



2023-2024 General Assembly

# HOUSE BILL 600: Regulatory Reform Act of 2023, Sec. 14: Revise 2020 Farm Act TMDL Transport Factor Calculation Applicability

**Committee:**  
**Introduced by:**  
**Analysis of:** Sec. 14 of S.L. 2023-137

**Date:** December 11, 2023  
**Prepared by:** Kyle Evans  
Staff Attorney

**OVERVIEW:** *Section 14 of S.L. 2023-137 makes certain changes to the 2020 Farm Act (S.L. 2020-18) regarding the application of nutrient offset credits to a wastewater treatment permit by applying the total maximum daily load (TMDL) transport factor as specified in the 1999 Phase I TMDL and makes changes to a modeling requirement in the 2020 Farm Act.*

*This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.*

## BACKGROUND LAW & BILL ANALYSIS:

Sections 15.(a) and 15.(b) of S.L. 2020-18 provided that nutrient offset credits must be applied to a wastewater permit by applying the TMDL transport factor to the permitted wastewater discharge and to the nutrient offset credits. These sections apply only to wastewater discharge permit applications for a local government located in the Neuse River Basin with a customer base of fewer than 15,000 connections.

Section 15.(c) provided that no later than August 1, 2020, the Department of Environmental Quality (DEQ), in conjunction with affected parties, must begin modeling necessary to determine new transport zones and delivery factors for the Neuse River Basin for point source discharges and nutrient offset credits. Once DEQ completed that modeling, the Environmental Management Commission (EMC) was required to then adopt new transport zones and delivery factors by rule, using the DEQ modeling and other information provided during the public comment period.

This section became effective June 12, 2020. Sections 15.(a) and 15.(b) expire when the rule required by Section 15.(c) becomes effective.

States are generally responsible for developing TMDLs, but must submit those TMDLs to the Environmental Protection Agency for approval pursuant to the federal Clean Water Act and 40 C.F.R. 130.7.

**Section 14** makes the following changes to Section 15 of S.L. 2020-18:

- Amends subsection (a) to direct that nutrient offset credits be applied to a wastewater treatment permit by applying the TMDL transport factor to the permitted discharge and the offset credits as specified in the 1999 Phase I TMDL.
- Amends subsection (c) to provide that DEQ is permitted, but no longer required, to begin modeling to determine new transport zone and delivery factors for the Neuse River Basin for point source discharges and nutrient offset credits. Once DEQ completes the modeling, it must provide EMC with a list of qualified professionals from which EMC must select at least two to validate the

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modeling. The EMC can use the modeling, if validated, to adopt new transport zone and delivery factors.

**EFFECTIVE DATE:** This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.