

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40406-MHa-68

Short Title: Poultry Waste Management.

(Public)

Sponsors: Representative Harrison.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A PERMITTING PROGRAM FOR DRY LITTER POULTRY OPERATIONS; TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY AND DETERMINE THE NUMBER AND LOCATION OF POULTRY FARMS (CAFOS) IN NORTH CAROLINA, THE DRY LITTER WASTE MANAGEMENT SYSTEMS AND PRACTICES THAT ARE EMPLOYED BY THESE FARMS, THE POTENTIAL ENVIRONMENTAL AND HEALTH IMPACTS AND DAMAGES THESE SYSTEMS AND PRACTICES MAY HAVE, AND RECOMMENDATIONS ON HOW BEST TO REGULATE THESE WASTE MANAGEMENT SYSTEMS IN PROTECTING THE ENVIRONMENT AND THE PUBLIC'S HEALTH AND SAFETY; AND TO REVISE WASTE MANAGEMENT PLAN SUBMISSION REQUIREMENTS FOR DRY LITTER POULTRY FACILITIES.

Whereas, as poultry production in the United States has increased, the total number of farms has declined; and

Whereas, ninety-seven percent (97%) of the 9 billion chickens produced for consumption each year are raised in Concentrated Animal Feeding Operations (CAFOs); and

Whereas, it is estimated that in 2022, the State had over 544 million poultry and 4,863 dry litter poultry facilities, compared to 8.8 million hogs and 2,489 hog farms; and

Whereas, among all animal operations in the State, those with poultry are the largest source of nutrients from waste. The waste produced, known as dry litter, is a mixture of manure, bedding, and feathers that contains heavy metals and pathogens in addition to nutrients; and

Whereas, for disposal, the waste is applied onto adjacent fields or trucked a short distance to be used as fertilizer. When mobilized in runoff or subsurface flow, the waste is a threat to water quality; and

Whereas, because dry litter poultry operations do not discharge their waste directly to surface waters, they are not regulated under the National Pollution Discharge Elimination System (NPDES), and these operations are deemed permitted unless an illicit discharge is reported and documented by staff; and

Whereas, in addition to nutrient pollution from runoff of land application sites, the lack of regulatory oversight for dry poultry litter also threatens surrounding communities through pathogen-laden surface waters, odor and health hazards from disposal of dead birds, and contaminated flood waters; and

Whereas, this pollution disproportionately impacts communities of color and jeopardizes economic drivers in all communities; and



1 Whereas, G.S. 143-215.10C requires that any owner or operator of a dry litter poultry
2 facility that is not subject to federal regulation but that involves 30,000 or more birds shall
3 develop an animal waste management plan; and

4 Whereas, the North Carolina Department of Environmental Quality basin planning
5 group has requested access to any information regarding nutrient loading rates from dry litter
6 poultry operations; and

7 Whereas, a study of the industrial poultry industry would be beneficial to all because
8 there have been substantial technological advances in the disposition of poultry waste, including
9 various recycling technologies such as anaerobic digestion that result in beneficial economic
10 outcomes to both the industry and the public, and there has been significant passage of time since
11 this part of the agricultural sector of the State has been studied; Now, therefore,
12 The General Assembly of North Carolina enacts:

13
14 **PART I. PERMITTING OF INDUSTRIAL POULTRY OPERATIONS AND LIMIT**
15 **THOSE OPERATIONS IN 100-YEAR FLOODPLAIN**

16 **SECTION 1.(a)** G.S. 143-215.10B(1) reads as rewritten:

17 "(1) "Animal operation" means (i) any agricultural feedlot activity involving 250
18 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more
19 sheep, ~~or~~ 30,000 or more confined poultry with a liquid animal waste
20 management system, or 82,000 or more confined poultry with a dry litter
21 waste management system or (ii) any agricultural feedlot activity with a liquid
22 animal waste management system that discharges to the surface waters of the
23 State. A public livestock market regulated under Article 35 of Chapter 106 of
24 the General Statutes is an animal operation for purposes of this Part."

25 **SECTION 1.(b)** G.S. 143-215.10C reads as rewritten:

26 **"§ 143-215.10C. Applications and permits.**

27 (a) No person shall construct or operate an animal waste management system for an
28 animal operation ~~or operate an animal waste management system for a dry litter poultry facility~~
29 ~~that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73~~
30 ~~Federal Register 70418 (November 20, 2008), without first obtaining an individual permit or a~~
31 ~~general permit under this Article. The Commission shall develop a system of individual and~~
32 ~~general permits for animal operations and operations, including dry litter poultry facilities~~
33 facilities, based on species, number of animals, and other relevant factors. The Commission shall
34 develop a general permit for animal operations that includes authorization for the permittee to
35 construct and operate a farm digester system. It is the intent of the General Assembly that most
36 animal waste management systems be permitted under a general permit. The Commission, in its
37 discretion, may require that an animal waste management system, including an animal waste
38 management system that utilizes a farm digester system, be permitted under an individual permit
39 if the Commission determines that an individual permit is necessary to protect water quality,
40 public health, or the environment. After the general permit for animal operations that includes
41 authorization for the permittee to construct and operate a farm digester system has been issued,
42 the decision to require an individual permit shall not be based solely on the fact that the animal
43 waste management system utilizes a farm digester system. The owner or operator of an animal
44 operation shall submit an application for a permit at least 180 days prior to construction of a new
45 animal waste management system or expansion of an existing animal waste management system
46 and shall obtain the permit prior to commencement of the construction or expansion. ~~The owner~~
47 ~~or operator of a dry litter poultry facility that is required to be permitted under 40 Code of Federal~~
48 ~~Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall submit~~
49 ~~an application for a permit at least 180 days prior to operation of a new animal waste management~~
50 ~~system.~~

1 (a1) An owner or operator of an animal waste management system for an animal operation
2 ~~or a dry litter poultry facility that is required to be permitted under 40 Code of Federal~~
3 ~~Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008),~~ shall apply
4 for an individual National Pollutant Discharge Elimination System (NPDES) permit or a general
5 NPDES permit under this Article and may not discharge into waters of the State except in
6 compliance with an NPDES permit.

7 (b) An animal waste management system that is not required to be permitted under 40
8 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20,
9 2008), shall be designed, constructed, and operated so that the animal operation served by the
10 animal waste management system does not cause pollution in the waters of the State except as
11 may result because of rainfall from a storm event more severe than the 25-year, 24-hour storm.

12 (b1) An existing animal waste management system that is required to be permitted under
13 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20,
14 2008), shall be designed, constructed, maintained, and operated in accordance with 40 Code of
15 Federal Regulations § 412, as amended at 73 Federal Register 70418 (November 20, 2008), so
16 that the animal operation served by the animal waste management system does not cause
17 pollution in waters of the State except as may result because of rainfall from a storm event more
18 severe than the 25-year, 24-hour storm. A new animal operation ~~or dry litter poultry facility that~~
19 ~~is required to be permitted under 40 Code of Federal Regulations § 412.46, as amended at 73~~
20 ~~Federal Register 70418 (November 20, 2008),~~ shall be designed, constructed, maintained, and
21 operated so that there is no discharge of pollutants to waters of the State.

22 (c) The Commission shall act on a permit application as quickly as possible and may
23 conduct any inquiry or investigation it considers necessary before acting on an application. No
24 permit shall be denied, and no condition shall be attached to a permit, except when the
25 Commission finds that the denial or conditions are necessary to effectuate the purposes of this
26 Part.

27 (c1) Failure of the Commission to make a final permitting decision involving a notice of
28 intent for a certificate of coverage under a general permit for animal operations that includes
29 authorization for the permittee to construct and operate a farm digester system within 90 days of
30 the Commission's receipt of a completed notice of intent shall result in the deemed approval of
31 coverage under the permit. If the Commission fails to act within 90 days of the Commission's
32 receipt of a completed notice of intent, the permittee may request that the Commission provide
33 written confirmation that the notice of intent is deemed approved. Failure to provide this written
34 confirmation within 10 days of the request shall serve as a basis to seek a contested case hearing
35 pursuant to Article 3 of Chapter 150B of the General Statutes. Unless all parties to the case agree
36 otherwise in writing, the administrative law judge shall issue a final decision or order in the
37 contested case no later than 120 days after its commencement pursuant to G.S. 150B-23;
38 provided that, upon written request of the administrative law judge or any party to the hearing,
39 the Chief Administrative Law Judge may extend this deadline for good cause shown, no more
40 than two times, for not more than 30 days per extension. Upon review of a failure to act on a
41 notice of intent, the administrative law judge may either (i) direct the Commission to issue a
42 written certificate of coverage under the general permit or (ii) deny the petition.

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

49 (e) An animal waste management plan for an animal operation shall include all of the
50 following components:

- 1 (1) A checklist of potential odor sources and a choice of site-specific,
2 cost-effective remedial best management practices to minimize those sources.
- 3 (2) A checklist of potential insect sources and a choice of site-specific,
4 cost-effective best management practices to minimize insect problems.
- 5 (3) Provisions that set forth acceptable methods of disposing of mortalities.
- 6 (4) Provisions regarding best management practices for riparian buffers or
7 equivalent controls, particularly along perennial streams.
- 8 (5) Provisions regarding the use of emergency spillways and site-specific
9 emergency management plans that set forth operating procedures to follow
10 during emergencies in order to minimize the risk of environmental damage.
- 11 (6) Provisions regarding periodic testing of waste products used as nutrient
12 sources as close to the time of application as practical and at least within 60
13 days of the date of application and periodic testing, at least once every three
14 years, of soils at crop sites where the waste products are applied. Nitrogen
15 shall be a rate-determining element. Phosphorus shall be evaluated according
16 to the nutrient management standard approved by the Soil and Water
17 Conservation Commission of the Department of Agriculture and Consumer
18 Services and the Natural Resources Conservation Service of the United States
19 Department of Agriculture for facilities that are required to be permitted under
20 40 Code of Federal Regulations § 122, as amended at 73 Federal Register
21 70418 (November 20, 2008). If the evaluation demonstrates the need to limit
22 the application of phosphorus in order to comply with the nutrient
23 management standard, then phosphorus shall be a rate-determining element.
24 Zinc and copper levels in the soils shall be monitored, and alternative crop
25 sites shall be used when these metals approach excess levels.
- 26 (7) Provisions regarding waste utilization plans that assure a balance between
27 nitrogen and phosphorus application rates and nitrogen and phosphorus crop
28 requirements, that assure that lime is applied to maintain pH in the optimum
29 range for crop production, and that include corrective action, including
30 revisions to the waste utilization plan based on data of crop yields and crops
31 analysis, that will be taken if this balance is not achieved as determined by
32 testing conducted pursuant to subdivision (6) of this subsection.
- 33 (8) Provisions regarding the completion and maintenance of records on forms
34 developed by the Department, which records shall include information
35 addressed in subdivisions (6) and (7) of this subsection, including the dates
36 and rates that waste products are applied to soils at crop sites, and shall be
37 made available upon request by the Department.
- 38 (f) ~~Any owner or operator of a dry litter poultry facility that is not required to be~~
39 ~~permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418~~
40 ~~(November 20, 2008), but that involves 30,000 or more birds shall develop an animal waste~~
41 ~~management plan that complies with the testing and record keeping requirements under~~
42 ~~subdivisions (6) through (8) of subsection (e) of this section. Any operator of this type of animal~~
43 ~~waste management system shall retain records required under this section and by the Department~~
44 ~~on-site for three years.~~
- 45 (f1) ~~An animal waste management plan for a dry litter poultry facility required to be~~
46 ~~permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418~~
47 ~~(November 20, 2008), shall include the components set out in subdivisions (3), (6), (7), and (8)~~
48 ~~of subsection (e) of this section, and to the extent required by 40 Code of Federal Regulations §~~
49 ~~122, as amended at 73 Federal Register 70418 (November 20, 2008), for land application~~
50 ~~discharges, subdivision (4) of subsection (e) of this section.~~

(f2) Periodic testing of waste products as required in subdivision (6) of subsection (e) of this section, ~~subsection (f) of this section and subsection (f1) of this section~~ may be temporarily suspended in compliance with G.S. 106-399.4 when the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, determines that there is an imminent threat within the State of a contagious animal disease. The suspension of testing only applies to the animal operation types designated by the State Veterinarian, and shall be in effect for a period of time that the State Veterinarian deems necessary to prevent and control the animal disease. During the suspension of waste analysis, waste product nutrient content to be used for application of waste at no greater than agronomic rates shall be established by the 1217 Interagency Committee as created by Session Law 1995-626.

...."

SECTION 1.(c) Part 1A of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.10J. Industrial scale animal waste management systems forbidden in 100-year floodplain.

No component of an animal waste management system for an animal operation shall be constructed on land that is located within the 100-year floodplain. As used in this section, "100-year floodplain" means any area subject to inundation by the one percent (1%) annual chance flood event, as indicated on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program."

SECTION 1.(d) G.S. 106-850 reads as rewritten:

"§ 106-850. Agriculture cost share program.

(a) There is created the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The program shall be created, implemented, and supervised by the Soil and Water Conservation Commission.

(b) The program shall be subject to the following requirements and limitations:

...

(5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, closure of animal waste management systems as defined in G.S. 143-215.10B located in 100-year floodplains, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.

...."

SECTION 1.(e) This section becomes effective January 1, 2026.

PART II. STUDY

SECTION 2.(a) The definitions set out in G.S. 143-215.10B shall apply to this act.

SECTION 2.(b) The Environmental Review Commission shall conduct a fact-driven, science-based study of the environmental and public health impacts of dry litter poultry waste in North Carolina and the potential regulatory and technological solutions for addressing these impacts. The Commission shall specifically study all of the following:

(1) The growth of the poultry industry in the State, including the current location, size, and number of dry litter poultry facilities in the State.

- 1 (2) The location, size, and number of dry litter poultry facilities located in the
2 100-year and 500-year floodplains. The Commission shall consider options
3 for removing such facilities from floodplains or requiring management
4 practices to make such facilities more resilient during flooding events.
- 5 (3) The amount of dry litter poultry waste produced by dry litter poultry facilities,
6 the methods of disposing of the waste, the documentation of how waste is
7 disposed of, and how much of the waste is disposed of on-site by the waste
8 generator and how much is disposed of off-site by a third-party hauler or waste
9 transport and disposal company.
- 10 (4) For dry litter poultry waste that is land applied off-site, the location of those
11 land application sites, and the number of such sites in the 100-year floodplain
12 and 500-year floodplain.
- 13 (5) The environmental impacts of dry litter poultry waste, including surface water
14 impacts, groundwater impacts, soil contamination, and atmospheric
15 deposition caused by nutrients such as nitrogen and phosphorus and heavy
16 metals such as arsenic, copper, and zinc.
- 17 (6) The public health impacts of dry litter poultry waste, including impacts related
18 to odor, drinking water contamination, drug residues, pathogens, and disease
19 vectors and pests.
- 20 (7) The health impacts of dry litter poultry waste on workers at dry litter poultry
21 facilities and people living in close proximity to dry litter poultry facilities.
- 22 (8) The cumulative environmental and public health impacts of waste produced
23 by dry litter poultry facilities and animal operations for swine.
- 24 (9) The current regulation of dry litter poultry facilities and the potential
25 regulation of dry litter poultry facilities to better protect the environment and
26 public health. The Commission shall identify the deficiencies in the regulation
27 of dry litter poultry facilities in the State and consider whether and to what
28 extent the regulation of animal operations for swine and other livestock in the
29 State should be applied to dry litter poultry facilities.
- 30 (10) The disposal of dead poultry in cases of severe storms or flooding events.
- 31 (11) The current and potential animal waste management technologies that could
32 reduce or eliminate the environmental and public health impacts of dry litter
33 poultry waste.
- 34 (12) Suggestions for changes in public records laws needed to allow for greater
35 public transparency about dry litter poultry facilities and more efficient use of
36 limited public regulatory enforcement resources for protection of the State's
37 air and waters.
- 38 (13) The need for additional resources, including appropriations, professional
39 expertise, and scientific studies, necessary to comprehensively examine the
40 issues set out in this act.

41 **SECTION 2.(c)** Upon its request, the Commission shall be assisted by all State
42 agencies, including the Department of Agriculture and Consumer Services, the Department of
43 Environmental Quality, the Department of Health and Human Services, the Department of Labor,
44 the North Carolina Poultry Federation, and The University of North Carolina and its constituent
45 institutions. The Commission may request recommendations from any of these entities related to
46 any of the topics set out in this act.

47 **SECTION 2.(d)** The Commission shall report its findings, including any
48 recommendations, to the 2026 Regular Session of the 2025 General Assembly upon its
49 convening.

50 **PART III. REPORTING REQUIREMENT**

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

2 "(f) Any owner or operator of a dry litter poultry facility that is not required to be
3 permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418
4 (November 20, 2008), but that involves 30,000 or more birds shall develop and annually submit
5 to the Department in a digital format an animal waste management plan that complies with the
6 testing and record-keeping requirements under subdivisions (6) through (8) of subsection (e) of
7 this section. Any operator of this type of animal waste management system shall retain records
8 required under this section and by the Department on-site for three years."

9 **SECTION 3.(b)** The sum of twenty-five thousand dollars (\$25,000) in nonrecurring
10 funds for the 2025-2026 fiscal year is appropriated from the General Fund to the Department of
11 Environmental Quality to be allocated to the Division of Water Resources to develop educational
12 resources and provide technical assistance for owners and operators of dry litter poultry facilities
13 in complying with the reporting requirement set out in this act.

14 **SECTION 3.(c)** Subsection (a) of this section is effective January 1, 2026.
15 Subsection (b) of this section becomes effective July 1, 2025.

16 17 **PART IV. INCREASE TRANSPARENCY**

18 **SECTION 4.** G.S. 106-24.1 reads as rewritten:

19 **"§ 106-24.1. Confidentiality of information collected and published.**

20 All information published by the Department of Agriculture and Consumer Services pursuant
21 to this Part shall be classified so as to prevent the identification of information received from
22 individual farm operators. All information generated by any federal agency received pursuant to
23 this Chapter that is confidential under federal law shall be held confidential by the Department
24 and its employees, unless confidentiality is waived by the federal agency. Complaints of
25 violations of this Chapter or of Part 1A of Article 21 of Chapter 143 of the General Statutes
26 relating to a farm operation and all other records accumulated in conjunction with the
27 investigation of these complaints shall be considered confidential records and may be released
28 only by order of a court of competent jurisdiction. All information collected by the Department
29 from farm owners or animal owners, including, but not limited to, certificates of veterinary
30 inspection, animal medical records, laboratory reports received or generated from samples
31 submitted for analysis, ~~or other records that may be used to identify a person or private business~~
32 ~~entity subject to regulation by the Department~~ analysis shall not be disclosed without the
33 permission of the owner ~~unless the~~ except in the following situations:

- 34 (1) The State Veterinarian determines that disclosure is necessary to prevent the
35 spread of an animal disease or to protect the public health, or the disclosure is
36 necessary in the implementation of these animal health programs.
37 (2) The disclosure is necessary to meet statutory requirements imposed on other
38 State agencies.
39 (3) The information is limited to the location, size, and ownership of an individual
40 farm operation."

41 42 **PART V. SEVERABILITY AND EFFECTIVE DATE**

43 **SECTION 5.** If any section or provision of this act is declared unconstitutional or
44 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
45 the part so declared to be unconstitutional or invalid.

46 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
47 law.