

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 268
Committee Substitute Favorable 3/31/11
Third Edition Engrossed 4/6/11
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/20/11

Short Title: Reclaimed Water Rules/Storm Debris Cleanup.

(Public)

Sponsors:

Referred to:

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO (1) 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, INCLUDE 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 AND (2) AUTHORIZE THE DISPOSAL, TEMPORARY STORAGE, AND BURNING OF STORM-RELATED DEBRIS DURING THE STATE OF EMERGENCY DECLARED ON APRIL 16, 2011, THROUGH JUNE 1, 2011.

The General Assembly of North Carolina enacts:

PART I. IMPLEMENTATION OF RECLAIMED WATER RULES.

SECTION 1. Definitions. – The following definitions apply to this section 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.



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

5 **SECTION 2.(b)** Implementation. – Notwithstanding subsection (a) of Permitting
6 by Regulation Rule 15A NCAC 02U .0113, irrigation of agricultural crops, including irrigation
7 of ornamental crops by field nurseries and aboveground container nurseries, supplied with
8 reclaimed water as part of a conjunctive use reclaimed water system meeting the requirements
9 of 15A NCAC 02U .0401 and approved by the reclaimed water provider is deemed to be
10 permitted pursuant to G.S. 143-215.1(b), and it is not necessary for the Division to issue
11 individual permits or coverage under a general permit for construction or operation of this type
12 of utilization system, provided the system does not result in any violations of surface water or
13 groundwater standards and there is no unpermitted direct discharge to surface waters.

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

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

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

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

46 **SECTION 4.** If a National Pollutant Discharge Elimination System permit is
47 required for storage or irrigation of reclaimed water as part of a conjunctive use reclaimed
48 water system, the Division of Water Quality in the Department of Environment and Natural
49 Resources shall issue general permits for such activities in order to encourage the use of
50 reclaimed water and to minimize the regulatory burden on users of reclaimed water.
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PART II. AUTHORIZE EXPEDITED CLEANUP OF STORM-RELATED DEBRIS.

SECTION 5.(a) The following definitions apply to this section and its implementation:

- (1) The definitions set out in G.S. 130A-294.
- (2) The definitions set out in 15A NCAC 02D .0101 (Air Pollution Control Requirements: Definitions and References).
- (3) "Storm-related debris" means any construction or demolition debris, inert debris, land-clearing debris, or yard debris or trash generated in the State as a result of the tornados, flooding, and severe winds that occurred on April 16, 2011.

SECTION 5.(b) From the date that the state of emergency was declared by the Governor under Executive Order No. 87 through June 1, 2011, the disposal, temporary storage, and burning of storm-related debris is allowed, notwithstanding any permitting requirements for the handling or disposal of solid waste, or any prohibitions on open burning related to the protection of air quality provided under State law, including, but not limited, to all of the following:

- (1) G.S. 130A-294 (Solid Waste Management Program) and other provisions of Article 9 of Chapter 130A of the General Statutes as may prohibit the unpermitted disposal, temporary storage, or burning of storm-related debris.
- (2) 15A NCAC 13B .0103 (Solid Waste Management: General Conditions) and 15A NCAC 13B .0201 (Permits for Solid Waste Management Facilities: Permit Required) and other provisions of the North Carolina Administrative Code as may prohibit the unpermitted disposal, temporary storage, or burning of storm-related debris.
- (3) G.S. 143-215.3 (General Powers of Commission and Department; auxiliary powers) and other provisions of Article 21 of Chapter 143 of the General Statutes as may prohibit the unpermitted disposal, temporary storage, or burning of storm-related debris.
- (4) 15A NCAC 02D .0305 (Air Pollution Control Requirements: Emission Reduction Plan: Alert Level) and other provisions of the North Carolina Administrative Code as may prohibit the unpermitted disposal, temporary storage, or burning of storm-related debris.

SECTION 5.(c) The provisions of subsection (b) of this section shall not be construed to (i) allow the improper or unpermitted storage, disposal, or burning of hazardous waste; (ii) obviate the need for a permit to burn required under Article 4C of Chapter 113 of the General Statutes for the protection of the public from the hazards of forest fires; (iii) allow any activity that would violate federal law; or (iv) allow any activity that causes an imminent threat to public health or safety.

SECTION 6. This act is effective when it becomes law.