

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1115**

Short Title: Swine Farm Env. Performance Standards/Funds. (Public)

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Sponsors: Representatives Justice, Lucas, McComas, Carney (Primary Sponsors); Alexander, Bordsen, Bryant, Coates, Cole, Coleman, Cunningham, Current, Farmer-Butterfield, Fisher, Glazier, Goforth, Grady, Haire, Harrison, Howard, Insko, Jeffus, Luebke, Martin, McGee, Rapp, Ross, Samuelson, Steen, Stiller, Tarleton, Underhill, Weiss, and Womble.

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Referred to: Environment and Natural Resources, if favorable, Appropriations.

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March 28, 2007

A BILL TO BE ENTITLED

1 AN ACT TO CODIFY AND MAKE PERMANENT THE SWINE FARM ANIMAL  
2 WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS THAT  
3 THE GENERAL ASSEMBLY ENACTED IN 1998, TO ASSIST FARMERS  
4 WITH THE EARLY ADOPTION OF INNOVATIVE SWINE WASTE  
5 MANAGEMENT SYSTEMS, TO RENAME THE EMERGENCY DRINKING  
6 WATER FUND THE BERNARD ALLEN CLEAN WELL WATER FUND, AND  
7 TO ESTABLISH A REPORTING REQUIREMENT UNDER THE BERNARD  
8 ALLEN CLEAN WELL WATER FUND.  
9

10 The General Assembly of North Carolina enacts:

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

13 **"§ 143-215.10I. Performance standards for animal waste management systems**  
14 **that serve swine farms; lagoon and sprayfield systems prohibited.**

15 (a) As used in this section:

16 (1) 'Anaerobic lagoon' means a lagoon that treats waste by converting it  
17 into carbon dioxide, methane, ammonia, and other gaseous  
18 compounds; organic acids; and cell tissue through an anaerobic  
19 process.

20 (2) 'Anaerobic process' means a biological treatment process that occurs in  
21 the absence of dissolved oxygen.

22 (3) 'Lagoon' has the same meaning as in G.S. 106-802.

23 (4) 'Swine farm' has the same meaning as in G.S. 106-802.

24 (b) The Commission shall not issue or modify a permit to authorize the  
25 construction, operation, or expansion of an animal waste management system that

1 serves a swine farm that employs an anaerobic lagoon as the primary method of  
2 treatment and land application of waste by means of a sprayfield as the primary method  
3 of waste disposal. The Commission may issue a permit for the construction, operation,  
4 or expansion of an animal waste management system that serves a swine farm under this  
5 Article only if the Commission determines that the animal waste management system  
6 will meet or exceed all of the following performance standards:

- 7 (1) Eliminate the discharge of animal waste to surface water and  
8 groundwater through direct discharge, seepage, or runoff.
- 9 (2) Substantially eliminate atmospheric emission of ammonia.
- 10 (3) Substantially eliminate the emission of odor that is detectable beyond  
11 the boundaries of the parcel or tract of land on which the swine farm is  
12 located.
- 13 (4) Substantially eliminate the release of disease-transmitting vectors and  
14 airborne pathogens.
- 15 (5) Substantially eliminate nutrient and heavy metal contamination of soil  
16 and groundwater."

17 **SECTION 1.(b)** Continued Operation. – An animal waste management  
18 system that serves a swine farm for which a permit was issued prior to September 1,  
19 2007, and that does not meet the requirements of G.S. 143-215.10I, as enacted by  
20 subsection (a) of this section, may continue to operate under and shall operate in  
21 compliance with the permit, including any renewal of the permit.

22 **SECTION 1.(c)** Rule making. – The Environmental Management  
23 Commission shall adopt rules to implement G.S. 143-215.10I, as enacted by subsection  
24 (a) of this section. Until rules to implement G.S. 143-215.10I become effective, the  
25 Commission, in implementing G.S. 143-215.10I, shall refer to the report entitled,  
26 "Development of Environmentally Superior Technologies – Phase 3 Report: for  
27 Technology Determinations per Agreements Between the Attorney General of North  
28 Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers" dated  
29 8 March 2006. The Commission may consult with the Animal and Poultry Waste  
30 Management Center of North Carolina State University regarding the application and  
31 modification of technical standards required to implement G.S. 143-215.10I.

32 **SECTION 2.(a)** Definitions. – As used in this section:

- 33 (1) "Grower" has the same meaning as in G.S. 143-215.10H.
- 34 (2) "Integrator" has the same meaning as in G.S. 143-215.10H.
- 35 (3) "Innovative swine waste management system" means an animal waste  
36 management system that serves a swine farm that is permissible under  
37 subsection (b) of G.S. 143-215.10I, as enacted by Section 1 of this act.
- 38 (4) 'Swine farm' has the same meaning as in G.S. 106-802.

39 **SECTION 2.(b)** Early Adoption of Innovative Swine Waste Management  
40 Systems Program Established. – The Early Adoption of Innovative Swine Waste  
41 Management Systems Program is established as a voluntary program to facilitate the  
42 installation of innovative swine waste management systems by growers. The Program  
43 shall be administered by the Division of Soil and Water Conservation in the Department  
44 of Environment and Natural Resources through the Agriculture Cost Share Program for

1 Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74. The  
2 Division shall administer the Program as provided in Part 9 of Article 21 of Chapter 143  
3 of the General Statutes as modified by this section. The purpose of the Program is to  
4 facilitate the installation of innovative swine waste management systems on at least 100  
5 swine farms that were in operation on or before September 1, 2007, and that have at  
6 least 65,000,000 pounds steady state live weight cumulative capacity.

7 **SECTION 2.(c) Program Functions.** – Under the Early Adoption of  
8 Innovative Swine Waste Management Systems Program, the Division of Soil and Water  
9 Conservation in the Department of Environment and Natural Resources, through the  
10 Agriculture Cost Share Program for Nonpoint Source Pollution Control, with the  
11 assistance of the Task Force for Innovative Swine Waste Management Systems  
12 established pursuant to subsection (d) of this section, shall:

- 13 (1) Within available funds, provide grants for the installation of innovative  
14 swine waste management systems on swine farms in operation on or  
15 before September 1, 2007, subject to the following provisions:
  - 16 a. Grants shall be limited to ninety percent (90%) of the average  
17 cost for each practice with the assisted farmer providing ten  
18 percent (10%) of the cost, which may include in-kind support of  
19 the practice.
  - 20 b. An integrator is not eligible to receive a grant under the  
21 Program.
  - 22 c. Any person, other than an integrator, that is developing,  
23 licensing, or otherwise providing an animal waste management  
24 technology that will serve a swine farm and that will meet the  
25 requirements of G.S. 143-215.10I, as enacted by subsection (a)  
26 of this section, is eligible to receive a grant under the Program.
  - 27 d. Grants may be used to assist in the closure of sprayfield and  
28 lagoon systems that are replaced by innovative animal waste  
29 management systems if the closure is performed in accordance  
30 with applicable federal and State laws, regulations, and rules.
- 31 (2) Establish criteria to prioritize installation of innovative swine waste  
32 management systems, including the cost of purchasing and  
33 maintaining the systems, potential markets for by-products generated  
34 from the systems, and appropriateness for centralization of waste  
35 collection and treatment.
- 36 (3) Establish priorities to guide the selection of swine farms that are  
37 eligible for participation in the Program, including the swine farm's  
38 geographic location and the grower's compliance history.
- 39 (4) Develop a process for soliciting and reviewing applications from  
40 growers and for selecting growers to participate in the Program.
- 41 (5) Investigate and pursue other funding sources to supplement State  
42 funds, including federal, local, and private funding sources.

- 1           (6) Provide technical assistance to participating growers to assist with  
2           modifications of waste management systems and facilitate the timely  
3           transfer of technology among participating growers.

4           **SECTION 2.(d)** Task Force for Innovative Swine Waste Management  
5 Systems. –

- 6           (1) The Task Force for Innovative Swine Waste Management Systems  
7           shall be made up of the following members:

- 8           a. The Director of the Division of Soil and Water Conservation in  
9           the Department of Environment and Natural Resources, who  
10           shall be the Chair.  
11           b. The Director of the Division of Water Quality in the  
12           Department of Environment and Natural Resources or the  
13           Director's designee.  
14           c. The Director of the Division of Air Quality in the Department  
15           of Environment and Natural Resources or the Director's  
16           designee.  
17           d. The Coordinator of the Waste Management Programs in the  
18           College of Agricultural Life Sciences at North Carolina State  
19           University.  
20           e. The President of Frontline Farmers or the President's designee.  
21           f. The Director of the North Carolina Office of Environmental  
22           Defense or the Director's designee.  
23           g. The Director of the Environmental Justice Network or the  
24           Director's designee.  
25           h. The President of the North Carolina Pork Council or the  
26           President's designee.  
27           i. The Attorney General of North Carolina or the Attorney  
28           General's designee.

- 29           (2) Members of the Task Force shall receive per diem, subsistence, and  
30           travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as  
31           appropriate.

- 32           (3) The Division of Soil and Water Conservation in the Department of  
33           Environment and Natural Resources shall assign professional and  
34           clerical staff to the Task Force to assist it in its work.

- 35           (4) In addition to assisting the Division of Soil and Water Conservation as  
36           provided in subsection (c) of this section, the Task Force shall  
37           evaluate:

- 38           a. Markets for by-products derived from swine waste and make  
39           recommendations for development of the markets, including  
40           identification of regulatory obstacles.  
41           b. Methods to encourage growers, integrators, and electric power  
42           suppliers to cooperate in the production and use of renewable  
43           energy or other marketable by-products derived from swine

1 waste, including an examination of tax incentives, carbon  
2 sequestration credits, and trading mechanisms.

3 **SECTION 2.(e)** Report. – No later than November 1 of each year, the  
4 Division of Soil and Water Conservation in the Department of Environment and Natural  
5 Resources shall report to the Environmental Review Commission on the implementation  
6 of the Early Adoption of Innovative Swine Waste Management Systems Program. The  
7 first report required by this subsection shall be submitted no later than November 1,  
8 2007.

9 **SECTION 3.(a)** Steady State Live Weight Limitation. – The Environmental  
10 Management Commission shall not issue or modify a permit to authorize the  
11 construction, operation, or expansion of an animal waste management system that  
12 serves a swine farm unless the system is permissible under G.S. 143-215.10I(b) and  
13 sufficient steady state live weight (SSLW) allowances have been allocated to the swine  
14 farm pursuant to subsection (b) of this section.

15 **SECTION 3.(b)** Steady State Live Weight Allowances. – The  
16 Environmental Management Commission shall establish a system of steady state live  
17 weight (SSLW) allowances within which swine farms must operate. For a swine farm  
18 that was in operation on or before September 1, 2007, the Commission shall allocate  
19 steady state live weight (SSLW) allowances equivalent to the steady state live weight  
20 (SSLW) referenced in the swine farm's operating permit. The owner of a swine farm  
21 may transfer or retire steady state live weight (SSLW) allowances with the approval of  
22 the Commission. The Commission may approve the transfer or retirement of steady  
23 state live weight (SSLW) allowances if the Commission determines that any anaerobic  
24 lagoons located on the swine farm to which the allowances were allocated have been  
25 closed in compliance with all applicable federal and State laws, regulations, and rules.

26 **SECTION 3.(c)** Sunset. – Upon the adoption of innovative swine waste  
27 management systems by all swine farms in operation on or before September 1, 2007,  
28 this section expires, and the Environmental Management Commission may permit the  
29 construction or expansion of additional swine farms in compliance with all applicable  
30 laws in effect during the time of permit application.

31 **SECTION 4.(a)** Account. – There is hereby established the Swine Farm  
32 Waste Management System Conversion Account within the Division of Soil and Water  
33 Conservation of the Department of Environment and Natural Resources. Funds in the  
34 Account shall be used only for installation of innovative swine waste management  
35 systems on swine farms in operation on or before September 1, 2007, as provided in this  
36 act. The Account shall consist of funds appropriated to the Account by the General  
37 Assembly; any federal funds available for this purpose; and any grants, gifts, or  
38 contributions to the State for this purpose. Funds in the Account shall not revert.

39 **SECTION 4.(b)** Appropriation. – There is appropriated from the General  
40 Fund to the Swine Farm Waste Management System Conversion Account within the  
41 Division of Soil and Water Conservation of the Department of Environment and Natural  
42 Resources the sum of ten million dollars (\$10,000,000) for fiscal year 2007-2008 and  
43 the sum of ten million dollars (\$10,000,000) for the 2008-2009 fiscal year to implement

1 the provisions of this act. It is the intent of the General Assembly that this appropriation  
2 be a recurring appropriation through the 2011-2012 fiscal year.

3 **SECTION 4.(c)** Limit on Operating and Administrative Expenses. – No  
4 more than five percent (5%) of the annual balance of the Fund on July 1 or a total sum  
5 of two hundred fifty thousand dollars (\$250,000), whichever is greater, may be used  
6 each fiscal year for administrative and operating expenses of the Task Force and the  
7 Program.

8 **SECTION 5.(a)** G.S. 87-98 reads as rewritten:

9 "**§ 87-98. ~~Emergency Drinking Water Fund.~~The Bernard Allen Clean Well Water**  
10 **Fund.**

11 (a) ~~The Emergency Drinking Water Fund~~Bernard Allen Clean Well Water Fund  
12 is established within the Department. Monies in the Fund shall not revert.

13 (b) The Fund may be used to pay for notification, to the extent practicable, of  
14 persons aged 18 and older who reside in any dwelling unit, and the senior official in  
15 charge of any business, at which drinking water is supplied from a private drinking  
16 water well that is located within 1,500 feet of, and at risk from, known groundwater  
17 contamination. The senior official in charge of the business shall take reasonable  
18 measures to notify all employees of the business of the groundwater contamination,  
19 including posting a notice of the contamination in a form and at a location that is readily  
20 accessible to the employees of the business. The funds may also be used to cover the  
21 costs of testing private drinking water wells for ~~contamination and~~contamination,  
22 whether from a known or unknown source of contamination; for repair or replacement  
23 of defective or contaminated wells; and for the provision of alternative drinking water  
24 supplies to persons whose drinking water well is contaminated.

25 (c) The Department shall disburse monies from the Fund based on financial need  
26 and on the risk to public health posed by groundwater contamination and shall give  
27 priority to the provision of services under this section to instances when an alternative  
28 source of funds is not available. The funds shall not be used for remediation of  
29 groundwater contamination. Nothing in this section expands, contracts, or modifies the  
30 obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General  
31 Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify  
32 receptors, or remediate groundwater or soil contamination.

33 (d) The Department shall establish criteria by which the Department is to  
34 evaluate applications and disburse funds from this Fund and may adopt any rules  
35 necessary to implement this section.

36 (e) No later than November 1 of each year, the Department shall submit a report  
37 to the Environmental Management Commission on the implementation of the Bernard  
38 Allen Clean Well Water Fund, including a summary of applications to and expenditures  
39 from the Fund as well as an estimate of the well water remediation needs of the State."

40 **SECTION 5.(b)** Initial Report. – The first report required by G.S. 87-98(e),  
41 as enacted by Section 5(a) of this act, shall be submitted no later than November 1,  
42 2007.

1           **SECTION 5.(c)** Appropriation. – There is appropriated from the General  
2 Fund to the Bernard Allen Clean Well Water Fund the sum of ten million dollars  
3 (\$10,000,000) for fiscal year 2007-2008.

4           **SECTION 6.** Effective Dates. – Section 1 of this act becomes effective  
5 September 1, 2007. Section 2 of this act becomes effective July 1, 2007, and expires  
6 July 1, 2012. Sections 3, 4, 5, and 6 of this act become effective July 1, 2007.