

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

AMENDMENT NO. A4
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 1 of 6

Amends Title [NO]
Third Edition

Date _____, 2024

Senator Sanderson

1 moves to amend the bill on page 9, line 27, through page 10, line 22, by deleting those lines;
2
3 and on page 16, lines 39 and 40, by inserting between those lines:

4
5 **"PART XVIII.I. AMEND ELIGIBILITY CRITERIA FOR ANIMAL WASTE**
6 **FERTILIZER CONVERSION COST-SHARE PROGRAM**

7 **SECTION 18.1.** Section 10.4(e) of S.L. 2023-134 reads as rewritten:

8 " **SECTION 10.4.(e)** Definitions. – The following definitions apply in this section:

- 9 (1) Eligible entity. – Any person who owns or operates an anaerobic lagoon or
10 other liquid animal waste management system treating animal waste from a
11 livestock operation that generates sludge suitable for conversion into fertilizer
12 ~~products-products, or any person converting sludge from an anaerobic lagoon~~
13 or other liquid animal waste management system treating animal waste from
14 a livestock operation into fertilizer products.
- 15 (2) Eligible project. – Costs associated with the site engineering, permitting,
16 acquisition, or installation of sludge collection and processing equipment
17 needed for production of fertilizers and other soil additives meeting applicable
18 State and federal requirements for use in agricultural operations.
- 19 (3) Foundation. – The NC Foundation for Soil and Water Conservation, Inc., a
20 nonprofit corporation.
- 21 (4) Livestock. – Cattle, sheep, swine, goats, farmed cervids, or bison.
- 22 (5) Person. – Any individual, trust, estate, partnership, receiver, association,
23 company, limited liability company, corporation, or other entity or group.
- 24 (6) Program. – The Animal Waste Fertilizer Conversion Cost-Share Program
25 created by this section."
26

27 **PART XVIII.II. MODERNIZE WASTEWATER PERMITTING TO SUPPORT**
28 **ENVIRONMENTALLY SOUND ECONOMIC DEVELOPMENT".**

29 **SECTION 18.2.(a)** The General Assembly finds all of the following:

- 30 (1) Residents of the State should be assured enjoyment of, and access to, proven
31 and reasonable methods of treating and disposing of wastewater that embrace
32 new technologies.



* H 3 8 5 - A T Q - 9 8 - V - 5 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

ADOPTED

AMENDMENT NO. **A4**
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 2 of 6

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

28 **SECTION 18.2.(b)** G.S. 143-215.1(c8) is repealed.

29 **SECTION 18.2.(c)** Section 12.9 of S.L. 2023-134 is repealed.

30 **SECTION 18.2.(d)** No later than August 1, 2024, the Department of Environmental
31 Quality (Department) and the Environmental Management Commission (Commission) shall
32 develop and submit to the United States Environmental Protection Agency for USEPA's approval
33 draft rules that establish methodologies and permitting requirements for the discharge of treated
34 domestic wastewaters with low risk following site-specific criteria to surface waters of the State,
35 including wetlands, perennial streams, and unnamed tributaries of named and classified streams
36 and intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow of the receiving
37 water is estimated to be low flow or zero flow, or under certain conditions non-existent, as
38 determined by the United States Geological Survey (USGS). Within 20 days of the date USEPA
39 approves the draft rules submitted pursuant to this subsection, the Commission shall initiate the
40 process for temporary and permanent rules pursuant to Chapter 150B of the General Statutes.
41 The draft rules submitted to USEPA for approval shall include all of the following:

- 42 (1) Defined terms. –

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

ADOPTED

AMENDMENT NO. **A4**
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 3 of 6

- 1 a. "Treated domestic wastewater" shall mean sewage and wastewater
2 comprised of waste and wastewater from household, commercial or
3 light industrial operations (e.g., homes, restaurants, car washes,
4 laundromats servicing only domestic laundry) excluding any industrial
5 process wastewater regulated by USEPA under the Categorical
6 Pretreatment Standards.
- 7 b. "Low-risk discharges" means discharges of 2 million gallons per day
8 or less of treated domestic wastewater when the dissolved oxygen
9 content (DO) of the effluent is significantly higher (1.5 mg/l or greater)
10 than the DO of the receiving water during low flow periods and the
11 biological oxygen demand content (BOD) of the effluent is
12 significantly lower (1.5 mg/l or more) than the DO of the effluent.
- 13 c. "Sag" means a reduction in the existing DO in the background surface
14 receiving water to which treated wastewater will be discharged. Sag is
15 typically related to nutrient elements within treated wastewater, which
16 may promote the growth of oxygen-consuming micro-organisms,
17 increasing the BOD, which at elevated levels may reduce DO in the
18 background surface water body.
- 19 (2) Criteria for permitting. –
- 20 a. Applicants shall be required to demonstrate, through an analysis
21 comparing the limits of the NPDES permit to the characteristics of the
22 receiving water, that a proposed discharge meets criteria for a low-risk
23 discharge as defined in this subsection. When a discharge is
24 determined to be low-risk, the applicant shall demonstrate using
25 simple modeling of the applicant's choosing, provided that the model
26 chosen is utilized elsewhere in USEPA Region 4, such as the
27 Streeter-Phelps model used in the State of Alabama, to show that the
28 Sag, if any, in the DO of the receiving water will not exceed 0.1mg/l.
- 29 b. Discharges to low flow or zero flow receiving waters shall be subject
30 to the following conditions:
- 31 1. The receiving waters fall within any of the following
32 categories:
- 33 I. The 7Q10 or 32Q2 flow statistics are estimated to be
34 zero by the USGS.
- 35 II. The drainage area of the discharge point is less than 5
36 square miles as specified by the USGS on-line tools or
37 other methodology that meets the standard of care for
38 such work.
- 39 III. The 7Q10 flow is estimated to be less than 1 cubic foot
40 per second by the USGS.
- 41 2. The proposed flow for any wastewater discharge shall be the
42 lesser of the following:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

ADOPTED

AMENDMENT NO. **A4**
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 4 of 6

- 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - 7
 - 8
 - 9
 - 10
 - 11
 - 12
 - 13
 - 14
 - 15
 - 16
 - 17
 - 18
 - 19
 - 20
 - 21
 - 22
 - 23
 - 24
 - 25
 - 26
 - 27
 - 28
 - 29
 - 30
 - 31
 - 32
 - 33
 - 34
 - 35
 - 36
 - 37
 - 38
 - 39
 - 40
 - 41
 - 42
- I. No more than one-tenth of the flow generated by the one-year, 24-hour storm event given the drainage area and calculated using the rational method. The rational method shall be used to calculate the peak runoff for the one-year, 24-hour precipitation event in cubic feet per second. The peak runoff shall then be divided by 10 and multiplied by 646,272 to convert the result to gallons per day of allowable discharge at the point studied.
 - II. Two million gallons per day.
3. All discharges shall be directed to buffer systems that utilize low-energy methodologies to function as a buffer between the discharge and the receiving waters. Buffer systems shall consist of one of the following:
 - I. High-rate infiltration basins that may include engineered materials to achieve high rates of infiltration, which engineered materials shall have an ASTM gradation of a fine to coarse grain sand, and angular to maintain structural integrity of the slope.
 - II. Constructed free-surface wetlands having a hydraulic residence time of 14 days.
 - III. Other suitable technologies that provide a physical or hydraulic residence time buffer, or both, between the discharge and the receiving waters.
 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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

ADOPTED

AMENDMENT NO. **A4**
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 5 of 6

- 1 modeling and allocation of flow and will be at the discretion of
2 the Department.
- 3 7. The following effluent limits shall generally apply except
4 where (i) the applicant and Department agree to more stringent
5 limits or (ii) complex modeling conducted pursuant to
6 sub-sub-subdivision 8. of this sub-subdivision demonstrates
7 that Sag in the DO content of the receiving water of 0.1 mg/l
8 or less will occur and water quality standards are protected:
- 9 I. Biological oxygen demand (BOD₅) shall not exceed 5.0
10 mg/l monthly average.
- 11 II. NH₃, 0.5 mg/l monthly average, 1.0 mg/l daily
12 maximum.
- 13 III. Total nitrogen shall not exceed 4.0 mg/l monthly
14 average.
- 15 IV. Total phosphorus, 1.0 mg/l monthly average, 2.0 mg/l
16 daily maximum.
- 17 V. Fecal coliforms, 14 colonies/100ml or less.
- 18 VI. Dissolved oxygen, 7.0 mg/l or greater.
- 19 VII. Total suspended solids, 5.0 mg/l monthly average,
20 8mg/l daily maximum.
- 21 VIII. Nitrate, 1.0 mg/l monthly average, 2.0 mg/l daily
22 maximum.
- 23 8. If an applicant proposes less stringent effluent limits than those
24 set forth in sub-sub-subdivision 7. of this sub-subdivision, the
25 applicant shall conduct more complex modeling using any
26 model accepted elsewhere in USEPA Region 4 that the
27 applicant elects to use to confirm that a Sag in the DO content
28 of the receiving water of 0.1 mg/l or less will occur and water
29 quality standards are protected.
- 30 9. The Department shall not require an applicant to obtain
31 mapping data from the USGS as part of an application. In lieu,
32 an engineer of record licensed in the State of North Carolina
33 may prepare required mapping utilizing either USGS maps or
34 other maps approved by the Department.
- 35 10. Within 30 days of the filing of an application for a wastewater
36 discharge subject to this section, the Department shall (i)
37 determine whether or not the application is complete and notify
38 the applicant accordingly and (ii) if the Department determines
39 an application is incomplete, specify all such deficiencies in
40 the notice to the applicant. The applicant may file an amended
41 application or supplemental information to cure the
42 deficiencies identified by the Department for the Department's
43 review. If the Department fails to issue a notice as to whether

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 385

ADOPTED

AMENDMENT NO. **A4**
(to be filled in by
Principal Clerk)

H385-ATQ-98 [v.5]

Page 6 of 6

1 or not the application is complete within the requisite 30-day
2 period, the application shall be deemed complete. Within 180
3 days of the filing of a completed application, the Commission
4 shall either grant or deny the permit. If the Commission fails
5 to act in the requisite time frame, ten percent (10%) of the
6 application fee shall be returned to the applicant for each
7 working day beyond the 180-day period.

8 **SECTION 18.2.(e)** No later than September 1, 2024, the Department in conjunction
9 with the North Carolina Collaboratory at the University of North Carolina at Chapel Hill
10 (Collaboratory) shall convene a Wastewater General Permit Working Group (Working Group)
11 consisting of Department and Collaboratory staff and a maximum of five consulting experts
12 appointed by the Director of the Collaboratory in the fields of environmental regulation,
13 wastewater regulation, water quality regulation, and wastewater treatment regulation, to develop
14 the draft rules for the implementation of a Wastewater Treatment and Discharge General Permit
15 process for the State. The Working Group shall report its findings to the Environmental Review
16 Commission no later than March 15, 2025. Following consideration by the Environmental
17 Review Commission, and after making any changes required by the Environmental Review
18 Commission, the Department shall develop and submit proposed rules to USEPA for its approval.
19 Within 20 days of the date USEPA approves the draft rules submitted pursuant to this subsection,
20 the Commission shall initiate the process for temporary and permanent rules pursuant to Chapter
21 150B of the General Statutes.

22 **SECTION 18.2.(f)** Beginning September 1, 2024, and quarterly thereafter until such
23 times as permanent rules as required by subsections (d) and (e) of this section have become
24 effective, the Department and the Environmental Management Commission shall report on their
25 activities to implement subsections (d) and (e) of this section to the Environmental Review
26 Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and
27 Economic Resources, the Senate Appropriations Committee on Agriculture, Natural and
28 Economic Resources, and the House of Representatives Appropriations Committee on
29 Agriculture and Natural and Economic Resources of the General Assembly."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

**The official copy of this document, with signatures
and vote information, is available in the
Senate Principal Clerk's Office**