

15A NCAC 02H .0112 FINAL ACTION ON PERMIT APPLICATIONS

(a) The Director shall take final action on all NPDES applications in accordance with G.S. 143-215.1(c)(4). In the case of an Authorization to Construct permit, the Director shall take final action within 90 days after the receipt of a complete application; or, if a public hearing is held concerning the Authorization to Construct, within 90 days following the closing of the record of the hearing.

(b) The Director shall:

- (1) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1 and G.S. 143-215.67;
- (2) issue a permit containing time schedules for achieving compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements;
- (3) modify or revoke any permit upon giving 60 days notice to the person affected pursuant to Rule .0114(a) of this Section;
- (4) rescind a permit upon request by the permittee; or
- (5) deny a permit application:
 - (A) where necessary to effectuate the purposes of Article 21 Chapter 143;
 - (B) for a discharge prohibited by G.S. 143-214.2(a);
 - (C) where the Secretary of the Army finds the discharge would substantially impair anchorage and navigation;
 - (D) for a discharge to which the regional administrator of EPA has objected as provided in Section 402(d) of the Clean Water Act as amended, 33 U.S.C. Section 1251 et seq.; and
 - (E) for any point discharge that conflicts with a plan approved pursuant to Section 208(b) of the Clean Water Act as amended, 33 U.S.C. Section 1251 et seq.; effective February 4, 1987.

(c) No permit may be issued until the applicant provides sufficient evidence to ensure that the proposed system will comply with all applicable water quality standards and requirements. No permit may be issued when the imposition of conditions cannot reasonably ensure compliance with applicable water quality standards and regulations of all affected states.

(d) Duration of Permits. NPDES permits shall be issued or renewed for a period not to exceed five years.

(e) Continuation of expiring permits. Notwithstanding Paragraph (d) of this Rule, the conditions of an expired permit shall remain effective and enforceable until the effective date of a new permit, or until otherwise terminated, if:

- (1) the permittee has submitted a timely and complete application under Rule .0106 of this Section; and
- (2) the Director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(f) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Director may act in accordance with 40 CFR 122.6(c), which is hereby incorporated by reference, including all subsequent amendments or editions, or take any action authorized by Article 21 of Chapter 143 of the North Carolina General Statutes.

History Note: Authority G.S. 143-214.2(a); 143-215; 143-215.1(b); 143-215.1(c)(4); 143-215.1(c)(5); 143-215.2(a); 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4);
Eff. February 1, 1976;
Amended Eff. March 1, 1993; October 1, 1987; September 1, 1986; December 1, 1984;
Readopted Eff. May 1, 2020.