

SECTION .0500 - WATER QUALITY CERTIFICATION

15A NCAC 02H .0501 APPLICABILITY AND DEFINITIONS

(a) This Section outlines the application and review procedures for activities that require State water quality certifications (certifications) pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341). Certifications are required for a federally permitted or licensed activity including, but not limited to, the construction or operation of facilities, which may result in a discharge into navigable waters. Failure to obtain a required certification is enforceable by the Department pursuant to Chapter 143, Article 21, Part 1.

(b) Water quality certifications may be issued for individual activities (individual certifications) or issued for specific types or groups of activities (general certifications):

- (1) Individual certifications shall be issued on a case-by-case basis using the procedures outlined in this Section.
- (2) General certifications may be developed by the Division and issued by the Director for specific types or groups of activities that are similar in nature and considered to have minimal impact. All activities that receive a Certificate of Coverage under a general certification from the Division shall be covered under that general certification. When written approval is required in the general certification, the application and review procedures for requesting a Certificate of Coverage under a general certification from the Division for the proposed activity are the same as the procedures outlined in this Section for individual certifications.

(c) The terms used in this Section shall be as defined in G.S. 143-212 and G.S. 143-213 and as follows:

- (1) "Certification" means the State water quality certification pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341).
- (2) "Class SWL wetland" means the term as defined at 15A NCAC 02B .0101.
- (3) "Class UWL wetland" means the term as defined at 15A NCAC 02B .0101.
- (4) "Cumulative impact" means environmental impacts resulting from incremental effects of an activity when added to other past, present, and reasonably foreseeable future activities, regardless of what entities undertake such other actions.
- (5) "Department" means the Department of Environmental Quality and the Secretary of the Department of Environmental Quality.
- (6) "Director" means the Director of the Division.
- (7) "Division" means the Division of Water Resources of the North Carolina Department of Environmental Quality.
- (8) "Secondary impact" means indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable to the applicant or the Division.
- (9) "Wetland" means the term as defined in 15A NCAC 02B .0202.

History Note: Authority G.S. 143-211(c); 143-215.3(a)(1); 143-215.3(c); 143B-282(a)(1)(u); S.L 2017, c. 145, s. 2(b);
RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
Eff. October 1, 1996;
Readopted Eff. June 1, 2019.