

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

3

HOUSE BILL 268
Committee Substitute Favorable 3/31/11
Third Edition Engrossed 4/6/11

Short Title: Implementation of Reclaimed Water Rules.

(Public)

Sponsors:

Referred to:

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT USES OF RECLAIMED WATER THAT ARE DEEMED TO BE PERMITTED BY REGULATION, WITHOUT THE ISSUANCE OF AN INDIVIDUAL PERMIT OR COVERAGE UNDER A GENERAL PERMIT, INCLUDES IRRIGATION OF ORNAMENTAL CROPS BY FIELD NURSERIES AND ABOVEGROUND CONTAINER NURSERIES AND TO PROVIDE THAT CERTAIN SETBACK REQUIREMENTS AND DESIGN CRITERIA FOR WASTEWATER TREATMENT STORAGE FACILITIES DO NOT APPLY TO ARTIFICIAL LAKES OR PONDS THAT ARE USED FOR STORAGE AND IRRIGATION OF RECLAIMED WATER AS PART OF A CONJUNCTIVE USE RECLAIMED WATER SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act and its implementation:

- (1) The definitions set out in G.S. 143-212 and G.S. 143-213.
- (2) The definitions set out in 15A NCAC 02T .0103 (Waste Not Discharged to Surface Waters: Definitions).
- (3) The definitions set out in 15A NCAC 02U .0103 (Reclaimed Water: Definitions).
- (4) "Permitting by Regulation Rule 15A NCAC 02U .0113" means 15A NCAC 02U .0113 (Permitting by Regulation) as adopted by the Environmental Management Commission on November 18, 2010, and approved by the Rules Review Commission on December 16, 2010.
- (5) "Reclaimed Water Utilization Rule 15A NCAC 02U .0501" means 15A NCAC 02U .0501 (Reclaimed Water Utilization) as adopted by the Environmental Management Commission on November 18, 2010, and approved by the Rules Review Commission on December 16, 2010.

SECTION 2.(a) Permitting by Regulation Rule 15A NCAC 02U .0113. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department shall implement the Permitting by Regulation Rule 15A NCAC 02U .0113, as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – Notwithstanding subsection (a) of Permitting by Regulation Rule 15A NCAC 02U .0113, irrigation of agricultural crops, including irrigation of ornamental crops by field nurseries and aboveground container nurseries, supplied with reclaimed water as part of a conjunctive use reclaimed water system meeting the requirements of 15A NCAC 02U .0401 and approved by the reclaimed water provider is deemed to be



1 permitted pursuant to G.S. 143-215.1(b), and it is not necessary for the Division to issue
2 individual permits or coverage under a general permit for construction or operation of this type
3 of utilization system, provided the system does not result in any violations of surface water or
4 groundwater standards and there is no unpermitted direct discharge to surface waters.

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

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

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

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

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

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