

15A NCAC 02H .0507 DECISION ON APPLICATION FOR CERTIFICATION

(a) The Director shall issue the certification, deny the application, provide notice of hearing pursuant to Rule .0503 of this Section, or request additional information within 60 calendar days after receipt of an application for certification. When the Director requests additional information, the 60-day review period restarts upon receipt of all of the additional information requested by the Director. Failure to issue the certification, deny the application, provide notice of hearing, or request additional information within 60 calendar days shall result in a waiver of the certification requirement by the Director, unless:

- (1) The applicant agrees, in writing, to a longer period;
- (2) The final decision is to be made pursuant to a public hearing;
- (3) The applicant refuses the staff access to its records or premises for the purpose of gathering information necessary for the Director's decision; or
- (4) Information necessary for the Director's decision is unavailable.

(b) The Director shall issue the certification, deny the application, or request additional information within 60 calendar days following the close of the record for the public hearing. Failure to take action within 60 calendar days shall result in a waiver of the certification requirement by the Director, unless Subparagraphs (a)(1), (3), or (4) of this Rule apply.

(c) Any certification issued pursuant to this Section may contain such conditions as the Director shall deem necessary to ensure compliance with Sections 301, 302, 303, 306, and 307 of the Clean Water Act and with State water law. The conditions included in the certification shall become enforceable by the Department pursuant to Chapter 143, Article 21, Part 1 when the federal permit or license is issued.

(d) Modification or Revocation of Certification:

- (1) Any certification issued pursuant to this Section may be subject to revocation or modification by the Director for violation of Sections 301, 302, 303, 306, or 307 of the Clean Water Act or State water law.
- (2) Any certification issued pursuant to this Section may be subject to revocation or modification by the Director upon a determination that information contained in the application or presented in support thereof is incorrect or if the conditions under which the certification was made have changed.

(e) The Division shall notify the applicant of the final action to issue or deny the application. In the event that the Director denies the application, the Director shall specify the reasons for the denial. A copy of the notification shall be sent to the appropriate federal licensing or permitting agency and EPA.

(f) The issuance or denial is a final agency decision that is subject to administrative review pursuant to G.S. 150B-23.

*History Note: Authority G.S. 143-211(c); 143-215.3(a)(1); 143-215.3(c); 143B-282(a)(1)(u);
Eff. February 1, 1976;
Amended Eff. July 1, 1988; December 1, 1984;
RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
Recodified from 15A NCAC 2H .0504 Eff. October 1, 1996;
Amended Eff. October 1, 1996;
Readopted Eff. June 1, 2019.*