

# Withdrawn



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 607

AMENDMENT NO. A2  
(to be filled in by  
Principal Clerk)

S607-ARI-95 [v.3]

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Amends Title [NO]  
Fourth Edition

Date \_\_\_\_\_, 2024

Representative Arp

1 moves to amend the bill on page 26, lines 21 and 22,  
2 by inserting between those lines:

3  
4 **"MODERNIZE WASTEWATER PERMITTING TO SUPPORT ENVIRONMENTALLY**  
5 **SOUND ECONOMIC DEVELOPMENT**

6 **SECTION 12.1.(a)** The General Assembly finds all of the following:

- 7 (1) Residents of the State should be assured enjoyment of, and access to, proven  
8 and reasonable methods of treating and disposing of wastewater that embrace  
9 new technologies.
- 10 (2) As the State continues to grow and attract businesses, it is critical that  
11 wastewater treatment and disposal facilities are provided for those businesses;  
12 and adequate and affordable housing that is proximate to those businesses  
13 must be available to assure the success of those businesses.
- 14 (3) Residents of the State should be assured treatment in an equitable manner to  
15 their counterparts within other states comprising the United States  
16 Environmental Protection Agency's (USEPA) Region 4 where permits are  
17 authorized and issued for the discharge of treated wastewater from  
18 municipalities, businesses, and developments to, for example, receiving  
19 waters "in which natural flow is intermittent, or under certain circumstances  
20 non-existent" (Alabama Admin. Code r. 335-6-10-.09).
- 21 (4) The discharge of treated wastewater to low flow or zero flow receiving waters  
22 is of low risk to the environment, protects and improves water quality, and  
23 provides the most prudent use of ratepayer funds.
- 24 (5) For all these reasons, it is necessary to establish methodologies and rules for  
25 the discharge of treated domestic wastewaters with low risk following site  
26 specific criteria to surface waters of the State, including wetlands, perennial  
27 streams, and unnamed tributaries of named and classified streams and  
28 intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow  
29 of the receiving waters is estimated to be low flow or zero flow, as determined  
30 by the United States Geological Survey (USGS).
- 31 (6) This act preserves and maintains the authority of the Department of  
32 Environmental Quality (Department) for appropriate review, including



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1 opportunities for public comment, and requires the Department and the  
2 Environmental Management Commission (Commission) to seek necessary  
3 approvals from USEPA to adopt temporary and permanent rules to authorize  
4 discharges of wastewater to such receiving waters.

5 **SECTION 12.1.(b)** G.S. 143-215.1(c8) is repealed.

6 **SECTION 12.1.(c)** Section 12.9 of S.L. 2023-134 is repealed.

7 **SECTION 12.1.(d)** No later than August 1, 2024, the Department of Environmental  
8 Quality (Department) and the Environmental Management Commission (Commission) shall  
9 develop and submit to the United States Environmental Protection Agency for USEPA's approval  
10 draft rules that establish methodologies and permitting requirements for the discharge of treated  
11 domestic wastewaters with low risk following site-specific criteria to surface waters of the State,  
12 including wetlands, perennial streams, and unnamed tributaries of named and classified streams  
13 and intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow of the receiving  
14 water is estimated to be low flow or zero flow, or under certain conditions non-existent, as  
15 determined by the United States Geological Survey (USGS). Within 20 days of the date USEPA  
16 approves the draft rules submitted pursuant to this subsection, the Commission shall initiate the  
17 process for temporary and permanent rules pursuant to Chapter 150B of the General Statutes.  
18 The draft rules submitted to USEPA for approval shall include all of the following:

19 (1) Defined terms. –

- 20 a. "Treated domestic wastewater" shall mean sewage and wastewater  
21 comprised of waste and wastewater from household, commercial or  
22 light industrial operations (e.g., homes, restaurants, car washes,  
23 laundromats servicing only domestic laundry) excluding any industrial  
24 process wastewater regulated by USEPA under the Categorical  
25 Pretreatment Standards.
- 26 b. "Low-risk discharges" means discharges of 2 million gallons per day  
27 or less of treated domestic wastewater when the dissolved oxygen  
28 content (DO) of the effluent is significantly higher (1.5 mg/l or greater)  
29 than the DO of the receiving water during low flow periods and the  
30 biological oxygen demand content (BOD) of the effluent is  
31 significantly lower (1.5 mg/l or more) than the DO of the effluent.
- 32 c. "Sag" means a reduction in the existing DO in the background surface  
33 receiving water to which treated wastewater will be discharged. Sag is  
34 typically related to nutrient elements within treated wastewater, which  
35 may promote the growth of oxygen-consuming micro-organisms,  
36 increasing the BOD, which at elevated levels may reduce DO in the  
37 background surface water body.

38 (2) Criteria for permitting. –

- 39 a. Applicants shall be required to demonstrate, through an analysis  
40 comparing the limits of the NPDES permit to the characteristics of the  
41 receiving water, that a proposed discharge meets criteria for a low-risk  
42 discharge as defined in this subsection. When a discharge is  
43 determined to be low-risk, the applicant shall demonstrate using

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- 1 simple modeling of the applicant's choosing, provided that the model  
2 chosen is utilized elsewhere in USEPA Region 4, such as the  
3 Streeter-Phelps model used in the State of Alabama, to show that the  
4 Sag, if any, in the DO of the receiving water will not exceed 0.1mg/l.  
5 b. Discharges to low flow or zero flow receiving waters shall be subject  
6 to the following conditions:  
7 1. The receiving waters fall within any of the following  
8 categories:  
9 I. The 7Q10 or 32Q2 flow statistics are estimated to be  
10 zero by the USGS.  
11 II. The drainage area of the discharge point is less than 5  
12 square miles as specified by the USGS on-line tools or  
13 other methodology that meets the standard of care for  
14 such work.  
15 III. The 7Q10 flow is estimated to be less than 1 cubic foot  
16 per second by the USGS.  
17 2. The proposed flow for any wastewater discharge shall be the  
18 lesser of the following:  
19 I. No more than one-tenth of the flow generated by the  
20 one-year, 24-hour storm event given the drainage area  
21 and calculated using the rational method. The rational  
22 method shall be used to calculate the peak runoff for  
23 the one-year, 24-hour precipitation event in cubic feet  
24 per second. The peak runoff shall then be divided by 10  
25 and multiplied by 646,272 to convert the result to  
26 gallons per day of allowable discharge at the point  
27 studied.  
28 II. Two million gallons per day.  
29 3. All discharges shall be directed to buffer systems that utilize  
30 low-energy methodologies to function as a buffer between the  
31 discharge and the receiving waters. Buffer systems shall  
32 consist of one of the following:  
33 I. High-rate infiltration basins that may include  
34 engineered materials to achieve high rates of  
35 infiltration, which engineered materials shall have an  
36 ASTM gradation of a fine to coarse grain sand, and  
37 angular to maintain structural integrity of the slope.  
38 II. Constructed free-surface wetlands having a hydraulic  
39 residence time of 14 days.  
40 III. Other suitable technologies that provide a physical or  
41 hydraulic residence time buffer, or both, between the  
42 discharge and the receiving waters.

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4. Discharge to areas that are 50 feet upland of the receiving waters or wetlands at a non-erosive velocity equal to or less than 2 feet per second through an appropriately designed energy dissipater, or other applicable designs, that meet the standard of practice for professional engineers for such devices.
  5. Utilize more than one outfall to the receiving stream so that no one outfall exceeds 1 cubic foot per second based on the average daily flow of the discharge. Discharges from buffer systems shall be allowed to be placed at increments along a stream or receiving waters at no less than 50 linear feet.
  6. No discharge shall be permitted to classified shellfish waters (SA), tidal waters (SC), water supply waters (WS), or outstanding resource waters (ORW). Discharges to unnamed tributaries of classified shellfish waters, however, shall be authorized in compliance with requirements of this section and only when a low-risk situation is present. Discharges to nutrient sensitive waters (NSW) may require additional modeling and allocation of flow and will be at the discretion of the Department.
  7. The following effluent limits shall generally apply except where (i) the applicant and Department agree to more stringent limits or (ii) complex modeling conducted pursuant to sub-sub-subdivision 8. of this sub-subdivision demonstrates that Sag in the DO content of the receiving water of 0.1 mg/l or less will occur and water quality standards are protected:
    - I. Biological oxygen demand (BOD<sub>5</sub>) shall not exceed 5.0 mg/l monthly average.
    - II. NH<sub>3</sub>, 0.5 mg/l monthly average, 1.0 mg/l daily maximum.
    - III. Total nitrogen shall not exceed 4.0 mg/l monthly average.
    - IV. Total phosphorus, 1.0 mg/l monthly average, 2.0 mg/l daily maximum.
    - V. Fecal coliforms, 14 colonies/100ml or less.
    - VI. Dissolved oxygen, 7.0 mg/l or greater.
    - VII. Total suspended solids, 5.0 mg/l monthly average, 8mg/l daily maximum.
    - VIII. Nitrate, 1.0 mg/l monthly average, 2.0 mg/l daily maximum.
  8. If an applicant proposes less stringent effluent limits than those set forth in sub-sub-subdivision 7. of this sub-subdivision, the applicant shall conduct more complex modeling using any

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- 1 model accepted elsewhere in USEPA Region 4 that the  
2 applicant elects to use to confirm that a Sag in the DO content  
3 of the receiving water of 0.1 mg/l or less will occur and water  
4 quality standards are protected.
- 5 9. The Department shall not require an applicant to obtain  
6 mapping data from the USGS as part of an application. In lieu,  
7 an engineer of record licensed in the State of North Carolina  
8 may prepare required mapping utilizing either USGS maps or  
9 other maps approved by the Department.
- 10 10. Within 30 days of the filing of an application for a wastewater  
11 discharge subject to this section, the Department shall (i)  
12 determine whether or not the application is complete and notify  
13 the applicant accordingly and (ii) if the Department determines  
14 an application is incomplete, specify all such deficiencies in  
15 the notice to the applicant. The applicant may file an amended  
16 application or supplemental information to cure the  
17 deficiencies identified by the Department for the Department's  
18 review. If the Department fails to issue a notice as to whether  
19 or not the application is complete within the requisite 30-day  
20 period, the application shall be deemed complete. Within 180  
21 days of the filing of a completed application, the Commission  
22 shall either grant or deny the permit. If the Commission fails  
23 to act in the requisite time frame, ten percent (10%) of the  
24 application fee shall be returned to the applicant for each  
25 working day beyond the 180-day period.

26 **SECTION 12.1.(e)** No later than September 1, 2024, the Department in conjunction  
27 with the North Carolina Collaboratory at the University of North Carolina at Chapel Hill  
28 (Collaboratory) shall convene a Wastewater General Permit Working Group (Working Group)  
29 consisting of Department and Collaboratory staff and a maximum of five consulting experts  
30 appointed by the Director of the Collaboratory in the fields of environmental regulation,  
31 wastewater regulation, water quality regulation, and wastewater treatment regulation, to develop  
32 the draft rules for the implementation of a Wastewater Treatment and Discharge General Permit  
33 process for the State. The Working Group shall report its findings to the Environmental Review  
34 Commission no later than March 15, 2025. Following consideration by the Environmental  
35 Review Commission, and after making any changes required by the Environmental Review  
36 Commission, the Department shall develop and submit proposed rules to USEPA for its approval.  
37 Within 20 days of the date USEPA approves the draft rules submitted pursuant to this subsection,  
38 the Commission shall initiate the process for temporary and permanent rules pursuant to Chapter  
39 150B of the General Statutes.

40 **SECTION 12.1.(f)** Beginning September 1, 2024, and quarterly thereafter until such  
41 times as permanent rules as required by subsections (d) and (e) of this section have become  
42 effective, the Department and the Environmental Management Commission shall report on their  
43 activities to implement subsections (d) and (e) of this section to the Environmental Review

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1 Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and  
2 Economic Resources, the Senate Appropriations Committee on Agriculture, Natural and  
3 Economic Resources, and the House of Representatives Appropriations Committee on  
4 Agriculture and Natural and Economic Resources of the General Assembly.

5 **SECTION 12.1.(g)** This section is effective when it becomes law."  
6  
7

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_