

§ 143-215.1B. Extension of date for compliance with nitrogen and phosphorus discharge limits.

(a) The Commission may extend a compliance date established under G.S. 143-215.1(c6) only in accordance with the requirements of this section and only upon the request of a person who holds a permit under G.S. 143-215.1 that authorizes a discharge into surface waters to which the limits set out in subsections (c1) or (c2) of G.S. 143-215.1 apply. The Commission shall act on a request for an extension of a compliance date within 120 days after the Commission receives the request. The Commission shall not extend a compliance date if the Commission concludes, on the basis of the scientific data available to the Commission at the time of the request, that the extension will result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 1997 Edition). The Commission shall not extend a compliance date unless the Commission finds that the permit holder needs additional time to develop a calibrated nutrient response model that meets the requirements of this section. If the Commission requires an individual discharge to be limited to a maximum mass load or concentration that is different from those set out in subsections (c1) or (c2) of G.S. 143-215.1, the maximum mass load or concentration shall be substantiated by the model.

(b) The Commission shall determine the extended compliance date by adding to the date on which the Commission grants the extension: (i) two years for the collection of data needed to prepare a calibrated nutrient response model; (ii) a maximum of one year to prepare the calibrated nutrient response model; (iii) the amount of time, if any, that is required for the Commission to develop a nutrient management strategy and to adopt rules or to modify discharge permits to establish maximum mass loads or concentration limits based on the calibrated nutrient response model; and (iv) a maximum of three years to plan, design, finance, and construct a facility that will comply with those maximum mass loads and concentration limits. If the Commission finds that additional time is needed to complete the construction of a facility, the Commission may further extend an extended compliance date by a maximum of two additional years.

(c) Notwithstanding the provisions of G.S. 150B-21.1(a), the Commission may adopt temporary rules to establish maximum mass loads or concentration limits pursuant to this section or as may otherwise be necessary to implement this section.

(d) A permit holder who is granted an extended compliance date under this section shall:

- (1) Develop a calibrated nutrient response model in conjunction with other affected parties and in accordance with a timetable for the development of the model that has been approved by the Commission. The model shall be based on current data, capable of predicting the impact of nitrogen and phosphorus in the surface waters, capable of being incorporated into any nutrient management plan developed by the Commission, and approved by the Commission.
- (2) Evaluate and optimize the operation of all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section in order to reduce nutrient loading.
- (3) Evaluate methods to reduce the total mass load of waste that is discharged from all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section and determine whether these methods are cost-effective.

- (4) Evaluate methods to reduce the discharge of treated effluent from all facilities operated by the permit holder that are permitted under G.S. 143-215.1(c) and that discharge into the nutrient sensitive waters (NSW) for which the compliance date is extended pursuant to this section; including land application of treated effluent, the use of restored or created wetlands that are not located in a 100-year floodplain to polish treated effluent, and other methods to reuse treated effluent; and determine whether these methods are cost-effective.
- (5) Report to the Commission on progress in the development of the calibrated nutrient response model, on efforts to optimize the operation of facilities, on the evaluation of methods of reducing the total mass load of waste, and on the evaluation of methods to reduce the discharge of treated effluent. The Commission shall establish a schedule for reports that requires the permit holder to report on at least a semiannual basis.

(e) The Commission may revoke an extension granted under this section and impose the limits set out in subsections (c1) and (c2) of G.S. 143-215.1 if the Commission determines that a permit holder who has obtained an extension under this section has, at any time during the period of the extension:

- (1) Failed to comply with the requirements of subsection (d) of this section; or
- (2) Violated any conditions or limitations of any permit issued under G.S. 143-215.1 or special order issued under G.S. 143-215.2 if the violation is the result of conduct by the permit holder that results in a significant violation of water quality standards. (1998-212, s. 14.9H(c); 2004-195, s. 1.6.)