

Appendix 2

Water Quality Certification SCDHEC – Waiver Memo

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice

401 Water Quality Certification Resource Reductions

State budget cuts have impacted the level of services the Department of Health and Environmental Control (Department) can provide and have resulted in the need for the Department to re-evaluate its workloads and priorities. The 401 Water Quality Certification program has been identified as an area where resource reductions are necessary.

In accordance with S.C. Regulation 61-101, Water Quality Certification, the Department can issue, deny, or waive certification for Federal licenses or permits. If the Department fails to act on a certification within a reasonable period of time, not to exceed one year, the certification requirements are waived.

In light of recent budget cuts, the Department has determined that it can no longer certify all Federal licenses and permits for which it receives applications. Thus, the Department has identified categories of projects for which the 401 Water Quality Certification will be waived as follows:

- **Nationwide Permits as issued by the US Army Corps of Engineers (Corps)**
Every five years, the Corps issues nationwide permits (NWP) for categories of activities that have been determined to have minimal individual and cumulative adverse effects on the aquatic environment. In a Federal Register notice published on March 12, 2007, the Corps reissued the NWP, and on May 11, 2007, the Department issued both a 401 Water Quality Certification and a Coastal Zone Consistency Certification in accordance with the S.C. Coastal Zone Management Program. At the time of the May 11, 2007 certification, the Department placed conditions on a number of the NWP that would necessitate an individual permit review for those projects. In light of the need to reduce staff resources, the Department will no longer issue individual certifications for these permits. By waiving these 401 certifications, the state will rely on the initial Corps determination of minimal impacts.
- **Groins and Beach Renourishment Projects**
Groins and beach renourishment activities have very few water quality impacts. As a general rule, the concerns and comments that the Department receives during a 401 Water Quality Certification review for these activities are directed towards the issue of threatened or endangered species. These activities will still require comments from the US Fish and Wildlife Service and/or the National Marine Fisheries Service which have jurisdiction over threatened and endangered species before the Corps can issue their 404 permit. Therefore, the Department has a reasonable assurance that these concerns will be addressed. Further, the Department's OCRM office will still continue to issue direct permits for alteration of the critical area for these activities that also provide a means to address the threatened or endangered species concerns.

These waivers apply only to the 401 Water Quality Certification. Any Coastal Zone Consistency Certifications and the Critical Area Permits issued by the Department's OCRM office are not affected by this action. In light of continuing budget reductions, the Department will periodically evaluate our project workloads to determine if other changes are necessary.