

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2025

FILED SENATE  
Mar 24, 2025  
S.B. 472  
PRINCIPAL CLERK

S

D

SENATE BILL DRS45249-RI-12

Short Title: Amend 401 Certification Process.

(Public)

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

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

32 **SECTION 3.** The Department of Environmental Quality shall adopt rules to establish  
33 an expedited review process for water quality certifications required for projects that have  
34 received a Nationwide Permit issued by the United States Army Corps of Engineers. The  
35 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.