SB-15 (04/13)

Short Title: Regulate Nutrient Trading Among Dischargers. (Public)

Sponsors: Representative Underhill.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REGULATE THE ALLOCATION OF DISCHARGE LIMITS AMONG
THE INDIVIDUAL DISCHARGERS OF A COOPERATIVE GROUP OF
DISCHARGERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.1(a) is amended by adding a new subdivision to
read:

"(a) Activities for Which Permits Required. – No person shall do any of the
following things or carry out any of the following activities unless that person has
received a permit from the Commission and has complied with all conditions set forth in
the permit:

...

(13) Cause or permit any waste, directly or indirectly, to be discharged to or
in any manner intermixed with the waters of the State in violation of
the water quality standards applicable to the assigned classifications or
in violation of any effluent standards or limitations established for the
discharger as a member a cooperative group of dischargers permitted
pursuant to subdivision (6) of subsection (b) of this section."

SECTION 2. G.S. 143-215.1(b) is amended by adding a new subdivision to
read:

"(b) Commission's Power as to Permits. –

...

(6) The Commission may issue a permit to a group of dischargers as
provided in this subdivision.

a. The Commission may issue a permit pursuant to this
subdivision only if the permit:

1. Is issued to a group of dischargers all located within the same river basin.
 2. Is issued to a group of dischargers that is organized through a cooperative agreement approved by the Commission pursuant to subsection (c3) of this section.
 3. Is issued to implement nutrient loading reductions required to achieve the restoration of impaired uses of waters.
 4. Allocates to each individual member of the cooperative group of dischargers a specific individual discharge limit from the nutrient limits established for the cooperative group as a whole that is no greater than the discharge limit established in the permit of the individual member or the more stringent discharge limits necessary to protect water quality standards in localized areas applicable to the individual member.
- b. The Commission may modify both the cooperative group permit and the individual member permits as necessary to protect water quality standards in localized areas.
- c. The Commission may enforce the individual allocations when the cooperative group exceeds its nutrient limits or when any individual member exceeds its individual allocation in violation of the terms of the cooperative agreement approved by the Commission.
- d. Prior to a request for an increased allocation from the cooperative group's total nutrient load allocation, the individual member requesting the increased allocation shall:
1. Publish notice of the proposed increase in allocation throughout the basin and provide individual notice to the owner of the first downstream drinking water intake at least 60 days prior to the submission of the request to the Commission.
 2. Demonstrate that the increased allocation will not cause or contribute to a violation of water quality standards in localized areas.
- e. Sub-subdivision d. of this subdivision does not apply to a request for consolidation of individual member dischargers into a single treatment facility."

SECTION 3. G.S. 143-215.1(c3) reads as rewritten:

"(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. To be eligible for approval, the cooperative agreement shall include binding and enforceable provisions that require

1 each individual member of the cooperative group to comply with its individual
2 discharge limits established by the permit allocation within a reasonable time after the
3 individual becomes a member of the cooperative group and that impose sanctions equal
4 to or greater than the sanctions provided in G.S. 143-215.6A for a discharge in excess of
5 an individual discharger's allocation that results in, causes, or contributes to a violation
6 of water quality standards otherwise applicable in localized areas. The clear proceeds of
7 any monitory sanction assessed against a member of a cooperative group pursuant to a
8 cooperative agreement shall be remitted to the Civil Penalty and Forfeiture Fund in
9 accordance with G.S. 115C-457.2. A person to whom subsection (c1) or (c2) of this
10 section applies whose agreement to ~~accept~~ consolidate with another wastewater
11 treatment facility by accepting wastewater from another wastewater treatment facility
12 that discharges into the same water body and that results in the elimination of the
13 discharge from that wastewater treatment facility shall be allowed to increase the
14 average annual mass load of total nitrogen and total phosphorus that person discharges
15 by the average annual mass load of total nitrogen and total phosphorus of the
16 wastewater treatment facility that is eliminated. If the wastewater treatment facility that
17 is eliminated has a permitted flow of less than 500,000 gallons per day, the average
18 annual mass load of total nitrogen or phosphorus shall be calculated from the most
19 recent available data. This average annual load of nitrogen or phosphorous shall be
20 assigned to the wastewater discharge allocation of the wastewater treatment facility that
21 accepts the wastewater. A person to whom this subsection applies shall comply with
22 nitrogen and phosphorus discharge monitoring requirements and the individual
23 allocations from the cooperative group permit established by the ~~Commission.~~
24 Commission in the cooperative group permit. Consistent with the limitations established
25 in subdivision (6) of subsection (b) of this section, the cooperative group may request
26 that the Commission modify the allocations made to the individual members of the
27 cooperative group in the permit issued to the cooperative group. ~~This average annual~~
28 load of nitrogen or phosphorus shall be assigned to the wastewater discharge allocation
29 of the wastewater treatment facility that accepts the wastewater."

30 **SECTION 4.** This act is effective when it becomes law and applies
31 retroactively to any cooperative agreement entered into pursuant to G.S. 143-215.1(c3)
32 and to any permit previously issued to any group of dischargers.