



SENATE BILL 401: NC Farm Act of 2025-2026.

2025-2026 General Assembly

Committee:		Date:	June 9, 2026
Introduced by:	Sens. Jackson, Lazzara, Sawyer	Prepared by:	Chris Saunders
Analysis of:	Conference Committee Substitute (S401-CCSTQ-8)		Staff Attorney

OVERVIEW: *The Conference Committee Substitute to Senate Bill 401 would make various changes to the agricultural laws of this State.*

CURRENT LAW AND BILL ANALYSIS:

AGRICULTURAL WATER PLAN UPDATE

S.L. 2010-149 directed the Department of Agriculture and Consumer Services (DACS) and the Division of Soil and Water Conservation of the Department of Environment and Natural Resources (which has since been moved under DACS) to develop a plan to identify agricultural water infrastructure needs that are not accounted for in the surveys of water infrastructure needs conducted by the United States Environmental Protection Agency (EPA). The [report](#), known as the "Strategic Plan for Protecting Agricultural Water Resources in North Carolina" (Plan) was submitted to the Legislative Study Commission on Water and Wastewater Infrastructure on October 27, 2010.

Section 1 of the bill would direct DACS to update the Plan to include information on water infrastructure needs, water conservation practices, cost-share assistance needed for long-term water storage capacity and conservation practices, and flooding mitigation practices and incentive programs. The report would be due to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources by January 1, 2027.

FERAL SWINE WORKING GROUP

Section 2 would establish a Feral Swine Working Group within the Wildlife Resources Commission to develop a statewide plan to control feral swine damage on private and public lands. The Working Group would report annually to the Wildlife Resources Commission, the Senate and House Appropriations Subcommittees on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the results of the program during the preceding year.

REPEAL VIOLATION POINTS SYSTEM APPLICABLE TO SWINE FARMS

G.S. 143-215.6E, enacted in 1997, directed the Environmental Management Commission (EMC) to develop a Violation Points System applicable to permits for animal waste management systems for swine farms. The Violation Points System was never developed.

In 2022, as part of the readoption of the 15A NCAC 02T rules, the EMC received several public comments requesting revision of the rules to include a Violation Points System. The EMC responded that the Department of Environmental Quality (DEQ) has adopted a tiered enforcement policy with provisions for

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escalating enforcement actions to address violations and that creation of a Violation Points System that does not assess penalties based on fact-specific assessment factors set forth in G.S. 143-215.6A and G.S. 143B-282.1(b) would violate those statutes. Additionally, effective May 3, 2018, DEQ entered into a settlement agreement to address an environmental justice complaint in which DEQ committed to draft rules regarding a violation points system consistent with G.S. 143-215.6A within 12 months.

Section 4 would repeal G.S. 143-215.6E.

SWINE FARM SITING ACT TECHNICAL CORRECTION

In 2023, the General Assembly enacted legislation to clarify certain environmental permitting laws applicable to agricultural activities, specifically that a person who constructs or operates an animal waste management system only need obtain a permit under the Animal Waste Management Systems Part (Part 1A) of [Article 21 of Chapter 143 of the General Statutes](#). This does not eliminate a permittee's responsibility to obtain an NPDES permit.

Section 5 would make conforming changes to Chapter 106 of the General Statutes (Agriculture).

AMEND ELIGIBILITY CRITERIA FOR ANIMAL WASTE FERTILIZER CONVERSION COST SHARE PROGRAM

Section 10.4 of the 2023 Appropriations Act (S.L. 2023-134) established a cost-share program for statewide deployment of processes and technologies developed for conversion of animal waste to fertilizer. An "eligible entity" under the cost-share program is any person who owns or operates an anaerobic lagoon or other liquid animal waste management system treating animal waste from a livestock operation that generates sludge suitable for conversion into fertilizer products.

Section 6 would provide that any person converting sludge from an anaerobic lagoon or other liquid animal waste management system treating animal waste from a livestock operation into fertilizer products is also an eligible entity.

REQUIRE A STATEWIDE STUDY ON SHELLFISH AQUACULTURE LEASING AND CURRENT MORATORIUMS ON SHELLFISH LEASING

Section 7 would direct the Collaboratory to study shellfish aquaculture regulations to ensure a balanced approach between economic development, environmental protection, and public access to coastal waters. In conducting the study, the Collaboratory would be required to consult with the North Carolina Division of Marine Fisheries, the Marine Fisheries Commission, and other stakeholders, including shellfish growers, commercial and recreational fishermen, property owners, and coastal area local governments.

An interim report would be due to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources by December 1, 2026, and a final report, including any recommendations for legislative or regulatory changes, would be due by May 1, 2027.

MODIFY REQUIREMENTS FOR COMPOSTING OF EQUINE AND BOVINE MORTALITY

EMC rule 15A NCAC 02T .0113 provides that certain disposal systems are deemed permitted provided they do not result in violations of surface water or groundwater standards, there is no direct discharge to surface waters, and all criteria required for the specific system are met. This includes composting facilities for animal mortality if they meet all of the following conditions:

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- The construction and operation of the facilities is approved by the North Carolina Department of Agriculture and Consumer Services.
- The facilities are constructed on an impervious, weight-bearing foundation, and are operated under a roof.
- The facilities are approved by the State Veterinarian pursuant to G.S. 106-403.

Section 8 would allow disposal systems for composting of equine and bovine mortality to be deemed permitted if they meet all the requirements currently in effect for composting facilities for animal mortality except for the requirement that the facilities be constructed on an impervious, weight-bearing foundation and operated under a roof.

ALLOW EXCUSED SCHOOL ABSENCES FOR EQUESTRIAN COMPETITIONS AND OTHER AGRICULTURAL EVENTS

Under current law, the State Board of Education (Board) determines causes that may constitute legitimate excuses for temporary nonattendance in K-12 education. In addition to excused absences approved by the Board at its discretion, school principals are required by statute to allow at least two excused absences each academic year for religious observances and at least two excused absences each academic year for a parent's active duty military service in a combat zone.

Section 9 would require school principals to authorize at least two excused absences each academic year for participation in equestrian sporting events, livestock shows, or similar agricultural events.

ADD NEW HANOVER AND PENDER TO HIGH HAZARD COUNTIES FOR OPEN BURNING

In 1981, the General Assembly enacted S.L. 1981-1100, which set forth Article 4C of Chapter 113, entitled "Regulation of Open Fires" (now Article 78 of Chapter 106). The General Assembly found that in certain counties a high percentage of the land area contains organic soils or forest types which may pose greater problems with forest fire and air pollution controls. These counties are classified as high hazard counties. In the high hazard counties the following actions are unlawful:

- For any person to willfully start or cause to be started any fire in or within 500 feet of any woodland under the protection of DACS without a permit from DACS.
- For any person to willfully burn debris, stumps, brush, or other flammable materials from ground clearing of five or more contiguous acres without a special permit from DACS. Regular permits are required for areas less than five acres.

Section 10 would declare New Hanover County and Pender County as high hazard counties.

ALLOW PESTICIDE BOARD TO ADJUST ANNUAL ASSESSMENT FOR REGISTERED PESTICIDES

The Pesticide Board is a receipt-supported board in DACS. Every pesticide distributed or sold in the State must be registered with the Pesticide Board. Under current law, each applicant for registration of a pesticide must pay an annual registration fee of \$150, plus an additional annual assessment depending on the sales of the pesticide. If gross sales of the pesticide in the State in the preceding 12 months were more than \$5,000, the assessment is \$50. If gross sales were less than \$5,000, the additional assessment is \$25.

Section 11 would allow the Pesticide Board to set the amount of the additional annual assessment based on the gross sales of the pesticide, up to \$125. This would be done by rule.

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LIQUID PETROLEUM GAS ENFORCEMENT AUTHORITY

Under current law, the Commissioner of Agriculture may conduct inspections of liquefied petroleum (LP) gas and investigate violations of the statutes and regulations governing LP gas.

Section 12 would supplement that authority by giving the Commissioner of Agriculture and the Commissioner's authorized agents the specific authority to:

- Access premises where LP products are stored to conduct an inspection or examine documentation.
- Issue stop-sale, hold, and removal orders for LP gas equipment that violates the statutes or rules governing LP gas.
- Recall for inspection a vehicle used for the delivery of LP gas.

PUBLIC WEIGHMASTER MODERNIZATION

A public weighmaster is an individual licensed by DACS who certifies that scales used in commercial transactions are accurate. Public weighmasters are licensed for the period of July 1 to June 30, and there is a \$19 application fee. A public weighmaster must also obtain from DACS an official seal, with a fee of \$6.

Section 13 would make a public weighmaster's license valid for a year from the day the application is processed, rather than running from July 1 to June 30. This section would also increase the application fee from \$19 to \$25 and eliminate the requirement that the official seal be obtained from DACS for a \$6 fee.

This section would require that the official seal provide the weighmaster's name, assigned license number, and license expiration date. It would also allow a public weighmaster to use an electronic stamp, and provides two alternatives for how the weighmaster's signature may be captured.

DIRECT AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION TO STUDY LOW HANGING COMMUNICATION LINES

Section 14 would direct the Agriculture and Forestry Awareness Study Commission (Commission) to study communication lines that fall below minimum height requirements and create a public safety hazard. The Commission would be required to seek input from numerous stakeholders, including the Office of Broadband Infrastructure, electric and telecommunications companies, agricultural organizations, and any other stakeholders the Commission deems necessary. The Commission would be directed to report its findings, including recommendations or proposed legislation, prior to the start of the 2027 Regular Session of the General Assembly. A provision directing the Commission to study this topic was also enacted in the North Carolina Farm Act of 2024, S.L. 2024-32.

REDUCE PENALTY FOR CERTAIN SHELLFISH AQUACULTURE VIOLATIONS

Under current law, violations of shellfish leases or aquaculture operation permits related to shellfish leases are enforced pursuant to G.S. 113-187, which makes violations a Class A1 misdemeanor.

Section 15 would reduce the penalties for certain acts related to shellfish aquaculture operation, as follows:

- A violation for an improperly marked shellfish lease area, a first offense would be a warning ticket, a second offense within a month would be an infraction, and a third offense within a month of the warning ticket would be a Class 3 misdemeanor.

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- A violation for operating under an expired aquaculture operation permit that occurs within one month of the expiration of the permit would be a warning ticket.
- A violation for operating under an expired shellfish lease agreement that occurs within one month of the expiration of the agreement would be a warning ticket.

This section would become effective December 1, 2026, and would apply to offenses committed on or after that date.

INCREASE PENALTY FOR A SECOND OR SUBSEQUENT OFFENSE FOR LARCENY OF CROPS AND FOR ROBBING OR INJURING AQUACULTURE OPERATIONS

Under current law, stealing ungathered crops is a Class H felony under G.S. 14-78. Additionally, stealing marine species being produced by a licensed marine aquaculture operation is a Class A1 misdemeanor under G.S. 113-218. Stealing more than \$400 worth of fish or aquatic species from an aquaculture facility is punishable as a Class H felony, subject to separate larceny statutes, and stealing less than that valued amount is punishable as a Class 1 misdemeanor under G.S. 113-269(f).

Section 16.(a) would require at least less than \$250 in addition to any other punishment prescribed for the offense. A second or subsequent offense would be a Class G felony, punishable by a fine of at least \$500 in addition to any other punishment prescribed for the offense.

Section 16.(b) would require that for a first offense of G.S. 113-218, the penalty is a Class H felony punishable by a fine of at least \$250 in addition to any other punishment prescribed for the offense. A second or subsequent offense would be a Class G felony, punishable by a fine of at least \$500 in addition to any other punishment prescribed for the offense.

Section 16.(c) would require that for a first offense of G.S. 113-269(f), or for willfully destroying or injuring an aquaculture facility or species being reared at the facility, the penalty is a Class H felony punishable by a fine of at least \$250 in addition to any other punishment prescribed for the offense. A second or subsequent offense would be a Class G felony, punishable by a fine of at least \$500 in addition to any other punishment prescribed for the offense.

This section would become effective December 1, 2026, and apply to offenses committed on or after that date.

ADD CERTAIN COMPOSTING FACILITIES TO THE DEFINITION OF "AGRICULTURE"

G.S. 106-581.1 provides a definition for the terms "agriculture," "agricultural," and "farming" that is referred to in numerous sections of the General Statutes, including exemption from county zoning (G.S. 160D-903) and the State Building Code (G.S. 143-138(b4)).

EMC rule 15A NCAC 13B .1402 sets out the following classifications for solid waste compost facilities:

- Type 1 facilities may receive yard and garden waste, silvicultural waste, and untreated and unpainted wood waste.
 - Small Type 1 facilities have an operations area less than two acres in size and are limited to no more than 6,000 cubic yards material onsite at any given time, including finished product. Large Type 1 facilities have an operations area of two or more acres in size or have more than 6,000 cubic yards material onsite at any given time.
- Type 2 facilities may receive pre-consumer meat-free food processing waste, vegetative agricultural waste, source separated paper, and other source separated specialty wastes that are low

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in pathogens and physical contaminants. Waste acceptable for a Type 1 facility may be composted at a Type 2 facility.

- Type 3 facilities may receive manures and other agricultural waste, meat, post-consumer source-separated food wastes, and other source-separated specialty wastes that are low in physical contaminants but may have high levels of pathogens. Waste acceptable for a Type 1 or 2 facility may be composted at a Type 3 facility.
 - Small Type 2 and 3 facilities have an operations area less than two acres in size and shall be limited to no more than 1,000 cubic yards material onsite at any given time. Large Type 2 and 3 facilities have an operations area of two or more acres in size or have more than 1,000 cubic yards material onsite at any given time.

Section 17 would provide that the production, processing, storage, use, and sale of compost for agricultural, residential, or commercial purposes by a permitted Small or Large Type 1, Type 2, or Type 3 composting facility is "agriculture" under G.S. 106-581.1.

PROPANE ASSESSMENT AMENDMENTS

S.L. 2013-299 authorized the North Carolina Propane Education & Research Foundation (Foundation), a North Carolina nonprofit corporation serving the propane gas industry, to assess propane at a rate of two-tenths of a cent per gallon (\$.002) in order to raise funds for the purposes of promoting the common good, welfare, and advancement of the propane industry.

Section 18 would, effective January 1, 2027, increase the amount of the propane assessment from \$.002 to \$.003 per gallon and increase the vote share required to approve the assessment from 50% to 75%. This section would also, effective when law, allow the Foundation to use the proceeds of the assessment for workforce development.

EXEMPT BUILDINGS USED FOR PRODUCTION OF AGRICULTURAL PRODUCTS DERIVED FROM ANIMAL WASTE FROM BUILDING CODE AND COUNTY ZONING

Section 19.(a) would provide that a building or structure used solely for the production of agricultural products and commodities derived from animal waste, including fertilizers and biogas, is a bona fide farm purpose exempt from county zoning. This section would also reorganize the existing uses specifically set out as bona fide farm purposes into an enumerated list.

Section 19.(b) would exempt buildings used solely for the production of agricultural products and commodities derived from animal waste, including fertilizers and biogas, from the building code, provided the building:

- Is surrounded and adjoined by open space of not less than 60 feet in width.
- Has a posted reflective placard of at least 24 by 24 inches displaying "Ag. Exempt".

This section would become effective July 1, 2026.

MODERNIZE SHELLFISH AND AQUACULTURE STATUTES

The Aquaculture Development Act authorizes DACS to regulate the production and sale of commercially raised freshwater fish and freshwater crustacean species.

Section 20.(a) would define the term "shellfish" and add shellfish to the list of aquatic species that may be considered part of "aquaculture."

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Section 20.(b) would exempt striped bass from special restrictions on introduction of exotic species promulgated by the Wildlife Resources Commission, except to prevent disease.

ELIMINATE THE SHELLFISH CULTIVATION LEASE REVIEW COMMITTEE

The Shellfish Cultivation Lease Review Committee (SCLRC) is appointed by the chair of the Marine Fisheries Commission to hear appeals of decisions of the Secretary regarding shellfish cultivation leases.

Under current law, if a person other than the applicant is aggrieved by the Secretary's decision, the person may file a petition for a contested case only if the SCLRC determines that a hearing is appropriate, based on whether the person alleges that the decision is contrary to a rule or statute, is directly affected by the decision, and has alleged facts or legal arguments demonstrating that the request is not frivolous.

Section 21 would repeal the SCLRC, which would allow any person aggrieved by a decision regarding a shellfish cultivation lease to proceed directly to a contested case before OAH.

REPEAL FARMED CERVID INDUSTRY PROMOTION ACT

The Farmed Cervid Industry Promotion Act allows the North Carolina Deer and Elk Farmers Association to impose an assessment of up to \$4.00 per ton of farmed cervid feed for promotion of the interests of the farmed cervid industry.

Section 22 would repeal the Farmed Cervid Industry Promotion Act.

ADJUST TIMING OF REFUND REQUEST FOR GRADE "A" DAIRY ASSESSMENT

The Grade "A" Dairy Assessment Act allows the North Carolina Dairy Producers Association to impose a referendum of up to 5 cents per hundredweight of Grade "A" milk. Under current law, producers may request a refund of their assessment payments by submitting a refund form between December 15 and December 31 of each year.

Section 23 would change the dates during which a refund may be requested from December 15 to December 31 to January 15 to January 31 of each year. A refund requested between January 15, 2027 and January 31, 2027 would be for the period running from December 1, 2025 to December 31, 2026.

EXTEND CONSERVATION TAX CREDIT SUNSET

The conservation tax credit was originally enacted in 1983 but was repealed in 2013 as part of the Tax Simplification and Reduction Act. Section 15 of S.L. 2024-32 reenacted and modified the previously repealed conservation tax credit as G.S. 105-130.34 (corporate income tax) and 105-153.11 (individual income tax). S.L. 2025-4 further modified the conservation tax credit. The credit is set to expire for taxable years beginning on or after January 1, 2027, for donations made on or after January 1, 2027.

The tax credit is available to individuals, pass-through entities, and corporations, and the credit amount is equal to 25% of the fair market value of the donated property, capped at \$250,000 for individuals, including owners of a pass-through entity, and \$500,000 for corporations. It is allowed for donations of real property for specific purposes related to conservation.

Section 24 would delay the sunset of the conservation tax credit so that it would expire for taxable years beginning on or after January 1, 2031, for donations made on or after January 1, 2031.

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EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.