

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

**H.B. 722**  
**Apr 18, 2023**  
**HOUSE PRINCIPAL CLERK**

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**HOUSE BILL DRH40389-MHa-23A**

Short Title: Poultry Waste Management. (Public)

Sponsors: Representative Harrison.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE A PERMITTING PROGRAM FOR DRY LITTER POULTRY  
3 OPERATIONS; TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO  
4 STUDY AND DETERMINE THE NUMBER AND LOCATION OF POULTRY FARMS  
5 (CAFOS) IN NORTH CAROLINA, THE DRY LITTER WASTE MANAGEMENT  
6 SYSTEMS AND PRACTICES THAT ARE EMPLOYED BY THESE FARMS, THE  
7 POTENTIAL ENVIRONMENTAL AND HEALTH IMPACTS AND DAMAGES THESE  
8 SYSTEMS AND PRACTICES MAY HAVE, AND RECOMMENDATIONS ON HOW  
9 BEST TO REGULATE THESE WASTE MANAGEMENT SYSTEMS IN PROTECTING  
10 THE ENVIRONMENT AND THE PUBLIC'S HEALTH AND SAFETY; AND TO REVISE  
11 WASTE MANAGEMENT PLAN SUBMISSION REQUIREMENTS FOR DRY LITTER  
12 POULTRY FACILITIES.  
13 Whereas, as poultry production in the United States has increased, the total number  
14 of farms has declined; and  
15 Whereas, ninety-seven percent (97%) of the 9 billion chickens produced for  
16 consumption each year are raised in Concentrated Animal Feeding Operations (CAFOs); and  
17 Whereas, it is estimated that in 2022, the State had over 544 million poultry and 4,863  
18 dry litter poultry facilities, compared to 8.8 million hogs and 2,489 hog farms; and  
19 Whereas, among all animal operations in the State, those with poultry are the largest  
20 source of nutrients from waste. The waste produced, known as dry litter, is a mixture of manure,  
21 bedding, and feathers that contains heavy metals and pathogens in addition to nutrients; and  
22 Whereas, for disposal, the waste is applied onto adjacent fields or trucked a short  
23 distance to be used as fertilizer. When mobilized in runoff or subsurface flow, the waste is a  
24 threat to water quality; and  
25 Whereas, because dry litter poultry operations do not discharge their waste directly to  
26 surface waters, they are not regulated under the National Pollution Discharge Elimination System  
27 (NPDES), and these operations are deemed permitted unless an illicit discharge is reported and  
28 documented by staff; and  
29 Whereas, the nation's leading poultry states, including Georgia and Arkansas, have  
30 adopted proactive policy and comprehensive nutrient management plans that protect the natural  
31 environment and public health without creating an unnecessary burden on agricultural interests;  
32 and  
33 Whereas, in addition to nutrient pollution from runoff of land application sites, the  
34 lack of regulatory oversight for dry poultry litter also threatens surrounding communities through  
35 pathogen-laden surface waters and contaminated flood waters; and



1           Whereas, this pollution disproportionately impacts communities of color and  
2 jeopardizes economic drivers in all communities; and

3           Whereas, G.S. 143-215.10C requires that any owner or operator of a dry litter poultry  
4 facility that is not subject to federal regulation but that involves 30,000 or more birds shall  
5 develop an animal waste management plan; and

6           Whereas, the North Carolina Department of Environmental Quality basin planning  
7 group has requested access to any information regarding nutrient loading rates from dry litter  
8 poultry operations; and

9           Whereas, there have been substantial technological advances to the disposition of  
10 poultry waste, including various recycling technologies such as anaerobic digestion, with  
11 beneficial economic outcomes to both the industry and the public, and there has been significant  
12 passage of time since this agricultural industry has been studied. Such review and discovery can  
13 be beneficial to all; Now, therefore,

14 The General Assembly of North Carolina enacts:

15  
16 **PART I. PERMITTING OF INDUSTRIAL POULTRY OPERATIONS AND LIMIT**  
17 **THOSE OPERATIONS IN 100-YEAR FLOODPLAIN**

18           **SECTION 1.(a)** G.S. 143-215.10B(1) reads as rewritten:

19           "(1) "Animal operation" means any agricultural feedlot activity involving 250 or  
20 more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more  
21 sheep, or 30,000 or more confined ~~poultry with a liquid animal waste~~  
22 ~~management system, poultry,~~ or any agricultural feedlot activity with a liquid  
23 animal waste management system that discharges to the surface waters of the  
24 State. A public livestock market regulated under Article 35 of Chapter 106 of  
25 the General Statutes is an animal operation for purposes of this Part."

26           **SECTION 1.(b)** G.S. 143-215.10C reads as rewritten:

27 **"§ 143-215.10C. Applications and permits.**

28           (a) No person shall construct or operate an animal waste management system for an  
29 animal operation ~~or operate an animal waste management system for a dry litter poultry facility~~  
30 ~~that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73~~  
31 ~~Federal Register 70418 (November 20, 2008),~~ without first obtaining an individual permit or a  
32 general permit under this Article. The Commission shall develop a system of individual and  
33 general permits for animal ~~operations and operations, including~~ dry litter poultry ~~facilities~~  
34 facilities, based on species, number of animals, and other relevant factors. The Commission shall  
35 develop a general permit for animal operations that includes authorization for the permittee to  
36 construct and operate a farm digester system. It is the intent of the General Assembly that most  
37 animal waste management systems be permitted under a general permit. The Commission, in its  
38 discretion, may require that an animal waste management system, including an animal waste  
39 management system that utilizes a farm digester system, be permitted under an individual permit  
40 if the Commission determines that an individual permit is necessary to protect water quality,  
41 public health, or the environment. After the general permit for animal operations that includes  
42 authorization for the permittee to construct and operate a farm digester system has been issued,  
43 the decision to require an individual permit shall not be based solely on the fact that the animal  
44 waste management system utilizes a farm digester system. The owner or operator of an animal  
45 operation shall submit an application for a permit at least 180 days prior to construction of a new  
46 animal waste management system or expansion of an existing animal waste management system  
47 and shall obtain the permit prior to commencement of the construction or expansion. ~~The owner~~  
48 ~~or operator of a dry litter poultry facility that is required to be permitted under 40 Code of Federal~~  
49 ~~Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall submit~~  
50 ~~an application for a permit at least 180 days prior to operation of a new animal waste management~~  
51 ~~system.~~

1 (a1) An owner or operator of an animal waste management system for an animal operation  
2 ~~or a dry litter poultry facility that is required to be permitted under 40 Code of Federal~~  
3 ~~Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall apply~~  
4 for an individual National Pollutant Discharge Elimination System (NPDES) permit or a general  
5 NPDES permit under this Article and may not discharge into waters of the State except in  
6 compliance with an NPDES permit.

7 (b) An animal waste management system that is not required to be permitted under 40  
8 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20,  
9 2008), shall be designed, constructed, and operated so that the animal operation served by the  
10 animal waste management system does not cause pollution in the waters of the State except as  
11 may result because of rainfall from a storm event more severe than the 25-year, 24-hour storm.

12 (b1) An existing animal waste management system that is required to be permitted under  
13 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20,  
14 2008), shall be designed, constructed, maintained, and operated in accordance with 40 Code of  
15 Federal Regulations § 412, as amended at 73 Federal Register 70418 (November 20, 2008), so  
16 that the animal operation served by the animal waste management system does not cause  
17 pollution in waters of the State except as may result because of rainfall from a storm event more  
18 severe than the 25-year, 24-hour storm. A new animal operation ~~or dry litter poultry facility that~~  
19 ~~is required to be permitted under 40 Code of Federal Regulations § 412.46, as amended at 73~~  
20 ~~Federal Register 70418 (November 20, 2008), shall be designed, constructed, maintained, and~~  
21 ~~operated so that there is no discharge of pollutants to waters of the State.~~

22 (c) The Commission shall act on a permit application as quickly as possible and may  
23 conduct any inquiry or investigation it considers necessary before acting on an application.

24 (c1) Failure of the Commission to make a final permitting decision involving a notice of  
25 intent for a certificate of coverage under a general permit for animal operations that includes  
26 authorization for the permittee to construct and operate a farm digester system within 90 days of  
27 the Commission's receipt of a completed notice of intent shall result in the deemed approval of  
28 coverage under the permit. If the Commission fails to act within 90 days of the Commission's  
29 receipt of a completed notice of intent, the permittee may request that the Commission provide  
30 written confirmation that the notice of intent is deemed approved. Failure to provide this written  
31 confirmation within 10 days of the request shall serve as a basis to seek a contested case hearing  
32 pursuant to Article 3 of Chapter 150B of the General Statutes. Unless all parties to the case agree  
33 otherwise in writing, the administrative law judge shall issue a final decision or order in the  
34 contested case no later than 120 days after its commencement pursuant to G.S. 150B-23;  
35 provided that, upon written request of the administrative law judge or any party to the hearing,  
36 the Chief Administrative Law Judge may extend this deadline for good cause shown, no more  
37 than two times, for not more than 30 days per extension. Upon review of a failure to act on a  
38 notice of intent, the administrative law judge may either (i) direct the Commission to issue a  
39 written certificate of coverage under the general permit or (ii) deny the petition.

40 (d) All applications for permits or for renewal of an existing permit shall be in writing,  
41 and the Commission may prescribe the form of the applications. All applications shall include an  
42 animal waste management system plan approved by a technical specialist. The Commission may  
43 require an applicant to submit additional information the Commission considers necessary to  
44 evaluate the application. Permits and renewals issued pursuant to this section shall be effective  
45 until the date specified therein or until rescinded unless modified or revoked by the Commission.

46 (e) An animal waste management plan for an animal operation shall include all of the  
47 following components:

- 48 (1) A checklist of potential odor sources and a choice of site-specific,  
49 cost-effective remedial best management practices to minimize those sources.
- 50 (2) A checklist of potential insect sources and a choice of site-specific,  
51 cost-effective best management practices to minimize insect problems.

- 1 (3) Provisions that set forth acceptable methods of disposing of mortalities.
- 2 (4) Provisions regarding best management practices for riparian buffers or  
3 equivalent controls, particularly along perennial streams.
- 4 (5) Provisions regarding the use of emergency spillways and site-specific  
5 emergency management plans that set forth operating procedures to follow  
6 during emergencies in order to minimize the risk of environmental damage.
- 7 (6) Provisions regarding periodic testing of waste products used as nutrient  
8 sources as close to the time of application as practical and at least within 60  
9 days of the date of application and periodic testing, at least once every three  
10 years, of soils at crop sites where the waste products are applied. Nitrogen  
11 shall be a rate-determining element. Phosphorus shall be evaluated according  
12 to the nutrient management standard approved by the Soil and Water  
13 Conservation Commission of the Department of Agriculture and Consumer  
14 Services and the Natural Resources Conservation Service of the United States  
15 Department of Agriculture for facilities that are required to be permitted under  
16 40 Code of Federal Regulations § 122, as amended at 73 Federal Register  
17 70418 (November 20, 2008). If the evaluation demonstrates the need to limit  
18 the application of phosphorus in order to comply with the nutrient  
19 management standard, then phosphorus shall be a rate-determining element.  
20 Zinc and copper levels in the soils shall be monitored, and alternative crop  
21 sites shall be used when these metals approach excess levels.
- 22 (7) Provisions regarding waste utilization plans that assure a balance between  
23 nitrogen application rates and nitrogen crop requirements, that assure that lime  
24 is applied to maintain pH in the optimum range for crop production, and that  
25 include corrective action, including revisions to the waste utilization plan  
26 based on data of crop yields and crops analysis, that will be taken if this  
27 balance is not achieved as determined by testing conducted pursuant to  
28 subdivision (6) of this subsection.
- 29 (8) Provisions regarding the completion and maintenance of records on forms  
30 developed by the Department, which records shall include information  
31 addressed in subdivisions (6) and (7) of this subsection, including the dates  
32 and rates that waste products are applied to soils at crop sites, and shall be  
33 made available upon request by the Department.
- 34 ~~(f) Any owner or operator of a dry litter poultry facility that is not required to be  
35 permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418  
36 (November 20, 2008), but that involves 30,000 or more birds shall develop an animal waste  
37 management plan that complies with the testing and record-keeping requirements under  
38 subdivisions (6) through (8) of subsection (e) of this section. Any operator of this type of animal  
39 waste management system shall retain records required under this section and by the Department  
40 on-site for three years.~~
- 41 ~~(f1) An animal waste management plan for a dry litter poultry facility required to be  
42 permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418  
43 (November 20, 2008), shall include the components set out in subdivisions (3), (6), (7), and (8)  
44 of subsection (e) of this section, and to the extent required by 40 Code of Federal Regulations §  
45 122, as amended at 73 Federal Register 70418 (November 20, 2008), for land application  
46 discharges, subdivision (4) of subsection (e) of this section.~~
- 47 (f2) Periodic testing of waste products as required in subdivision (6) of subsection (e) of  
48 this section, ~~subsection (f) of this section and subsection (f1) of this section~~ may be temporarily  
49 suspended in compliance with G.S. 106-399.4 when the State Veterinarian, in consultation with  
50 the Commissioner of Agriculture and with the approval of the Governor, determines that there is  
51 an imminent threat within the State of a contagious animal disease. The suspension of testing

1 only applies to the animal operation types designated by the State Veterinarian, and shall be in  
2 effect for a period of time that the State Veterinarian deems necessary to prevent and control the  
3 animal disease. During the suspension of waste analysis, waste product nutrient content to be  
4 used for application of waste at no greater than agronomic rates shall be established by the 1217  
5 Interagency Committee as created by Session Law 1995-626.

6 ...."

7 **SECTION 1.(c)** Part 1A of Article 21 of Chapter 143 of the General Statutes is  
8 amended by adding a new section to read:

9 **"§ 143-215.10J. Industrial scale animal waste management systems forbidden in 100-year**  
10 **floodplain.**

11 No component of an animal waste management system for an animal operation shall be  
12 constructed on land that is located within the 100-year floodplain. As used in this section,  
13 "100-year floodplain" means any area subject to inundation by the one percent (1%) annual  
14 chance flood event, as indicated on the most recent Flood Insurance Rate Map prepared by the  
15 Federal Emergency Management Agency under the National Flood Insurance Program."

16 **SECTION 1.(d)** G.S. 106-850 reads as rewritten:

17 **"§ 106-850. Agriculture cost share program.**

18 (a) There is created the Agriculture Cost Share Program for Nonpoint Source Pollution  
19 Control. The program shall be created, implemented, and supervised by the Soil and Water  
20 Conservation Commission.

21 (b) The program shall be subject to the following requirements and limitations:

22 ...

- 23 (5) Funding may be provided to assist practices including conservation tillage,  
24 diversions, filter strips, field borders, critical area plantings, sedimentation  
25 control structures, sod-based rotations, grassed waterways, strip-cropping,  
26 terraces, cropland conversion to permanent vegetation, grade control  
27 structures, water control structures, closure of lagoons, closure of animal  
28 waste management systems as defined in G.S. 143-215.10B located in  
29 100-year floodplains, emergency spillways, riparian buffers or equivalent  
30 controls, odor control best management practices, insect control best  
31 management practices, and animal waste management systems and  
32 application. Funding for animal waste management shall be allocated for  
33 practices in river basins such that the funds will have the greatest impact in  
34 improving water quality.

35 ...."

36 **SECTION 1.(e)** This section becomes effective January 1, 2024.

37  
38 **PART II. STUDY**

39 **SECTION 2.(a)** The definitions set out in G.S. 143-215.10B shall apply to this act.

40 **SECTION 2.(b)** The Environmental Review Commission shall conduct a  
41 fact-driven, science-based study of the environmental and public health impacts of dry litter  
42 poultry waste in North Carolina and the potential regulatory and technological solutions for  
43 addressing these impacts. The Commission shall specifically study all of the following:

- 44 (1) The growth of the poultry industry in the State, including the current location,  
45 size, and number of dry litter poultry facilities in the State.  
46 (2) The location, size, and number of dry litter poultry facilities located in the  
47 500-year floodplain. The Commission shall consider options for removing  
48 such facilities from the floodplain or requiring management practices to make  
49 such facilities more resilient during flooding events.  
50 (3) The amount of dry litter poultry waste produced by dry litter poultry facilities,  
51 the methods of disposing of the waste, the documentation of how waste is

1 disposed of, and how much of the waste is disposed of on-site by the waste  
2 generator and how much is disposed of off-site by a third-party hauler or waste  
3 transport and disposal company.

- 4 (4) The environmental impacts of dry litter poultry waste, including surface water  
5 impacts, groundwater impacts, soil contamination, and atmospheric  
6 deposition caused by nutrients such as nitrogen and phosphorus and heavy  
7 metals such as arsenic, copper, and zinc.
- 8 (5) The public health impacts of dry litter poultry waste, including impacts related  
9 to odor, drinking water contamination, drug residues, pathogens, and disease  
10 vectors and pests.
- 11 (6) The health impacts of dry litter poultry waste on workers at dry litter poultry  
12 facilities and people living in close proximity to dry litter poultry facilities.
- 13 (7) The cumulative environmental and public health impacts of waste produced  
14 by dry litter poultry facilities and animal operations for swine.
- 15 (8) The current regulation of dry litter poultry facilities and the potential  
16 regulation of dry litter poultry facilities to better protect the environment and  
17 public health. The Commission shall identify the deficiencies in the regulation  
18 of dry litter poultry facilities in the State and consider whether the regulations  
19 of dry litter poultry facilities in other states and the regulation of animal  
20 operations for swine in the State should be applied to dry litter poultry  
21 facilities.
- 22 (9) The disposal of dead poultry in cases of severe storms or flooding events.
- 23 (10) The current and potential animal waste management technologies that could  
24 reduce or eliminate the environmental and public health impacts of dry litter  
25 poultry waste.
- 26 (11) The need for additional resources, including appropriations, professional  
27 expertise, and scientific studies, necessary to comprehensively examine the  
28 issues set out in this act.

29 **SECTION 2.(c)** Upon its request, the Commission shall be assisted by all State  
30 agencies, including the Department of Agriculture and Consumer Services, the Department of  
31 Environmental Quality, the Department of Health and Human Services, the Department of Labor,  
32 the North Carolina Poultry Federation, and The University of North Carolina and its constituent  
33 institutions. The Commission may request recommendations from any of these entities related to  
34 any of the topics set out in this act.

35 **SECTION 2.(d)** The Commission shall report its findings, including any  
36 recommendations, to the 2024 Regular Session of the 2023 General Assembly upon its  
37 convening.

### 38 **PART III. REPORTING REQUIREMENT**

39 **SECTION 3.(a)** G.S. 143-215.10C(f) reads as rewritten:

40 "(f) Any owner or operator of a dry litter poultry facility that is not required to be  
41 permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418  
42 (November 20, 2008), but that involves 30,000 or more birds shall develop and annually submit  
43 to the Department in a digital format an animal waste management plan that complies with the  
44 testing and record-keeping requirements under subdivisions (6) through (8) of subsection (e) of  
45 this section. Any operator of this type of animal waste management system shall retain records  
46 required under this section and by the Department on-site for three years."

47 **SECTION 3.(b)** The sum of twenty-five thousand dollars (\$25,000) in nonrecurring  
48 funds for the 2023-2024 fiscal year is appropriated from the General Fund to the Department of  
49 Environmental Quality to be allocated to the Division of Water Resources to develop educational  
50

1 resources and provide technical assistance for owners and operators of dry litter poultry facilities  
2 in complying with the reporting requirement set out in this act.

3 **SECTION 3.(c)** Subsection (a) of this section is effective January 1, 2024.  
4 Subsection (b) of this section becomes effective July 1, 2023.

#### 5 6 **PART IV. INCREASE TRANSPARENCY**

7 **SECTION 4.** G.S. 106-24.1 reads as rewritten:

8 "**§ 106-24.1. Confidentiality of information collected and published.**

9 All information published by the Department of Agriculture and Consumer Services pursuant  
10 to this Part shall be classified so as to prevent the identification of information received from  
11 individual farm operators. All information generated by any federal agency received pursuant to  
12 this Chapter that is confidential under federal law shall be held confidential by the Department  
13 and its employees, unless confidentiality is waived by the federal agency. Complaints of  
14 violations of this Chapter or of Part 1A of Article 21 of Chapter 143 of the General Statutes  
15 relating to a farm operation and all other records accumulated in conjunction with the  
16 investigation of these complaints shall be considered confidential records and may be released  
17 only by order of a court of competent jurisdiction. All information collected by the Department  
18 from farm owners or animal owners, including, but not limited to, certificates of veterinary  
19 inspection, animal medical records, laboratory reports received or generated from samples  
20 submitted for analysis, or other records that may be used to identify a person or private business  
21 entity subject to regulation by the Department analysis shall not be disclosed without the  
22 permission of the owner ~~unless the~~ except in the following situations:

- 23 (1) The State Veterinarian determines that disclosure is necessary to prevent the  
24 spread of an animal disease or to protect the public health, or the disclosure is  
25 necessary in the implementation of these animal health programs.  
26 (2) The disclosure is necessary to meet statutory requirements imposed on other  
27 State agencies.  
28 (3) The information is limited to the location, size, and ownership of an individual  
29 farm operation."  
30

#### 31 **PART V. SEVERABILITY AND EFFECTIVE DATE**

32 **SECTION 5.** If any section or provision of this act is declared unconstitutional or  
33 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
34 the part so declared to be unconstitutional or invalid.

35 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes  
36 law.