GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2011

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HOUSE BILL 268 Committee Substitute Favorable 3/31/11

	Short Title: Implementation of Reclaimed Water Rules.		(Public)	
	Sponsors:			
	Referred to:			
	March 10, 2011			
1	A BILL TO BE ENTITLED			
2	AN ACT TO P	AN ACT TO PROVIDE THAT USES OF RECLAIMED WATER THAT ARE DEEMED TO		
3		BE PERMITTED BY REGULATION, WITHOUT THE ISSUANCE OF AN		
4	INDIVIDUAL PERMIT OR COVERAGE UNDER A GENERAL PERMIT, INCLUDES			
5	IRRIGATION OF ORNAMENTAL CROPS BY FIELD NURSERIES AND			
6	ABOVEGROUND CONTAINER NURSERIES AND TO PROVIDE THAT CERTAIN			
7	SETBACK REQUIREMENTS AND DESIGN CRITERIA FOR WASTEWATER			
8	TREATMENT STORAGE FACILITIES DO NOT APPLY TO ARTIFICIAL LAKES OR			
9	PONDS THAT ARE USED FOR STORAGE AND IRRIGATION OF RECLAIMED			
10	WATER AS PART OF A CONJUNCTIVE USE RECLAIMED WATER SYSTEM.			
11	The General Assembly of North Carolina enacts:			
12	SECTION 1. Definitions. – The following definitions apply to this act and its			
13	implementation			
14	(1)	The definitions set out in G.S. 143-212 and G.S. 143-213.		
15	(2)	The definitions set out in 15A NCAC 02T .0103 (Waste N	ot Discharged to	
16		Surface Waters: Definitions).		
17	(3)	The definitions set out in 15A NCAC 02U .0103 (Re	eclaimed Water:	
18		Definitions).		
19	(4)	"Permitting by Regulation Rule 15A NCAC 02U .0113" m		
20		02U .0113 (Permitting by Regulation) as adopted by th		
21		Management Commission on November 18, 2010, and a	approved by the	
22	(5)	Rules Review Commission on December 16, 2010. "Reclaimed Water Utilization Rule 15A NCAC 02U .05	(01" maana 15 A	
23 24	(5)			
24 25		NCAC 02U .0501 (Reclaimed Water Utilization) as Environmental Management Commission on November		
26		approved by the Rules Review Commission on December 10		
27	SEC	TION 2.(a) Permitting by Regulation Rule 15A NCAC 02U.		
28		f the revised permanent rule that the Commission is required t		
29		of this act, the Commission and the Department shall impleme		
30	. ,	Rule 15A NCAC 02U .0113, as provided in Section 2(b) of this	•	
31		SECTION 2.(b) Implementation. – Notwithstanding subsection (a) of Permitting		
32	by Regulation Rule 15A NCAC 02U .0113, irrigation of agricultural crops, including irrigation			
33	of ornamental crops by field nurseries and aboveground container nurseries, supplied with			
34	reclaimed water as part of a conjunctive use reclaimed water system meeting the requirements			
35	of 15A NCAC 02U and approved by the reclaimed water provider is deemed to be permitted			
36	pursuant to G.S. 143-215.1(b), and it is not necessary for the Division to issue individual			
37	permits or coverage under a general permit for construction or operation of this type of			



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utilization system, provided the system does not result in any violations of surface water or
groundwater standards and there is no unpermitted direct discharge to surface waters.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Permitting by Regulation Rule 15A NCAC 02U .0113. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

10 **SECTION 3.(a)** Reclaimed Water Utilization Rule 15A NCAC 02U .0501. – Until 11 the effective date of the revised permanent rule that the Commission is required to adopt 12 pursuant to Section 3(c) of this act, the Commission and the Department shall implement the 13 Reclaimed Water Utilization Rule 15A NCAC 02U .0501, as provided in Section 3(b) of this 14 act.

15 **SECTION 3.(b)** Implementation. – Notwithstanding subsection (a) of Reclaimed 16 Water Utilization Rule 15A NCAC 02U .0501, existing or proposed artificial lakes or ponds 17 operated by customers of reclaimed water providers may be used for storage and irrigation of 18 reclaimed water as part of a conjunctive use reclaimed water system as provided in this section. 19 Setbacks specified in 15A NCAC 02U .0701(b) between reclaimed water storage ponds and 20 property lines or wells under separate ownership may be waived by the adjoining property 21 owner. A copy of the signed and notarized waiver shall be provided to the Department. 22 Setbacks specified in 15A NCAC 02U .0701(b) between reclaimed water storage ponds and 23 wells under the same ownership as the reclaimed water storage pond may be waived by the 24 property owner. The criteria for liners specified in 15A NCAC 02U .0401(f) are not required, 25 provided the effluent quality of the reclaimed water source is protective of the groundwater 26 standard for nitrates established pursuant to Subchapter 2L of Title 15A of the North Carolina 27 Administrative Code.

SECTION 3.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Reclaimed Water Utilization Rule 15A NCAC 02U .0501. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

35 **SECTION 4.** If a National Pollutant Discharge Elimination System permit is 36 required for storage or irrigation of reclaimed water as part of a conjunctive use reclaimed 37 water system, the Division of Water Quality in the Department of Environment and Natural 38 Resources shall issue general permits for such activities in order to encourage the use of 39 reclaimed water and to minimize the regulatory burden on users of reclaimed water.

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SECTION 5. This act is effective when it becomes law.