

*Application for
Individual Water Quality State 401 Certification
State of West Virginia*



*for
Non Coal Related Facilities*

**STATE OF WEST VIRGINIA
APPLICATION FOR 401 WATER QUALITY CERTIFICATION
FOR NON COAL RELATED ACTIVITY**

This application must be completed whenever a proposed activity requires a Clean Water Act Section 401 Individual State Water Quality Certification from the West Virginia Department of Environmental Protection (WVDEP). Section 401 of the Clean Water Act requires that any applicant for a federal license or permit to conduct an activity that will or may discharge into waters of the United States (as defined in the Clean Water Act) to present the federal authority with a certification from the appropriate state agency. Federal license and/or permits requiring 401 Certification include those from the United States Army Corps of Engineers under Section 404 of the Clean Water Act, 33 U.S.C. §1344; Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. §403; and licenses issued by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. §1791 et. seq. To determine whether you need to submit this application to the WVDEP, contact the U.S. Army Corps of Engineers District Office with jurisdiction over your permit area, and the WVDEP - Division of Water and Waste Management at (304) 926-0499 X 1599.

The WVDEP Section 401 Water Quality Certification program, is authorized by Section 401 of the Federal Clean Water Act, 33 U.S.C. §1341 and W. Va. Code §§22-1-6(d)(7) and 22-11-7(a). West Virginia Legislative Rule §47CSR5A outlines the application process and criteria for decision by the Secretary of the WVDEP. In order for the WVDEP to issue a Section 401 Certification, the project must comply with the State Water Quality Standards (§47CSR2) and not potentially result in an adverse long-term or short-term impact on water quality. Included with the Water Quality Standards is the Antidegradation Implementation Rule (§60CSR5) effective July 2, 2001. The Rule includes additional application requirements and public participation procedures. Because there is a potential for lowering of water quality, or impacts to designated uses, associated with every project being reviewed for Section 401 Certification, every applicant must provide the information required of this application.

Information provided with the application will be used to evaluate the project for certification and is a matter of public record. If the Secretary determines that the application lacks information necessary to determine whether the applicant has demonstrated the criteria set forth in Legislative Rule 47CSR5A, the WVDEP will inform the applicant in writing of the additional information that must be submitted. The application will not be accepted until it is considered complete by the Department. You will be informed in writing when your application is determined to be complete.

Please submit the following with the \$350 application fee to: Division of Water and Waste Management, Section 401 Program, 601 57th Street SE, Charleston, West Virginia 25304

- * Two (2) sets of the completed application form, or an electronic application including a map of location and scaled plan drawings and sections.

Please submit two (2) copies of this form along with the \$350 filing fee for review. Any information missing in this package will be considered incomplete. A full permit review will not be made until all information is provided. The Department of Environmental Protection will notify you of any missing and/or further information necessary for a proper and thorough review for certification.

For Agency Use Only

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|--------------------------|---|
| Date Received by Agency: | DEP Application No.: |
| Public Notice No.: | Filing Fee of \$350 received: Check No.: |
| Reviewer's Name: | Date Application Deemed Complete: |

APPLICANT INFORMATION

| | | | | | |
|-------------------|--------|-----------|-------------------|--------|-----------|
| Applicant Name: | | | Agent Name: | | |
| _____ | | | _____ | | |
| Company: | | Company: | | | |
| _____ | | _____ | | | |
| Address: | | Address: | | | |
| _____ | | _____ | | | |
| City: | State: | Zip Code: | City: | State: | Zip Code: |
| _____ | _____ | _____ | _____ | _____ | _____ |
| Telephone Number: | | | Telephone Number: | | |
| _____ | | | _____ | | |
| Email Address: | | | Email Address: | | |
| _____ | | | _____ | | |

PROJECT DESCRIPTION

State the type of federal permit applicant is applying for:

_____ Individual 404/401 Certification – Corps Public Notice # _____

_____ Nationwide 404 permit requiring 401 Certification – Nationwide Permit # _____

_____ 404 permit modification requiring 401 Certification – Original Corps Public Notice # _____

_____ Section 10 of the Rivers and Harbors Act permit – Corps Public Notice # _____

_____ Federal Energy Regulatory Commission Licenses – FERC Project # _____

Type of Operation: _____

Activity proposed in stream or wetland: _____

Project Purpose: _____

Briefly describe proposed project: _____

WETLANDS DELINEATION (See Instructions)

STREAM RESTORATION PLAN (See Instructions)

MITIGATION / COMPENSATION AGREEMENT
Include West Virginia Stream and Wetland Valuation Metric (See Instructions)

SIGNATURE – STATEMENT OF AFFIRMATION

Please read carefully before signing

Application is hereby made for a water quality certification to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true and accurate. I certify that I have the authority to undertake the activities proposed in the application. I understand and agree to allow representatives of the Department of Environmental Protection to enter upon said property in order to inspect the proposed project. I understand that the granting of other permits by local, state or federal agencies does not release me from the requirements of obtaining the certification requested herein before commencing the project.

Applicants Printed Name: _____

Applicant's Signature: _____ Date: _____

PUBLIC NOTICE

Publication Date: _____

Expiration Date: _____ 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

State Water Quality Certification, as required by Section 401 of the Clean Water Act, has been requested of the West Virginia Department of Environmental Protection (WVDEP) for:

(Name of Project)

(Name and address of Applicant)

SCOPE OF CERTIFICATION: Pursuant to Section 401 of the Federal Clean Water Act, the State may, either certify, certify with conditions, deny or waive certification that the proposed activity will comply with Sections 301, 302, 303, 306 and 307 of the Federal Clean Water Act and other appropriate requirements of State law. When issuing certification, the WVDEP may consider the proposed activity's impact on water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources under its jurisdiction. Procedural and interpretive regulations governing the scope of the Department's certification, public comment, hearings and appeals are in Title 47, Series 5A.

DESCRIPTION OF THE ACTIVITY: Provide a description which details the activity proposed for the wetland, river or stream to be affected.

Any other State issued permit numbers, if applicable and available:

PROJECT LOCATION: Provide a general highway map showing location of project and include mile point for rivers and streams.

INFORMATION AVAILABLE: The Water Quality Certification application is available for inspection between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the following location:

WV Department of Environmental Protection
Division of Water and Waste Management
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304

COMMENTS: Comments and information relating to Section 401 Water Quality Certification for this activity are hereby solicited. Such information on the activity's impact will be considered if postmarked prior to the expiration date of this notice. The need for a public hearing will be determined based on an evaluation of specific request for such hearing. All comments and information should be mailed to:

WV Department of Environmental Protection
Division of Water and Waste Management
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304

Comments and information postmarked later than the expiration date may not be considered.