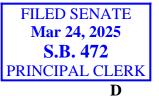
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2025



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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



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