



Severe Weather Cleanup Activities: §401 Water Quality Certification (WQC)

Kentucky is frequently impacted by severe weather that results in infrastructure damage requiring clean-up/repair efforts. Clean-up/repair activities across and along streams often involves removing stream obstructions, stabilizing stream banks, and replacing or upgrading culverts and bridges. FEMA can provide financial compensation for qualified projects. This is guidance on §401 Water Quality Certification requirements for communities conducting clean-up/repair projects and seeking FEMA Public Assistance program funding.

What is §401 Water Quality Certification (WQC)?

A Water Quality Certification (WQC) from the Kentucky Division of Water is required for activities that include the placement of fill material (e.g., concrete, soil, rock, culverts) into a stream or wetland. The Water Quality Certification Program is the Commonwealth's review and authorization of the U.S. Army Corps of Engineers (USACE) §404 Permit, including Nationwide Permits. Pursuant to 33 CFR 323.4(a)(2), emergency reconstruction of [some] recently damaged parts of currently serviceable structures, are not subject to regulation under §404. Contact the USACE for information regarding §404 regulatory requirements.

Before You Work

Federal assistance is available to state and local governments and certain types of private nonprofit organizations following a Presidential disaster declaration on a reimbursable basis through FEMA's Public Assistance (PA) program. To receive funding through the PA program grants, applicants must be able to verify compliance with all permitting requirements.

Prior to beginning infrastructure clean-up/repair work within a stream or wetland, take the following steps to ensure you are better prepared to provide documentation for reimbursement:

Step 1. Ask yourself "Do I have the following information?"

- Photographs of the damaged area before and after repairs are performed
- Geographic coordinates and Name of stream impacted (identified stream name or tributary of identified stream name)
- Linear feet of stream impacted or acreage of wetland impacted during construction
- Description of work completed or to be completed
- Description of materials and approaches used or to be used

Step 2. Does this activity qualify for an USACE Nationwide Permit and the corresponding KY Division of Water General Certification?

Step 3. Does USACE require pre-construction notification?

Step 4. Submit an application to the Division and contact the USACE for additional guidance if the activity does not qualify under an USACE Nationwide Permit and General Certification.

General Certifications and Nationwide Permits

Many common clean-up/repair activities conducted under the FEMA Public Assistance program may qualify for the following General Water Quality Certifications of USACE Nationwide Permits. Contact the USACE to determine if the proposed activity qualifies for a Nationwide Permit.

The activity is considered "certified" if it qualifies for coverage under the Nationwide Permit and the corresponding General Certification. The work can be authorized by letter from the Division at the request of the applicant.

Repair and/or Cleanup Activity	General Certification of Nationwide Permit	*Special Conditions
Replacing culverts and bridges	#03: Maintenance	Like-for-Like or only minor deviations from original configuration
Stabilizing Stream Banks	#13: Bank Stabilization	No grouted rip-rap/poured concrete and impacts less than 500 linear feet of stream bank
Road stabilization or repair; Upgrading culverts and bridges	#14 Linear Transportation Projects	Impacts are limited to the minimum necessary to construct or protect the activity
Accumulated debris removal	#18: Minor Discharges	Material discharged may not exceed 25 cubic yards
Restoring upland areas damaged by storms or floods	#45: Repair of Uplands Damaged by Discrete Events	Work limited to amount necessary to restore upland

*See the [Nationwide Permit](#) and [General Certifications](#) for the **full list of required conditions**.

Individual Certifications

The proposed activity will require an Individual Water Quality Certification if the activity does not qualify for General Certification. Applicants should submit a completed ‘Application for Permit to Construct Along or Across a Stream and/or Water Quality Certification’ for activities requiring Individual Certification. The application is available online at the [Division of Water webpage](#) and may be digitally submitted by emailing DOWFloodplain@ky.gov. Examples of activities that require Individual Certifications include:

- Activities that do not meet the conditions of the General Certifications OR exceed impact limits
- Activities conducted in Kentucky’s Special Use Waters. Contact the WQC Section prior to starting work in Special Use Waters.

Special Use Waters

Special Use Waters are rivers, streams, and lakes that receive additional water quality protections. These waters may support Federally endangered or threatened species and/or have exceptional water quality. These special uses include Outstanding State Resource Waters, Coldwater Aquatic Habitat, Reference Reach Streams, Exceptional Waters, and other categories. The [Special Use Waters webpage](#) provides a listing of these waters.

Removing Stream Obstructions

Log jams, fallen trees, sediment, and debris can build up and obstruct flow in ditches, streams, culverts, and under bridges during and after periods of heavy rainfall. The Division has prepared a [‘Stream Maintenance Guide and FAQ’](#) to inform property owners how to remove obstructions and what activities may require a permit.

RESOURCES

[§401 Water Quality Certification webpage](#) or email 401WQC@ky.gov.

[Special Use Waters maps and information](#)

Contact the U.S. Army Corps of Engineers (USACE) at their district offices:

- [Louisville District](#)
- [Memphis District](#)
- [Nashville District](#)

Find your [community’s Floodplain Coordinator](#) for assistance with Floodplain Permits and Water Quality Certifications

Contact the Division of Water: [Division of Water webpage](#) or (502) 564-3410