

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1043

Short Title: Comprehensive Water Quality Management.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

April 21, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT, NO LATER THAN JANUARY 1, 1999, THE
3 COMPREHENSIVE BASINWIDE MANAGEMENT PLANS TO IMPROVE
4 WATER QUALITY SHALL BE COMPLETED FOR ALL SEVENTEEN MAJOR
5 RIVER BASINS AND THAT THESE PLANS ADDRESS ALL POINT SOURCES
6 AND NONPOINT SOURCES OF NUTRIENTS AND TOXINS IN THE WATERS
7 OF THE STATE, TO INCREASE PUBLIC INVOLVEMENT AND PUBLIC
8 EDUCATION REGARDING THE BENEFITS OF A SYSTEMWIDE APPROACH
9 TO WATER QUALITY, AND TO REQUIRE PERSONS WHO APPLY SOIL
10 ENRICHING NUTRIENTS ONTO LAND TO OBTAIN A CERTIFICATION.

11 The General Assembly of North Carolina enacts:

12 Section 1. The General Assembly makes the following findings:

- 13 (1) There are 17 major river basins in the State.
14 (2) Many activities occur in the vicinity of each of these river basins, and
15 the activities and conditions in one river basin may vary greatly from
16 those in another river basin.
17 (3) The public is focusing on the swine industry's role in degrading water
18 quality, but, in fact, numerous other industries and even private citizens
19 are responsible for contributing nutrients and toxins to the waters of the
20 State. Among the point source and nonpoint sources of nutrients and

1 toxins in our State's waters are: municipal wastewater facilities,
2 industrial wastewater systems, septic tank systems, stormwater
3 management systems, golf courses, farms that use fertilizers and
4 pesticides for crops, public and commercial lawns and gardens, as well
5 as animal operations.

6 (4) The best and most effective approach to protecting and improving water
7 quality is a comprehensive, systemwide management approach.

8 (5) Basinwide water quality management is an approach already being
9 taken by the Department of Environment, Health, and Natural
10 Resources to improve the efficiency, effectiveness, and consistency of
11 its water quality protection program. It is not a new regulatory program;
12 it is a watershed based approach that provides for basinwide permitting
13 and integration of point and nonpoint source controls through existing
14 regulatory and cooperative programs.

15 The Neuse River Basinwide Management Plan has already been
16 released. Seventeen basinwide plans are planned to be prepared by the
17 Department over the next five years.

18 (6) The better solution to improving water quality lies not in abandoning
19 efforts under way in an effort to find a new solution, but to accelerate
20 effective efforts currently in progress by establishing a deadline for
21 completing, and expediting the implementation of, the 17
22 comprehensive conservation and management plans for each major river
23 basin in the State.

24 (7) The public should be informed of the complexity of the problems
25 regarding water quality so that the public can appreciate the
26 effectiveness of a systemwide approach and the degree of effort that has
27 already been expended to address these problems. Public involvement
28 should be encouraged, and public education should be enhanced.

29 Section 2. (a) The Department of Environment, Health, and Natural Resources
30 shall accelerate its current timetable to prepare a comprehensive conservation and
31 management plan for each of the State's 17 major river basins and shall, no later than
32 January 1, 1999, complete the development and oversee the expedited implementation of
33 these systemwide plans. These comprehensive plans shall consider the cumulative
34 impacts of all activities across a river basin and all point sources and nonpoint sources of
35 nutrients and toxins, including: municipal wastewater facilities, industrial wastewater
36 systems, septic tank systems, stormwater management systems, golf courses, farms that
37 use fertilizers and pesticides for crops, public and commercial lawns and gardens, as well
38 as animal operations, including poultry, dairy, horses, turkeys, and swine operations.
39 These comprehensive plans shall provide that all point sources and nonpoint sources of
40 pollutants jointly share the responsibility of reducing the nutrients and toxins in the
41 State's waters in a fair, reasonable, and proportionate manner, using computer modelling
42 and the best science and technology reasonably available and considering future
43 anticipated population growth and economic development.

1 Section 3. The Department of Environment, Health, and Natural Resources
2 shall increase its current efforts to involve the public in the development and
3 implementation of these comprehensive conservation and management plans, including
4 conducting public hearings throughout the State. The Department shall increase public
5 education efforts to inform the public of the complexity of the problems related to water
6 quality, the benefits of taking a comprehensive, systemwide approach to water quality
7 improvement, and the need for all point and nonpoint sources of pollutants to have an
8 active role in reducing nutrients and toxins, either by reducing the amount of nutrients
9 and toxins used or by improving the treatment and disposal of wastewater, or both. The
10 Department shall provide press releases on at least a monthly basis for the purpose of
11 keeping the public well informed of water quality issues in the State.

12 Section 4. The Department of Environment, Health, and Natural Resources
13 shall review and revise its 17 comprehensive conservation and management plans
14 periodically in order to accommodate improvements in modelling methods and
15 wastewater treatment technology and advancements in applicable scientific knowledge
16 and tools.

17 Section 5. The Department of Environment, Health, and Natural Resources
18 shall report quarterly, beginning October 1, 1997, to the Environmental Review
19 Commission on its progress in developing and implementing comprehensive basinwide
20 plans, increasing public involvement, and increasing public education.

21 Section 6. The General Assembly makes the following findings:

- 22 (1) Persons who engage in on-site sewage treatment and disposal are
23 required to obtain a certificate for a registered sanitarian.
- 24 (2) Persons who operate a water pollution control system are required to
25 obtain a certificate for a water pollution control systems operator.
- 26 (3) Persons who operate animal waste management systems are required to
27 obtain a certificate for an animal waste management system operator.
- 28 (4) Persons who apply inorganic fertilizers and other soil enriching
29 nutrients onto land have the same potential to contribute nutrients and
30 toxins to the waters of the State if these soil enriching nutrients are
31 improperly applied.
- 32 (5) Persons who apply inorganic fertilizers and other soil enriching
33 nutrients onto land also should be required to obtain certification to
34 assure their competency.

35 Section 7. Article 3 of Chapter 90A of the General Statutes is amended by
36 adding a new Part to read:

37 "Part 3. Certification of Applicators of Soil Enriching Nutrients.

38 "§ 90A-48. Purpose.

39 The purpose of this Part is to reduce nonpoint source pollution in order to protect the
40 public health, to conserve and protect the quality of the State's water resources, to
41 encourage the development and improvement of the State's land for the production of
42 food and other agricultural products and for the recreational use and enjoyment of private
43 and public golf courses and public and commercial lawns and gardens, and to require the

1 examination of persons who apply soil enriching nutrients onto land and certification of
2 their competency to apply or supervise the application of soil enriching nutrients onto
3 land.

4 **"§ 90A-48.1. Definitions.**

5 As used in this Part:

- 6 (1) 'Application' means spraying, laying, spreading on, irrigating, or
7 injecting soil enriching nutrients onto land.
8 (2) 'Commission' means the Water Pollution Control System Operators
9 Certification Commission.
10 (3) 'Operator in charge' means a person who holds a currently valid
11 certificate for the application of soil enriching nutrients onto land and
12 who has primary responsibility for their application.
13 (4) 'Soil enriching nutrients' means inorganic fertilizers or soil enriching
14 substances containing nitrogen, phosphorus, zinc, or other soil enriching
15 elements or minerals.
16 (5) 'Owner' means the person who owns or controls the land used for
17 agricultural, public, or commercial purposes or the person's lessee or
18 designee.

19 **"§ 90A-48.2. Certified operator in charge required; qualifications for certification.**

20 (a) No owner or other person in control of land to which soil enriching nutrients
21 are applied shall allow the application by a person who does not hold a valid certificate as
22 an operator in charge of the application of soil enriching nutrients onto land issued by the
23 Commission. No person shall perform the duties of an operator in charge of the
24 application of soil enriching nutrients onto land without being certified under the
25 provisions of this Part. Other persons may assist in the application of soil enriching
26 nutrients so long as they are directly supervised by an operator in charge who is certified
27 under this Part.

28 (b) The owner or other person in control of land onto which soil enriching
29 nutrients are applied may contract with a certified operator in charge of the application of
30 soil enriching nutrients onto land to provide for the application of soil enriching nutrients
31 onto that land. The Commission may adopt rules requiring that any certified operator in
32 charge who contracts with one or more owners or other persons in control of land onto
33 which soil enriching nutrients are applied file an annual report with the Commission as to
34 which property the services of the operator in charge are provided.

35 **"§ 90A-48.3. Qualifications for certification; training; examination.**

36 (a) The Commission shall develop and administer a certification program for an
37 operator in charge of the application of soil enriching nutrients onto land that provides for
38 receipt of applications, training, and examination of applicants and for investigation of
39 the qualifications of applicants.

40 (b) The Commission, in cooperation with the Division of Water Quality of the
41 Department of Environment, Health, and Natural Resources, and the Cooperative
42 Extension Service, shall develop and administer a training program for an operator in
43 charge of the application of soil enriching nutrients onto land. An applicant for initial

1 certification shall complete 10 hours of classroom instruction prior to taking the
2 examination. In order to remain certified, an operator in charge of the application of soil
3 enriching nutrients onto land shall complete six hours of approved additional training
4 during each three-year period following initial certification. A certified operator in charge
5 of the application of soil enriching nutrients onto land who fails to complete approved
6 additional training within 30 days of the end of the three-year period shall take and pass
7 the examination for certification in order to renew the certificate.

8 **"§ 90A-48.4. Fees; certificate renewals.**

9 (a) An applicant for certification under this Part shall pay a fee of ten dollars
10 (\$10.00) for the examination and the certificate.

11 (b) The certificate shall be renewed annually upon payment of a renewal fee of ten
12 dollars (\$10.00). A certificate holder who fails to renew the certificate and pay the
13 renewal fee within 30 days of its expiration shall be required to take and pass the
14 examination for certification in order to renew the certificate.

15 **"§ 90A-48.5. Suspension; revocation of certificate.**

16 (a) The Commission, in accordance with the provisions of Chapter 150B of the
17 General Statutes, may suspend or revoke the certificate of any operator in charge who:

18 (1) Engages in fraud or deceit in obtaining certification.

19 (2) Fails to exercise reasonable care, judgment, or use of the operator's
20 knowledge and ability in the performance of the duties of an operator in
21 charge.

22 (3) Is incompetent or otherwise unable to properly perform the duties of an
23 operator in charge.

24 (b) In addition to revocation of a certificate, the Commission may levy a civil
25 penalty, not to exceed one thousand dollars (\$1,000) per violation, for willful violation of
26 the requirements of this Part.

27 **"§ 90A-48.6. Rules.**

28 The Commission shall adopt rules to implement the provisions of this Part.

29 **"§ 90A-48.7. Exemption.**

30 This Part does not apply to persons who apply 500 pounds of soil enriching nutrients
31 or less onto land per calendar year."

32 Section 8. This act is effective when it becomes law, except G.S. 90A-48.2, as
33 enacted in Section 2 of this act, becomes effective July 1, 1998.