

15A NCAC 02T .0120 HISTORICAL CONSIDERATION IN PERMIT APPROVAL

(a) The Division shall consider an applicant's compliance history in accordance with G.S. 143-215.1(b)(4)b.2. and with the requirements contained in this Rule for environmental permits and certifications issued pursuant to Article 21.

(b) When any of the following apply, permits for new and expanding facilities shall not be granted unless the Division determines that the permit is specifically and solely needed for the construction of facilities to resolve non-compliance with any environmental statute or rule:

- (1) The applicant or any parent, subsidiary, or other affiliate of the applicant has been convicted of environmental crimes under G.S. 143-215.6B or under Federal law that would otherwise be prosecuted under G.S. 143-215.6B and all appeals of this conviction have been abandoned or exhausted.
- (2) The applicant or any parent, subsidiary, or other affiliate of the applicant has previously abandoned a wastewater treatment facility without properly closing the facility in accordance with its permit or this Subchapter.
- (3) The applicant or any parent, subsidiary, or other affiliate of the applicant has not paid a civil penalty and all appeals of this penalty have been abandoned or exhausted.
- (4) The applicant or any parent, subsidiary, or other affiliate of the applicant is currently not compliant with any compliance schedule in a permit, settlement agreement, or order.
- (5) The applicant or any parent, subsidiary, or other affiliate of the applicant has not paid an annual fee in accordance with Rule .0105(e)(2) of this Section.

(c) Permits for renewing facilities shall not be granted if the applicant or any affiliation has not paid an annual fee in accordance with Rule .0105(e)(2) of this Section.

(d) Any variance to this Rule shall be subject to approval by the Director and shall be based on the current compliance status of the permittee's facilities and the magnitude of previous violations. Variance approval shall not be delegated to subordinate staff.

*History Note: Authority G.S. 143-215.1(b); 143-215.3(a);
Eff. September 1, 2006;
Readopted Eff. September 1, 2018.*