

# Kentucky Erosion Prevention and Sediment Control Guide

A guide to preventing erosion and controlling sediment from construction activities in Kentucky

## Section 401 Water Quality Certification

Anyone planning to conduct activities that result in physical disturbances to wetlands or streams will need a Water Quality Certification (WQC) under Section 401 of the Clean Water Act to ensure that Kentucky Water Quality Standards will not be violated (see Regulatory Information). Activities which require federal licenses or permits also require a Section 401 WQC.

Activities that involve the discharge of dredged or fill materials into waters of the United States, including wetlands, are regulated by the U.S. Army Corps of Engineers under Clean Water Act Section 404 and require a Section 401 WQC.

Examples of activities which may require a Section 404 permit and Section 401 Water Quality Certification include: stream relocations, road crossings, stream bank protection, construction of boat ramps, placing fill, grading, dredging, ditching, mechanically clearing a wetland, building in a wetland, constructing a dam or dike and stream diversions.

In Kentucky, the Water Quality Certification Section is responsible for implementing the Section 401 program. General permits provide a streamlined means for the Division of Water (DOW) and U.S. Army Corps of Engineers (USACE) to approve common activities resulting in minimal impacts to surface waters. The USACE has authorized Nationwide Permits (NWP) for specific activities within surface waters. Each NWP has a corresponding Water Quality Certification determination from the DOW and is either certified as written, certified with conditions, or denied by the DOW. A list of General WQCs can be found at:

[eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/General-WQ-Certification.aspx](http://eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/General-WQ-Certification.aspx).

Applicants should contact their area U.S. Army Corps of Engineers District Office for information regarding NWPs and CWA §404 permitting requirements. A listing of USACE regional offices: [eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/Related-Agencies.aspx](http://eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/Related-Agencies.aspx).

If you are unable to comply with the conditions of a General WQC, you must obtain an individual WQC.

For wetland-related impacts involving greater than half an acre of wetland loss, the applicant should submit an application. More information is available at [§401 Water Quality Certification - Kentucky Energy and Environment Cabinet](#). Wetland losses involving greater than one tenth of an acre may be regulated by the U.S. Army Corps of Engineers and compensatory mitigation may be required. The U.S. Army Corps of Engineers is responsible for making official, jurisdictional wetland determinations.

For stream-related impacts that involve more than 300 linear feet of stream disturbance, the applicant should submit detailed plan and profile drawings along with the application-. Impacts in streams or lakes designated as Special Use Waters, full support aquatic life, or impaired for a habitat parameter require an individual WQC and special attention should be paid to the sediment and erosion control plan. For more information, see [eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/default.aspx](http://eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/default.aspx).