

§ 143-215.1. Control of sources of water pollution; permits required.

(a) Activities for Which Permits Required. – Except as provided in subsection (a6) of this section, no person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:

- (1) Make any outlets into the waters of the State.
- (2) Construct or operate any sewer system, treatment works, or disposal system within the State.
- (3) Alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the State.
- (4) Increase the quantity of waste discharged through any outlet or processed in any treatment works or disposal system to any extent that would result in any violation of the effluent standards or limitations established for any point source or that would adversely affect the condition of the receiving waters to the extent of violating any applicable standard.
- (5) Change the nature of the waste discharged through any disposal system in any way that would exceed the effluent standards or limitations established for any point source or that would adversely affect the condition of the receiving waters in relation to any applicable standards.
- (6) Cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Commission under the provisions of this Article.
- (7) Cause or permit any wastes for which pretreatment is required by pretreatment standards to be discharged, directly or indirectly, from a pretreatment facility to any disposal system or to alter, extend or change the construction or method of operation or increase the quantity or change the nature of the waste discharged from or processed in that facility.
- (8) Enter into a contract for the construction and installation of any outlet, sewer system, treatment works, pretreatment facility or disposal system or for the alteration or extension of any such facility.
- (9) Dispose of sludge resulting from the operation of a treatment works, including the removal of in-place sewage sludge from one location and its deposit at another location, consistent with the requirement of the Resource Conservation and Recovery Act and regulations promulgated pursuant thereto.
- (10) Cause or permit any pollutant to enter into a defined managed area of the State's waters for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.
- (11) Cause or permit discharges regulated under G.S. 143-214.7 that result in water pollution.
- (12) Construct or operate an animal waste management system, as defined in G.S. 143-215.10B, without obtaining a permit under Part 1A of this Article.

(a1) In the event that both effluent standards or limitations and classifications and water quality standards are applicable to any point source or sources and to the waters to which they discharge, the more stringent among the standards established by the Commission shall be applicable and controlling.

(a2) No permit shall be granted for the disposal of waste in waters classified as sources of public water supply where the head of the agency that administers the public water supply program pursuant to Article 10 of Chapter 130A of the General Statutes, after review of the plans and specifications for the proposed disposal facility, determines and advises the Commission that any outlet for the disposal of waste is, or would be, sufficiently close to the intake works or proposed intake works of a public water supply as to have an adverse effect on the public health.

(a3) If the Commission denies an application for a permit, the Commission shall state in writing the reason for the denial and shall also state the Commission's estimate of the changes in the applicant's proposed activities or plans that would be required in order that the applicant may obtain a permit.

(a4) The Department shall regulate wastewater systems under rules adopted by the Commission for Public Health pursuant to Article 11 of Chapter 130A of the General Statutes except as otherwise provided in this subsection. No permit shall be required under this section for a wastewater system regulated under Article 11 of Chapter 130A of the General Statutes. The following wastewater systems shall be regulated by the Department under rules adopted by the Commission:

- (1) Wastewater systems designed to discharge effluent to the land surface or surface waters.
- (2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.
- (3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(a5) For purposes of this subsection, "agricultural products" means horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and any farm products. Notwithstanding subsection (a) of this section, a permit shall not be required for a wastewater management system for the treatment and disposal of wastewater produced from activities related to the processing of agricultural products if all of the following conditions are met:

- (1) The activities related to the processing of the agricultural products are carried out by the owner of the agricultural products.
- (2) The activities related to the processing of the agricultural products produce no more than 1,000 gallons of wastewater per day.
- (3) The wastewater is not generated by an animal waste management system as defined in G.S. 143-215.10B.
- (4) The wastewater is disposed of by land application.
- (5) No wastewater is discharged to surface waters.
- (6) The disposal of the wastewater does not result in any violation of surface water or groundwater standards.

(a6) No permit shall be required to enter into a contract for the construction, installation, or alteration of any treatment works or disposal system or to construct, install, or alter any treatment works or disposal system within the State when the system's or work's principal function is to conduct, treat, equalize, neutralize, stabilize, recycle, or dispose of industrial waste or sewage from an industrial facility and the discharge of the industrial waste or sewage is authorized under a permit issued for the discharge of the industrial waste or sewage into the waters of the State. Notwithstanding the above, the permit issued for the discharge may be modified if required by federal regulation.

(a7) For high rate infiltration wastewater disposal systems that utilize non-native soils or materials in a basin sidewall to enhance infiltration, the non-native soils or materials in the sidewall shall not be considered part of the disposal area provided that all of the following standards are met:

- (1) In addition to the requirements established by the Commission pursuant to subsection (a4) of G.S. 143-215.1, the treatment system shall include a mechanism to provide filtration of effluent to 0.5 microns or less and all essential treatment units shall be provided in duplicate.
 - (2) Particle size analysis in accordance with ASTM guidelines for all native and non-native materials shall be performed. Seventy-five percent (75%) of all non-native soil materials specified shall have a particle size of less than 4.8 millimeters.
 - (3) Non-native materials shall comprise no more than fifty percent (50%) of the basin sidewall area.
 - (4) Systems meeting the standards set out in subdivisions (1), (2), and (3) of this subsection shall be considered nondischarge systems, and the outfall of any associated groundwater lowering device shall be considered groundwater provided the outfall does not violate water quality standards.
- (b) Commission's Power as to Permits. –
- (1) The Commission shall act on all permits so as to prevent, so far as reasonably possible, considering relevant standards under State and federal laws, any significant increase in pollution of the waters of the State from any new or enlarged sources. No permit shall be denied and no condition shall be attached to the permit, except when the Commission finds such denial or such conditions necessary to effectuate the purposes of this Article.
 - (2) The Commission shall also act on all permits so as to prevent violation of water quality standards due to the cumulative effects of permit decisions. Cumulative effects are impacts attributable to the collective effects of a number of projects and include the effects of additional projects similar to the requested permit in areas available for development in the vicinity. All permit decisions shall require that the practicable waste treatment and disposal alternative with the least adverse impact on the environment be utilized.
 - (3) General permits may be issued under rules adopted pursuant to Chapter 150B of the General Statutes. Such rules may provide that minor activities may occur under a general permit issued in accordance with conditions set out in such rules. All persons covered under general permits shall be subject to all enforcement procedures and remedies applicable under this Article.
 - (4) The Commission shall have the power:
 - a. To grant a permit with such conditions attached as the Commission believes necessary to achieve the purposes of this Article.
 - b. To require that an applicant satisfy the Department that the applicant, or any parent, subsidiary, or other affiliate of the applicant or parent:
 1. Is financially qualified to carry out the activity for which the permit is required under subsection (a) of this section; and
 2. Has substantially complied with the effluent standards and limitations and waste management treatment practices applicable to any activity in which the applicant has previously engaged, and has been in substantial compliance with other federal and state laws, regulations, and rules for the protection of the environment.
 3. As used in this subdivision, the words "affiliate," "parent," and "subsidiary" have the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (April 1, 1990, Edition).

4. For a privately owned treatment works that serves 15 or more service connections or that regularly serves 25 or more individuals, financial qualification may be demonstrated through the use of a letter of credit, insurance, surety, trust agreement, financial test, bond, or a guarantee by corporate parents or third parties who can pass the financial test. No permit shall be issued under this section for a privately owned treatment works that serves 15 or more service connections or that regularly serves 25 or more individuals, until financial qualification is established and the issuance of the permit shall be contingent on the continuance of the financial qualification for the duration of the activity for which the permit was issued.
 - c. To modify or revoke any permit upon not less than 60 days' written notice to any person affected.
 - d. To designate certain classes of minor activities for which a general permit may be issued, after considering:
 1. The environmental impact of the activities;
 2. How often the activities are carried out;
 3. The need for individual permit oversight; and
 4. The need for public review and comment on individual permits.
 - e. To designate certain classes of minor activities for which:
 1. Performance conditions may be established by rule; and
 2. Individual or general permits are not required.
 - f. To issue a permit, certification, authorization, or other approval by electronic delivery, registered or certified mail, or any other means authorized by G.S. 1A-1, Rule 4.
- (5) The Commission shall not issue a permit for a new municipal or domestic wastewater treatment works that would discharge to the surface waters of the State or for the expansion of an existing municipal or domestic wastewater treatment works that would discharge to the surface waters of the State unless the applicant for the permit demonstrates to the satisfaction of the Commission that:
- a. The applicant has prepared and considered an engineering, environmental, and fiscal analysis of alternatives to the proposed facility.
 - b. The applicant is in compliance with the applicable requirements of the systemwide municipal and domestic wastewater collection systems permit program adopted by the Commission.
- (b1) Repealed by Session Laws 1991, c. 156, s. 1.
- (c) Applications for Permits and Renewals for Facilities Discharging to the Surface Waters. –
- (1) All applications for permits and for renewal of existing permits for outlets and point sources and for treatment works and disposal systems discharging to the surface waters of the State shall be in writing, and the Commission may prescribe the form of such applications. All applications shall be filed with the Commission at least 180 days in advance of the date on which it is desired to commence the discharge of wastes or the date on which an existing permit expires, as the case may be. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or

investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application.

- (2) a. The Department shall refer each application for permit, or renewal of an existing permit, for outlets and point sources and treatment works and disposal systems discharging to the surface waters of the State to its staff for written evaluation and proposed determination with regard to issuance or denial of the permit. If the Commission concurs in the proposed determination, it shall give notice of intent to issue or deny the permit, along with any other data that the Commission may determine appropriate, to be given to the appropriate State, interstate and federal agencies, to interested persons, and to the public.
 - a1. The Commission shall prescribe the form and content of the notice. Public notice shall be given at least 45 days prior to any proposed final action granting or denying the permit. Public notice shall be given by publication of the notice one time in a newspaper having general circulation within the county.
 - b. Repealed by Session Laws 1987, c. 734.
- (3) If any person desires a public hearing on any application for permit or renewal of an existing permit provided for in this subsection, he shall so request in writing to the Commission within 30 days following date of the notice of intent. The Commission shall consider all such requests for hearing, and if the Commission determines that there is a significant public interest in holding such hearing, at least 30 days' notice of such hearing shall be given to all persons to whom notice of intent was sent and to any other person requesting notice. At least 30 days prior to the date of hearing, the Commission shall also cause a copy of the notice thereof to be published at least one time in a newspaper having general circulation in such county. In any county in which there is more than one newspaper having general circulation in that county, the Commission shall cause a copy of such notice to be published in as many newspapers having general circulation in the county as the Commission in its discretion determines may be necessary to assure that such notice is generally available throughout the county. The Commission shall prescribe the form and content of the notices.

The Commission shall prescribe the procedures to be followed in hearings. If the hearing is not conducted by the Commission, detailed minutes of the hearing shall be kept and shall be submitted, along with any other written comments, exhibits or documents presented at the hearing, to the Commission for its consideration prior to final action granting or denying the permit.
- (4) Not later than 60 days following notice of intent or, if a public hearing is held, within 90 days following consideration of the matters and things presented at such hearing, the Commission shall grant or deny any application for issuance of a new permit or for renewal of an existing permit. All permits or renewals issued by the Commission and all decisions denying application for permit or renewal shall be in writing.
- (5) Repealed by Session Laws 2011-398, s. 60(b), effective July 25, 2011, and applicable to permits that are issued on or after July 1, 2011.
- (6) The Commission shall not act upon an application for a new nonmunicipal domestic wastewater discharge facility until it has received a written statement from each city and county government having jurisdiction over any

part of the lands on which the proposed facility and its appurtenances are to be located which states whether the city or county has in effect a zoning or subdivision ordinance and, if such an ordinance is in effect, whether the proposed facility is consistent with the ordinance. The Commission shall not approve a permit application for any facility which a city or county has determined to be inconsistent with its zoning or subdivision ordinance unless it determines that the approval of such application has statewide significance and is in the best interest of the State. An applicant for a permit shall request that each city and county government having jurisdiction issue the statement required by this subdivision by mailing by certified mail, return receipt requested, a written request for such statement and a copy of the draft permit application to the clerk of the city or county. If a local government fails to mail the statement required by this subdivision, as evidenced by a postmark, within 15 days after receiving and signing for the certified mail, the Commission may proceed to consider the permit application notwithstanding this subdivision.

(c1) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission shall not discharge more than an average annual mass load of total nitrogen than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total nitrogen concentration of five and one-half milligrams of nitrogen per liter (5.5 mg/l). The total nitrogen concentration of 5.5 mg/l for nutrient sensitive waters required by this subsection applies only to:

- (1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.
- (2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c2) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission where phosphorus is designated by the Commission as a nutrient of concern shall not discharge more than an average annual mass load of total phosphorus than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total phosphorus concentration of two milligrams of phosphorus per liter (2.0 mg/l). The total phosphorus concentration of 2.0 mg/l for nutrient sensitive waters required by this subsection applies only to:

- (1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.
- (2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. A person to whom subsection (c1) or (c2) of this section applies whose agreement to accept wastewater from another wastewater treatment facility that discharges into the same water body and that results in the elimination of the discharge from that wastewater treatment facility shall be allowed to increase the average annual mass load of total

nitrogen and total phosphorus that person discharges by the average annual mass load of total nitrogen and total phosphorus of the wastewater treatment facility that is eliminated. If the wastewater treatment facility that is eliminated has a permitted flow of less than 500,000 gallons per day, the average annual mass load of total nitrogen or phosphorus shall be calculated from the most recent available data. A person to whom this subsection applies shall comply with nitrogen and phosphorus discharge monitoring requirements established by the Commission. This average annual load of nitrogen or phosphorus shall be assigned to the wastewater discharge allocation of the wastewater treatment facility that accepts the wastewater.

(c4) A person to whom subsection (c1) of this section applies may request the Commission to approve a total nitrogen concentration greater than that set out in subsection (c1) of this section at a decreased permitted flow so long as the average annual mass load of total nitrogen is equal to or is less than that required under subsection (c1) of this section. A person to whom subsection (c2) of this section applies may request the Commission to approve a total phosphorus concentration greater than that set out in subsection (c2) of this section at a decreased permitted flow so long as the average annual mass load of total phosphorus is equal to or is less than that required under subsection (c2) of this section. If, after any 12-month period following approval of a greater concentration at a decreased permitted flow, the Commission finds that the greater concentration at a decreased permitted flow does not result in an average annual mass load of total nitrogen or total phosphorus equal to or less than those that would be achieved under subsections (c1) and (c2) of this section, the Commission shall rescind its approval of the greater concentration at a decreased permitted flow and the requirements of subsections (c1) and (c2) of this section shall apply.

(c5) For surface waters to which the limits set out in subsection (c1) or (c2) of this section apply and for which a calibrated nutrient response model that meets the requirements of this subsection has been approved by the Commission, mass load limits for total nitrogen or total phosphorus shall be based on the results of the nutrient response model. A calibrated nutrient response model shall be developed and maintained with current data, be capable of predicting the impact of nitrogen or phosphorus in the surface waters, and incorporated into nutrient management plans by the Commission. The maximum mass load for total nitrogen or total phosphorus established by the Commission shall be substantiated by the model and may require individual discharges to be limited at concentrations that are different than those set out in subsection (c1) or (c2) of this section. A calibrated nutrient response model shall be developed by the Department in conjunction with the affected parties and is subject to approval by the Commission.

(c6) For surface waters that the Commission classifies as nutrient sensitive waters (NSW) on or after 1 July 1997, the Commission shall establish a date by which facilities that were placed into operation prior to the date on which the surface waters are classified NSW or for which an authorization to construct was issued prior to the date on which the surface waters are classified NSW must comply with subsections (c1) and (c2) of this section. The Commission shall establish the compliance schedule at the time of the classification.

(c7) For surface waters of the State that have naturally occurring low dissolved oxygen levels, as determined by the Department, permitted wastewater discharges to such surface waters shall not cause a reduction in the dissolved oxygen levels of such surface waters of more than 0.10 mg/l below the approved modeled in-stream dissolved oxygen level for the surface waters at total permitted capacity for all discharges to such surface waters.

(c8) Permitted Discharges of Highly Treated Domestic Wastewater. –

- (1) Subject only to the limitations set forth in subdivision (2) of this subsection, the Department shall authorize permitted discharges of highly treated domestic wastewater to surface waters of the State, including wetlands, perennial streams, and unnamed tributaries of named and classified streams

where the 7Q10 flow or 30Q2 flow of the receiving waterbody is estimated to be low flow or zero flow, as determined by the United States Geological Survey, from wastewater treatment systems capable of meeting the following water quality-based effluent limitations:

- a. Biological oxygen demand (BOD₅), 5mg/L.
- b. NH₃, 0.5mg/L monthly average, 1.0 mg/L daily maximum.
- c. Total nitrogen, 4mg/L monthly average.
- d. Total phosphorus, 1.0mg/L monthly average, 2.0mg/L daily maximum.
- e. Fecal coliforms, 14 colonies/100mL.
- f. Dissolved oxygen, 6mg/L, or 1mg/L more than the BOD₅ concentration.
- g. Turbidity, 1 Nephelometric Turbidity Units.
- h. Total suspended solids, 5mg/L monthly average.
- i. Nitrate, 1mg/L monthly average.

(2) In addition to the requirements set forth in subdivision (1) of this subsection, only the following requirements shall apply to wastewater discharges to be authorized pursuant to this subsection:

- a. No discharge shall be permitted to classified shellfish waters or outstanding resource waters. Discharges to unnamed tributaries of classified shellfish waters, however, shall be authorized in compliance with the requirements of this section.
- b. The limitation of flow for any wastewater discharge shall be 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 foot 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.
- c. Discharges shall be limited based on the ability of the receiving waters to hydraulically accept the proposed flow, as demonstrated by being equal to or less than one-tenth of the flow using the rational method.
- d. 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:
 1. Consist of one of the following: (i) high-rate infiltration basins that utilize engineered materials to achieve high rates of infiltration, which engineered materials shall have an ASTM gradation of a clean washed coarse grained sand; (ii) constructed free surface wetlands having a hydraulic residence time of 14 days; and (iii) other suitable technologies that provide a physical or hydraulic residence time buffer, or both, between the discharge and the receiving waters.
 2. 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.

3. Divide the subsequent outfall to the receiving stream so that no one particular 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 a distance of no less than 50 linear feet.
- (3) For purposes of this subsection, the following definitions apply:
 - a. 7Q10 flow. – A method to calculate the minimum average flow of a receiving water for a period of seven consecutive days that has an average recurrence of once in 10 years.
 - b. 30Q2 flow. – A method to calculate the minimum average flow of a receiving water for a period of 30 consecutive days that has an average recurrence of once in two years.
 - c. Highly treated domestic wastewater. – Wastewater effluent from treatment systems that receive flows from sources of domestic wastewater that meet the effluent limitations as set forth in subdivision (1) of this subsection.
 - d. Rational method. – The method of computing storm drainage flow rates (Q) by use of the formula $Q = CIA$. For purposes of this sub-subdivision, the following definitions apply:
 1. C. – The rational coefficient describing the stormwater runoff characteristics of the drainage.
 2. I. – The rainfall intensity for the one-year, 24-hour precipitation event given by the National Oceanic and Atmospheric Administration through its online precipitation data server or other appropriate sources in units of inches per hour.
 3. A. – The catchment area tributary to the point being studied as further defined using methodologies that meet the standard of practice for such work, including, but not limited to, web-based data and tools provided by the United States Geological Survey or by other analysis using topographic data that follows the standard of practice for such work by licensed professional engineers in units of acres.
 - (4) Once an applicant has submitted data to demonstrate the proposed discharge will meet the requirements of subdivisions (1) and (2) of this subsection, signed and sealed by a professional engineer licensed in accordance with the provisions of Chapter 89C of the General Statutes, the application shall be deemed complete for the purposes of review by the Department.
- (d) Applications and Permits for Sewer Systems, Sewer System Extensions and Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –
- (1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system extensions and for disposal systems, and for land application of waste, or treatment works which do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and

other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Prior to acting on a permit application for the land application of bulk residuals resulting from the operation of a wastewater treatment facility, the Commission shall provide notice and an opportunity for comment from the governing board of the county in which the site of the land application of bulk residuals is proposed to be located. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

- (2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments.

(d1) Each applicant under subsections (c) or (d) for a permit (or the renewal thereof) for the operation of a treatment works for a private multi-family or single family residential development, in which the owners of individual residential units are required to organize as a lawfully constituted and incorporated homeowners' association of a subdivision, condominium, planned unit development, or townhouse complex, shall be required to enter into an operational agreement with the Commission as a condition of any such permit granted. The agreement shall address, as necessary, construction, operation, maintenance, assurance of financial solvency, transfers of ownership and abandonment of the plant, systems, or works, and shall be modified as necessary to reflect any changed condition at the treatment plant or in the development. Where the Commission finds appropriate, it may require any other private residential subdivision, condominium, planned unit development or townhouse complex which is served by a private treatment works and does not have a lawfully constituted and incorporated homeowners' association, and for which an applicant applies for a permit or the renewal thereof under subsections (c) or (d), to incorporate as a lawfully constituted homeowners' association, and after such incorporation, to enter into an operational agreement with the Commission and the applicant as a condition of any permit granted under subsections (c) or (d). The local government unit or units having jurisdiction over the development shall receive notice of the application within an established comment period and prior to final decision.

(d2) No permit issued pursuant to subsection (c) of this section shall be issued or renewed for a term exceeding five years. All other permits issued pursuant to this section for which an expiration date is specified shall be issued for a term not to exceed eight years.

(d3) The Department may transfer a permit issued pursuant to subsection (d) of this section without the consent of the permit holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

- (1) The Department may transfer a permit if all of the following conditions are met:
 - a. The successor-owner of the property submits to the Department a written request for the transfer of the permit.

- b. The Department finds all of the following:
 - 1. The permit holder is one of the following:
 - I. A natural person who is deceased.
 - II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - IV. A person who has sold the property on which the permitted activity is occurring or will occur.
 - 2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - 3. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 - 4. There will be no substantial change in the permitted activity.
- (2) The permit holder shall comply with all terms and conditions of the permit until such time as the permit is transferred.
- (3) The successor-owner shall comply with all terms and conditions of the permit once the permit has been transferred.
- (4) Notwithstanding changes to law made after the original issuance of the permit, the Department may not impose new or different terms and conditions in the permit without the prior express consent of the successor-owner.

(e) Administrative Review. – A permit applicant, a permittee, or a third party who is dissatisfied with a decision of the Commission may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit applicant, the permittee, or a third party does not file a petition within the required time, the Commission's decision is final and is not subject to review.

(f) Local Permit Programs for Sewer Extension and Reclaimed Water Utilization. – Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may establish and administer within their utility service areas their own general permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and (8) above, for construction, operation, alteration, extension, change of proposed or existing sewer system, subject to the prior certification of the Commission. For purposes of this subsection, the service area of a municipality shall include only that area within the corporate limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction where sewer service or a reclaimed water utilization system is already being provided by the municipality to the permit applicant or connection to the municipal sewer system or a reclaimed water utilization system is immediately available to the applicant; the service areas of counties and the other entities or groups shall include only those areas where sewer service or a reclaimed water utilization system is already being provided to the applicant by the permitting authority or connection to the permitting authority's system is immediately available. No later than the 180th day after the receipt of a program and statement submitted by any local government, commission, authority, or board the Commission shall certify any local program that does all of the following:

- (1) Provides by ordinance or local law for requirements compatible with those imposed by this Part and the rules implementing this Part.
- (2) Provides that the Department receives notice and a copy of each application for a permit and that it receives copies of approved permits and plans upon request by the Commission.

- (3) Provides that plans and specifications for all construction, extensions, alterations, and changes be prepared by or under the direct supervision of an engineer licensed to practice in this State.
- (4) Provides for the adequate enforcement of the program requirements by appropriate administrative and judicial process.
- (5) Provides for the adequate administrative organization, engineering staff, financial and other resources necessary to effectively carry out its plan review program.
- (6) Provides that the system is capable of interconnection at an appropriate time with an expanding municipal, county, or regional system.
- (7) Provides for the adequate arrangement for the continued operation, service, and maintenance of the sewer or a reclaimed water utilization system.
- (8) Is approved by the Commission as adequate to meet the requirements of this Part and the rules implementing this Part.

(f1) The Commission may deny, suspend, or revoke certification of a local program upon a finding that a violation of the provisions in subsection (f) of this section has occurred. A denial, suspension, or revocation of a certification of a local program shall be made only after notice and a public hearing. If the failure of a local program to carry out this subsection creates an imminent hazard, the Commission may summarily revoke the certification of the local program. Chapter 150B of the General Statutes does not apply to proceedings under this subsection.

(f2) Notwithstanding any other provision of subsections (f) and (f1) of this section, if the Commission determines that a sewer system, treatment works, or disposal system is operating in violation of the provisions of this Article and that the appropriate local authorities have not acted to enforce those provisions, the Commission may, after written notice to the appropriate local government, take enforcement action in accordance with the provisions of this Article.

(f3) The permittee for a wastewater system:

- (1) May calculate its wastewater flows for new dwelling units discharging to wastewater systems serving two or more dwelling units that have yet to be connected and for which the permittee has allocated capacity, at 75 gallons per day per bedroom, or at a lower rate approved by the Department. If wastewater flows are calculated pursuant to this subdivision, the minimum volume of sewage from each dwelling unit is 75 gallons per day and each additional bedroom above one bedroom increases the volume by 75 gallons per day.
- (2) Shall calculate its wastewater flows for new dwelling units discharging to wastewater systems serving two or more dwelling units that have yet to be connected and for which the permittee has not allocated capacity at 75 gallons per day per bedroom, or at a lower rate approved by the Department. For wastewater flows calculated pursuant to this subdivision, the minimum volume of sewage from each dwelling unit is 75 gallons per day and each additional bedroom above one bedroom increases the volume by 75 gallons per day.

(f4) No permits for sewer line extensions shall be issued to wastewater treatment systems owned or operated by municipalities, counties, sanitary districts, or public utilities unless the systems meet the following requirements:

- (1) Prior to actual flow exceeding eighty percent (80%) of the system's permitted hydraulic capacity, based on the average flow during the last calendar year, the permittee shall submit an engineering evaluation of its future wastewater treatment, utilization, and disposal needs. This evaluation shall outline plans for meeting future wastewater treatment, utilization, or disposal needs by either expansion of the existing system, elimination or reduction of extraneous

flows, or water conservation and shall include the source of funding for the improvements. If expansion is not proposed or is proposed for a later date, a justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other measures to achieve waste flow reductions.

- (2) Prior to actual flow exceeding ninety percent (90%) of the system's permitted hydraulic capacity, based on the average flow during the last calendar year, the permittee shall obtain all permits needed for the expansion of the wastewater treatment, utilization, or disposal system and, if construction is needed, submit final plans and specifications for expansion, including a construction schedule. If expansion is not proposed or is proposed for a later date, a justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.
- (3) The Director shall allow permits to be issued to facilities that are exceeding the eighty percent (80%) or ninety percent (90%) disposal capacity if the additional flow is not projected to result in the facility exceeding its permitted hydraulic capacity, the facility is in compliance with all other permit limitations and requirements, and adequate progress is being made in developing the required engineering evaluations or plans and specifications. In determining the adequacy of the progress, the Director shall consider the projected flows, the complexity and scope of the work to be completed, and any projected environmental impacts.

(f5) A permittee for a wastewater treatment system, who has signed a contract for the expansion of its wastewater treatment system, utilization, or disposal system and whose current system is located in a county with a projected population growth rate above two percent (2%) annually or is located in one of the top twenty percent (20%) of the fastest growing counties in the State, by population, and is meeting flow and pollutant discharge limits set out in the system's current permit, may allocate one hundred ten percent (110%) of its existing system's hydraulic capacity and increase the allocation amount to one hundred fifteen percent (115%) when the expansion of its system is within 24 months of completion, but may not allocate more than the permitted projected capacity after expansion without approval by the Department. Nothing in this subsection shall be construed to limit the Department from authorizing allocations above one hundred fifteen percent (115%) of a system's hydraulic capacity.

(g) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the discharge of waste and pollutants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification.

(h) Each applicant for a new permit or the modification of an existing permit issued under subsection (c) of this section shall include with the application: (i) the extent to which the new or modified facility is constructed in whole or in part with funds provided or administered by the State or a unit of local government, (ii) the impact of the facility on water quality, and (iii) whether there are cost-effective alternative technologies that will achieve greater protection of water quality. The Commission shall prepare an annual summary and analysis of the information

provided by applicants pursuant to this subsection. The Commission shall submit the summary and analysis required by this subsection to the Environmental Review Commission (ERC) as a part of each annual report that the Commission is required to make to the ERC under G.S. 143B-282(b).

(i) Any person subject to the requirements of this section who is required to obtain an individual permit from the Commission for a disposal system under the authority of G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as may be established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded. Multiple contiguous properties under common ownership and permitted for use as a disposal system shall be treated as a single property with regard to determination of a compliance boundary and setbacks to property lines.

(j) Repealed by Session Laws 2014-122, s. 12(a), effective September 20, 2014.

(k) Where operation of a disposal system permitted under this section results in exceedances of the groundwater quality standards at or beyond the compliance boundary, the Commission shall require the permittee to undertake corrective action, without regard to the date that the system was first permitted, to restore the groundwater quality by assessing the cause, significance, and extent of the violation of standards and submit the results of the investigation and a plan and proposed schedule for corrective action to the Secretary. The permittee shall implement the plan as approved by, and in accordance with, a schedule established by the Secretary. In establishing a schedule the Secretary shall consider any reasonable schedule proposed by the permittee. (1951, c. 606; 1955, c. 1131, s. 1; 1959, c. 779, s. 8; 1967, c. 892, s. 1; 1971, c. 1167, s. 6; 1973, c. 476, s. 128; c. 821, s. 5; c. 1262, s. 23; 1975, c. 19, s. 51; c. 583, ss. 2-4; c. 655, ss. 1, 2; 1977, c. 771, s. 4; 1979, c. 633, s. 5; 1985, c. 446, s. 1; c. 697, s. 2; 1985 (Reg. Sess., 1986), c. 1023, ss. 1-5; 1987, c. 461, s. 1; c. 734, s. 1; c. 827, ss. 154, 159; 1989, c. 51, s. 2; c. 168, s. 29; c. 453, ss. 1, 2; c. 494, s. 1; c. 727, ss. 160, 161; 1989 (Reg. Sess., 1990), c. 1004, s. 17; c. 1024, s. 33; c. 1037, s. 1; 1991, c. 156, s. 1; c. 498, s. 1; 1991 (Reg. Sess., 1992), c. 944, s. 12; 1995 (Reg. Sess., 1996), c. 626, s. 2; 1997-458, ss. 6.1, 9.1, 11.2; 1997-496, s. 3; 1998-212, s. 14.9H(b), (d); 1999-329, s. 10.1; 2004-195, s. 1.5; 2006-250, s. 5; 2007-182, s. 2; 2011-41, s. 1; 2011-394, s. 9; 2011-398, s. 60(b), (c); 2012-194, s. 33; 2012-200, s. 9(a); 2013-121, s. 2; 2013-340, s. 1; 2013-413, ss. 46(a), 53; 2014-95, s. 3; 2014-115, s. 17; 2014-122, s. 12(a); 2015-1, s. 3.5; 2017-10, s. 4.13(b); 2017-209, s. 7; 2020-74, s. 15; 2022-43, s. 7(a); 2023-55, s. 1; 2023-134, ss. 12.9(a), 12.15; 2023-137, ss. 15(a), 18.)