

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 268  
PROPOSED COMMITTEE SUBSTITUTE H268-PCS11139-TA-2

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



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1 of 15A NCAC 02U and approved by the reclaimed water provider is deemed to be permitted  
2 pursuant to G.S. 143-215.1(b), and it is not necessary for the Division to issue individual  
3 permits or coverage under a general permit for construction or operation of this type of  
4 utilization system, provided the system does not result in any violations of surface water or  
5 groundwater standards and there is no unpermitted direct discharge to surface waters.

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

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

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

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

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

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