

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1479

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

Sponsors: Representatives Underhill, Harrison (Primary Sponsors); Hackney and Wainwright.

Referred to: Environment and Natural Resources.

April 21, 2005

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.

- 1 2. Is issued to a group of dischargers that is organized
2 through a cooperative agreement approved by the
3 Commission pursuant to subsection (c3) of this section.
4 3. Is issued to implement nutrient loading reductions
5 required to achieve the restoration of impaired uses of
6 waters.
7 4. Allocates to each individual member of the cooperative
8 group of dischargers a specific individual discharge limit
9 from the nutrient limits established for the cooperative
10 group as a whole that is no greater than the discharge
11 limit established in the permit of the individual member
12 or the more stringent discharge limits necessary to
13 protect water quality standards in localized areas
14 applicable to the individual member.
15 b. The Commission may modify both the cooperative group
16 permit and the individual member permits as necessary to
17 protect water quality standards in localized areas.
18 c. The Commission may enforce the individual allocations when
19 the cooperative group exceeds its nutrient limits or when any
20 individual member exceeds its individual allocation in violation
21 of the terms of the cooperative agreement approved by the
22 Commission.
23 d. Prior to a request for an increased allocation from the
24 cooperative group's total nutrient load allocation, the individual
25 member requesting the increased allocation shall:
26 1. Publish notice of the proposed increase in allocation
27 throughout the basin and provide individual notice to the
28 owner of the first downstream drinking water intake at
29 least 60 days prior to the submission of the request to the
30 Commission.
31 2. Demonstrate that the increased allocation will not cause
32 or contribute to a violation of water quality standards in
33 localized areas.
34 e. Sub-subdivision d. of this subdivision does not apply to a
35 request for consolidation of individual member dischargers into
36 a single treatment facility."

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

38 "(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the
39 limits established under those subsections either individually or on the basis of a
40 cooperative agreement with other persons who hold individual wastewater permits if the
41 cooperative agreement is approved by the Commission. To be eligible for approval, the
42 cooperative agreement shall include binding and enforceable provisions that require
43 each individual member of the cooperative group to comply with its individual
44 discharge limits established by the permit allocation within a reasonable time after the

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

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