



CHAPTER 143
ARTICLE 21 - WATER AND AIR RESOURCES

N.C.G.S. § 143-214.1A.

Water quality certification requirements
for certain projects.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	No amendment history on record	21 September 2026, 06:39 UTC	3104348f2ba6650d41f7f189 - 3d11c9476b20c2f00e5c76a9 - 4f48bd1b1c030955

§ 143-214.1A(a) The following requirements shall govern applications for certification filed with the Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), for (i) maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund, (ii) electric generation projects located at an existing or former electric generating facility, projects involving the distribution or transmission of energy or fuel, including natural gas, diesel, petroleum, or electricity, and (iii) projects involving construction of an upland basin marina, as defined in G.S. 113A-129.11:

- (1) Within 30 days of the filing of such application, a supplemental application, or a supplemental information on a pending application, the Department shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii), if the Department determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Department for the Department's review. An application may be deemed incomplete only if it does not provide sufficient information necessary for the Department to determine if the proposed discharges into navigable waters will comply with State water quality requirements. If the Department fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. As used in this section, State water quality requirements means water quality standards approved by the United States Environmental Protection Agency pursuant to 33 U.S.C. § 1313(c)(3) and in effect for purposes of the federal Clean Water Act.
- (2) Within five days of the date the application is deemed complete, the Department shall issue a public notice soliciting comment on the application. The Department shall either approve or deny an application within (i) 60 days of the date the application is deemed complete if no public hearing is held or (ii) 90 days of the date the application is deemed complete if a public hearing is held. Failure of the Department to approve or deny the application within the requisite 60-day or 90-day period, as applicable, shall result in a waiver of the certification requirement by the State, unless the applicant agrees, in writing, to an extension of time, which shall not exceed one year from the State's receipt of the application for certification. The 60-day or 90-day period, as applicable, for the Department to approve or deny an application established by this subdivision shall constitute the "reasonable period of time" for State action on an application for purposes of 33 U.S.C. § 1341(a)(1), absent a negotiated agreement with the federal permitting or licensing authority to extend that time frame for a period not to exceed one year.

- (3) The Department shall issue a certification upon determining that the proposed discharges into navigable waters will comply with State water quality requirements. The Department shall include as conditions in a certification any applicable effluent limitations or other limitations necessary to assure the proposed discharges into navigable waters will comply with State water quality requirements. The Department shall not impose any other conditions in a certification.
- (4) The Department shall deny a certification application only if it determines that no reasonable conditions would provide assurance that the proposed discharges into navigable waters will comply with State water quality requirements. The denial shall include a statement explaining why the Department determined the proposed discharges into navigable waters will not comply with the State water quality requirements.
- (5) The Department may grant, deny, or waive certification but shall not require an applicant to withdraw an application.

§ 143-214.1A(b)

For the purposes of this section, the term "maintenance dredging project" means the repetitive removal of naturally recurring deposited bottom sediment such as sand, silt, and clays in an existing navigation channel. The navigation channel may be a previously permitted channel that was constructed or maintained under permits issued by the State or federal government. If the navigation channel in use is a natural channel or, if a human-made channel was constructed before permitting was necessary, there shall be evidence that the channel was continuously used for a specific purpose. "Maintenance dredging project" does not include activities that increase the original depth and width of a human-made or natural channel to allow a new or expanded use of the channel.

§ 143-214.1A(c)

For projects that are eligible for a Nationwide Permit or Regional General Permit issued by the United States Army Corps of Engineers, which are not subject to subsection (a) of this section, and are required or elect to be covered under an Individual Water Quality Certification, the Department shall perform a review of an application pursuant to all of the following requirements:

- (1) On receipt of such application, the Department shall notify the applicant of any required fee within five business days. If the Department does not send the applicant a fee request within five business days of receipt of an application, the fee is waived. The Department's review period shall begin on the date the application fee is paid, or on the sixth business day from receipt when the application fee has been waived pursuant to this subdivision. For application fees that are paid via interagency batch payment, the review period shall start on receipt of the application by the Division of Water Resources. The Department shall additionally post any public notice required under the federal Clean Water Act within five business days of receipt of an application.
- (2) Within 30 business days of the beginning of the review period, the Department shall (i) determine whether or not the application is complete and notify the applicant accordingly and, (ii) if the Department determines an application is incomplete, specify all such deficiencies in a notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Department for the Department's review. Review of amended applications or supplemental information responses provided by the applicant shall occur within 20 business days of receipt. An application may be deemed incomplete only if it does not provide sufficient information necessary for the Department to determine if the proposed discharges into navigable waters will comply with State water quality requirements. If the Department fails to issue a notice that the application is incomplete within the requisite initial 30-day period, or the supplemental 20-day review period, the application shall be deemed complete. As used in this section, "State water quality requirements" means water quality standards approved by the United States Environmental Protection Agency pursuant to 33 U.S.C. § 1313(c)(3).
- (3) If the Department determines that a public hearing is necessary pursuant to applicable requirements, the Department shall notify the applicant within the review period outlined in subdivision (2) of this subsection. If the hearing officer determines that additional information is required from the applicant at the conclusion of the public hearing comment period, the Department shall notify the applicant within 15 business days of the conclusion of the comment period and the supplemental information shall be subject to the review time lines laid out in subdivision (2) of this subsection.

- (4) The Department shall either approve or deny an application within (i) 10 business days of the date the application is deemed complete if no public hearing is held or (ii) 15 business days of the close of the record if a public hearing is held and no additional information is required. Failure of the Department to approve or deny the application within the requisite time period, as applicable, shall result in a waiver of the certification requirement by the State, unless the applicant agrees, in writing, to an extension of time, which shall not exceed one year from the State's receipt of the application for certification.
- (5) The Department shall issue a certification, with or without conditions or limitations, upon determining that the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements. The Department may include as conditions or limitations in a certification any effluent limitations or other limitations necessary to assure the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements. The Department shall not impose any other conditions or limitations in a certification.
- (6) The Department shall deny a certification application only if it determines that no reasonable conditions or limitations would provide assurance that the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements. The denial shall include a statement explaining why the Department determined the proposed discharges into navigable waters subject to the federal Clean Water Act will not comply with the State water quality requirements.
- (7) The Department may grant, deny, or waive certification but shall not require an applicant to withdraw an application.

§ 143-214.1A(d)

On receipt of any application for certification filed with the Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), the Department shall notify the applicant of any required fee within five business days. If the Department does not send the applicant a fee request within five business days of receipt of an application, the fee is waived. (2023-137, s. 7(a); 2024-45, s. 11(a); 2025-48, s. 1(a); 2025-50, s. 3(a).)

APPARATUS II
1 AUTHORITY

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 113A-129.11	(a)	"upland basin marina, as defined in"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 143-214.1A (2026).

PINPOINT
N.C. Gen. Stat. § 143-214.1A(a) (2026).

Pinpoint keys are set in the left margin of the text rather than line numbers; subsection designators are stable across editions and paper sizes, line numbers are not.

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