

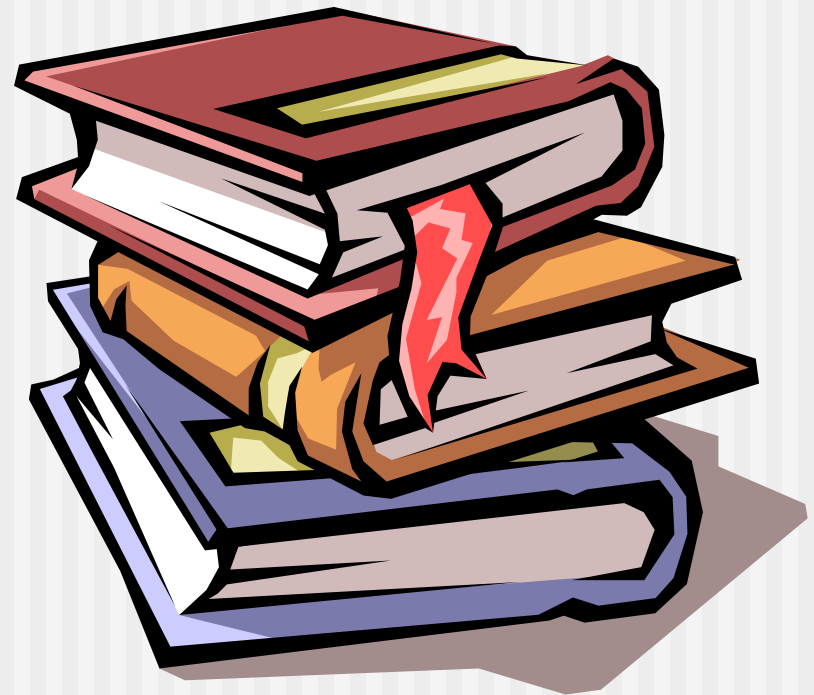
Overview of the 401 WQC Process

Main Topics

- Relationship between Clean Water Act Sections 404 and 401
- State permitting processes
- Specifics of Kentucky's 401 Water Quality Certification program

Clean Water Act

- US Environmental Protection Agency administers all of CWA except for:
- Section 404 administered by U.S. Army Corps of Engineers
- Section 401 administered by KY Division of Water



Relationship between Sections 404 & 401

1. Section 404 – Permits for dredged or fill material

2. Section 401 – Certification

- Sec 401(a)(1) Any applicant for a Federal license or permit to conduct any activity,which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate

Marriage of 404 & 401

- Section 401 is the state oversight of a federal program
- KDOW must issue a 401 Water Quality Certification for a 404 DA permit to be valid



Section 404 Permit Application

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (33 C.M. 326)		OMB APPROVAL NO. 0710-0063 Expires December 31, 2004
<p>The Public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0710-0063), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of these addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.</p>		
PRIVACY ACT STATEMENT		
<p>Authority: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Media Protection, Research and Development Act, Section 103, 33 USC 1413. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Use: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary; however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproductions copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.</p>		
ITEMS TO TURN IN TO FIELD BY THE APPLICANT		
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED
4. DATE APPLICATION COMPLETED		
ITEMS TO BE FILLED BY APPLICANT		
5. APPLICANT'S NAME		6. AUTHORIZED AGENT'S NAME AND TITLE (agent or applicant)
7. APPLICANT'S ADDRESS		8. AGENT'S ADDRESS
9. APPLICANT'S PHONE NO. & AREA CODE		10. AGENT'S PHONE NO. & AREA CODE
a. Residence		a. Residence
b. Business		b. Business
11. STATEMENT OF AUTHORIZATION		
I hereby authorize, _____, to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.		
APPLICANT'S SIGNATURE		DATE
NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY		
12. PROJECT NAME OR TITLE (see instructions)		13. NAME OF WATERBODY, IF KNOWN (if applicable)
14. PROJECT STREET ADDRESS (if applicable)		15. LOCATION OF PROJECT
COUNTY		STATE
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, (see instructions)		
17. DIRECTIONS TO THE SITE		
BUD FORM 424a, Jul 97 EDITION OF FEB 94 IS OBSOLETE. (Prepared by CBCH DR)		

18. Nature of Activity (Description of project, include all details)					
19. Project Purpose (Describe the reason or purpose of the project, see instructions)					
USE BLOCKS 20-22 IF REQUIRED AND/OR ALL MATERIAL IS TO BE DISCHARGED					
20. Material for Discharge					
21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards					
22. Surface Area in Acres of Wetlands or Other Wetland Affect (see instructions)					
23. Is Any Portion of the Work Already Completed? Yes _____ No _____ IF YES, DESCRIBE THE COMPLETED WORK					
24. Address(es) of Adjacent Property Owners, Lessor(s), etc., Where Property Adjacent the Waterbody (If more than can be entered here, please attach a supplemental list).					
25. List of Other Certifications or Approvals (Include Received from other Federal, State or Local Agencies for Work Described in This Application).					
AGENCY	TYPE APPROVAL*	CERTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DUE
*Wetland includes but is not restricted to mining, building and flood plain permits					
26. Application is hereby made for a permit or permits to undertake the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein and am acting as the duly authorized agent of the applicant.					
SIGNATURE OF APPLICANT		DATE	SIGNATURE OF AGENT		DATE
The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.					
18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and unlawfully falsifies, conceals, or covers up any falsity, scheme, or divulges a material fact or makes any false, fraudulent or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fraudulent or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.					

USACE 404 Permits

- The USACE uses Nationwide Permits (NWP) and Individual Permits (IP) to regulate physical impacts to “waters of the United States”
 - Nationwide permits are general permits that cover common activities that have a “minimal” impact
 - Individual Permits are issued for larger impacts and involve a public comment period

USACE Individual Permits

- “A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office.”
 - Louisville District Public Notice standard language

Common Nationwide Permits

- NW #3 - Maintenance Activities
- NW #12 - Utility Line Crossing of Streams
- NW #13 - Bank Stabilization
- NW #14 - Road Crossing of Streams
- NW #21 - Surface Mining Activities
- NW #27 - Stream/Wetland Restoration
- NW #39 - Development

Goal of the 401 WQC

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it **has reasonable assurances that applicable water quality standards, will not be violated by the above referenced project** provided that the U.S. Army Corps of Engineers authorizes the activity ..., and the following conditions are met:

401 Certification of Nationwide Permits

- Options for Certification
 - Certified as Written
 - Certified with Conditions
 - Denied

<http://www.water.ky.gov/permitting/wqcert/WQCoFNW.htm>

http://nrepcapps.ky.gov/special_waters/specialwaters.htm

Individual Water Quality Certifications

- Required for
 - individual 404 permits
 - nationwide permits that are denied
 - projects that don't meet the conditions of a general certification for the appropriate nationwide
- May involve mitigation to compensate the Commonwealth for impacts to a stream or wetland

State Permitting Process

- Section 401 Water Quality Certification
- Permit to Construct Along or Across a Stream (Floodplain Management Section)
- KPDES General Storm Water Permit

When do I need a WQC?

- Technical Answer
 - CWA Section 401
- Safe Answer
 - Waters of the Commonwealth
- Practical Answer
 - Tie back to the DA Permit

When do I need a Floodplain Permit?

- KRS 151.125 and KRS 151.250
- Activities within the 100-year floodplain of all streams in the Commonwealth
- Typical activities
 - Bridges, culverts, placement of fill, stream relocations, buildings

Joint Application Form

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER

APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM
AND / OR WATER QUALITY CERTIFICATION

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. If the project involves work in a stream, such as bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water. This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact John Dvornik at 502/564-3406.

If the project will disturb more than 1 acre of soil, you will also need to complete the attached Notice of Intent for Storm Water Discharges, and return both forms to the Floodplain Management Section of the KDOW. This general permit will require you to create an implement an erosion control plan for the project.

1. OWNER: _____
Give name of person(s), company, governmental unit, or other owner of proposed project.
MAILING ADDRESS: _____
TELEPHONE #: _____ EMAIL: _____
2. AGENT: _____
Give name of person(s) submitting application, if other than owner.
ADDRESS: _____
TELEPHONE #: _____ EMAIL: _____
3. ENGINEER: _____ P.E. NUMBER: _____
Contact Division of Water if waiver can be granted.
TELEPHONE #: _____ EMAIL: _____
4. DESCRIPTION OF CONSTRUCTION: _____
Describe the type and purpose of construction and describe stream impact.

5. COUNTY: _____ NEAREST COMMUNITY: _____
6. USGS QUAD NAME: _____ LATITUDE/LONGITUDE: _____
7. STREAM NAME: _____ WATERSHED SIZE (in acres): _____
8. LINEAR FEET OF STREAM IMPACTED: _____
9. DIRECTIONS TO SITE: _____

Revised 11-03

10. IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE? ☐ Yes ☐ No. If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: _____
11. ESTIMATED BEGIN CONSTRUCTION DATE: _____
12. ESTIMATED END CONSTRUCTION DATE: _____
13. HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS OF ENGINEERS? ☐ Yes ☐ No. If yes, attach a copy of that permit.
14. THE APPLICANT MUST ADDRESS PUBLIC NOTICE:
(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:
Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)
Adjacent property owner(s) affidavit (Contact Division of Water for requirements.)
(b) I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE: _____
Contact Division of Water for requirements.
15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:
Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. LIST OF ATTACHMENTS: _____
List plans, profiles, or other drawings and data submitted. Attach a copy of a USGS 1:25,000 topographic map clearly showing the project location.

17. I, _____ (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).
18. REMARKS: _____

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: _____
Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)
DATE: _____
SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR: _____
Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.
DATE: _____

SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section
Division of Water
14 Reilly Road
Frankfort, KY 40601

Revised 11-03

DOW Review


- Application received
- Scanning
- Conduct Agency Review

Joint Application

- Determination of impact – is a 401 WQC required?
- Do we expect the USACE to cover the project under a nationwide permit?
- Does it qualify for a General Certification?
- Is additional information required?

KPDES Storm Water NOI

KPDES FORM NOI-SW



**Kentucky Pollutant Discharge Elimination System (KPDES)
Notice of Intent (NOI)
for Storm Water Discharges
Associated with Industrial Activity Under the
KPDES General Permit**

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a KPDES permit issued for storm water discharges associated with industrial activity. Becoming a permittee obligates such dischargers to comply with the terms and conditions of the permit.
ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM (See Instructions on back)

I. Facility/Operator Information

Name: _____ Phone: _____
Address: _____
City, State, Zip Code: _____
Owner/Operator: _____

II. Facility/Site Location Information

Name: _____
Address: _____
City, State, Zip Code: _____
County: _____
Site Latitude: _____ Site Longitude: _____
(degrees/minutes/seconds) (degrees/minutes/seconds)

III. Site Activity Information

MIS Operator Name: _____
Receiving Water Body: _____
Are there existing quantitative data? Yes ☐ If Yes, submit with this form.
No ☐
SIC or Designated Activity Code Primary _____ 2nd _____ 3rd _____ 4th _____
If this facility is a member of a Group Application, enter Group Application Number: _____
If you have other existing KPDES Permits, enter Permit Number(s): _____

IV. Additional Information Required FOR CONSTRUCTION ACTIVITIES ONLY

Project Start Date: _____ Completion Date: _____
Estimated Area to be disturbed (in acres): _____
Is the Storm Water Pollution Prevention Plan in Compliance with State and/or Local Sediment and Erosion Plans? Yes ☐ No ☐

V. Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed or Typed Name: _____
Signature: _____ Date: _____

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- Construction sites disturbing 1 acre or more
- Storm water pollution prevention plan
- Notice of Intent

Kentucky's 401 Water Quality Certification Program

Applications Received

- Joint Application Form
- Public Notice
- Applications from KTC or DNR Coal Permittee

Permit Issuance

- General Certification
- Standard Water Quality Certification
- Agreed Order

General Certification

- Specific to a USACE general permit
- Does not require application to the state
- Source of the 200 linear foot 'urban legend'

Standard WQC

- Used for most individual WQCs
 - Projects authorized under a DA Individual Permit
 - Projects qualifying for a DA Nationwide Permit but does not meet conditions of the general WQC
- Standard language
 - Project specific conditions
 - General conditions
- TEMPO format

Agreed Order

- Enforcement cases and resolution of denials
- Projects with mitigation that is experimental
- Projects that occur over a long time frame or where mitigation won't occur for several years
- Allows all parties to be aware of commitments

Questions?

