



## Fact Sheet

# §401 Water Quality Certification

July 2019

### What is §401 Water Quality Certification?

The Kentucky Division of Water's §401 Water Quality Certification Program is the Commonwealth's review and authorization of select federal licenses and permits. Any person, firm, or agency (including federal, state, and local government agencies) planning to work in jurisdictional waters of the United States, or dump or place dredged or fill material in waters of the U.S. should contact the U.S. Army Corps of Engineers (USACE) office in your area and the Division of Water, Water Quality Certification Section to obtain a permit and certification. A §401 Water Quality Certification from the Division affirms that the discharge will not violate Kentucky's water quality standards. Examples of federal licenses and permits subject to §401 Water Quality Certification include Clean Water Act §404 permits for discharge of dredged or fill material issued by the USACE, Federal Energy Regulatory Commission (FERC) hydropower licenses, and Rivers and Harbors Act §9 and §10 permits for activities that have a potential discharge in navigable waters issued by the USACE.

### Who must apply for a §401 Water Quality Certification?

Any person who wishes to place dredged or fill material into wetlands or streams must apply to the Kentucky Division of Water for a §401 Water Quality Certification to determine if the proposed activity meets the applicable conditions for a Nationwide Permit and General Certification or if an Individual Certification is required. Examples of activities that may require a §401 Water Quality Certification include:

- stream relocation
- stream crossings
- road construction
- marinas/docks
- placing culverts in streams
- commercial development
- residential subdivisions
- mining operations
- filling wetlands

### What are Nationwide Permits?

Specific activities that will have minimal environmental impacts may be authorized by the USACE under Nationwide Permits. Kentucky has its own corresponding General Certifications for many of the Nationwide Permits. If the proposed activity meets the conditions of the USACE Nationwide Permit and Kentucky's corresponding General Certification, the project typically does not require an Individual Certification. A project may require an Individual Certification even if the project is covered by a Nationwide Permit.

### What is the application process?

Applicants should complete an *Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification* and submit it to the Division of Water. Division staff may contact the applicant for further information in order to complete their review. Division staff will determine if the proposed activity qualifies for a General Certification of a Nationwide Permit or if an Individual Certification is required. If the activity requires an Individual Certification, the complete application is posted to a 30 day public notice period on the Cabinet's website. An application fee may be required.

### Resources

[Water Quality Certification](#)

[Division of Water Public Notices and Hearings](#)

[Kentucky Energy and Environment Cabinet \(eec.ky.gov\)](http://eec.ky.gov)

[U.S. Army Corps of Engineers](#)

### **Contact the Division of Water, Water Quality Certification Section:**

Email: [401WQC@ky.gov](mailto:401WQC@ky.gov)

Phone: (502) 564-3410

Webpage: [Water Quality Certification](#)