

WATER QUALITY CERTIFICATION

Kentucky Division of Water

What is 401 Water Quality Certification?

Section 401 of the Clean Water Act (CWA) requires state agencies to evaluate projects that may result in the discharge of dredged or fill material into the waters of the U.S. in order to determine whether the discharge will violate the state's water quality standards. A section 401 water quality certification (WQC) is required for federal permits such as the U.S Army Corps of Engineers 404 permit.

Who must apply for a 401 certification?

Any person who wishes to place dredged or fill material into wetlands or streams must apply for a Section 401 certification to determine if an individual certification is needed or if the project meets the applicable conditions for a nationwide permit and general certification. Projects that are typically regulated include construction activities at highways, marinas/docks, shopping malls, housing subdivisions and mining operations, but also include smaller projects such as stream rerouting, stream crossings, placing culverts in streams, filling wetlands, etc.

How do I know if I need a 401 WQC?

If you are working in or near a stream and/or wetland you may need a 401 WQC. Applicants wanting to do work should submit an application to the Division of Water's (DOW) Water Quality Certification Section (502-782-6970).

What are Nationwide Permits?

Specific activities that will have minimal environmental impacts may be authorized by the Army Corps of Engineers (USACE) under Nationwide Permits (NWP). Kentucky has its own corresponding general certifications for many of these NWPs. If the activities meet the conditions of the USACE NWP and Kentucky's corresponding general certification, the project typically does not need an individual 401 WQC. There are some projects that may require an individual 401 even though they are covered by the NWPs. USACE will notify the applicant in these situations. There are currently NWPs for approximately 52 specific activities.

What is the application process?

Applicants should complete an application and submit it to the DOW. Staff may contact the applicants for further information in order to complete their review. During this time, 401 WQC staff will determine if the project qualifies for a NWP/general certification, or if an individual certification is needed. After a complete application is submitted, a public notice must be issued regarding the submittal for all individual certifications for a period of 30 days. A fee may be associated with individual water quality certifications and is determined once an application has been submitted.

You can find more information and the application here: [§401 Water Quality Certification - Kentucky Energy and Environment Cabinet](#)