

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL 472

Short Title: Amend 401 Certification Process. (Public)

Sponsors: Senators Jarvis, McInnis, and Moffitt (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 25, 2025

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE PROCESS FOR 401 WATER QUALITY
CERTIFICATIONS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL
QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – For purposes of this section and its implementation, "Water Quality Certification Rules" means 15A NCAC 02H .0500 (Water Quality Certification Rules).

SECTION 1.(b) Water Quality Certification Rules. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Water Quality Certification Rules as provided in subsection (c) of this section.

SECTION 1.(c) Implementation. – Notwithstanding 15A NCAC 02H .0502(a)(10), the Department shall not require payment of the fee at the time an application for a water quality certification is submitted. Rather, the Department shall inform an applicant of the requisite fee within five business days after receipt of the application. The application will not be deemed complete for purposes of Department review until the applicant has paid the requisite fee.

SECTION 1.(d) Additional Rulemaking Authority. – The Commission shall adopt rules to amend the Water Quality Certification Rules consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 1.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 2. The Department of Environmental Quality shall request that the United States Army Corps of Engineers approve a modification to the Programmatic Agreement executed between the agencies to reflect the review and decision time lines for water quality certifications set forth in 15A NCAC 02H .0507.

SECTION 3. The Department of Environmental Quality shall adopt rules to establish an expedited review process for water quality certifications required for projects that have received a Nationwide Permit issued by the United States Army Corps of Engineers. The expedited process shall require the Department to review and approve an application for a water



- 1 quality certification within five business days of receipt of the application. Failure to take action
2 within five calendar days shall result in a waiver of the certification requirement by the Director.
3 **SECTION 4.** This act is effective when it becomes law.