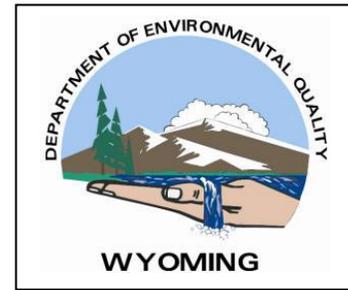


# State of Wyoming

## Department of Environmental Quality

### Water Quality Division



## Water Quality Certification

### Clean Water Act Section 401

**Introduction** The Water Quality Division (WQD) conducts water quality certification reviews under Section 401 of the Clean Water Act (CWA). CWA Section 401 water quality certification is required for any federal license or permit which may result in a fill or discharge into waters of the United States.

**Nationwide and Regional General CWA Section 404 Permits** The WQD has categorically-certified many Nationwide and Regional General Permits with the condition that applicants must comply with the terms and conditions of the permit, including regional conditions, for the certification to be valid. Categorically-certified permits do not require an individual certification by the WQD. In addition, certification has been waived for several Nationwide Permits.

The following permits currently ARE NOT categorically certified or waived, therefore an individual certification is required: Nationwide Permit 16, 17, 23, 31, 34, 38, 40, 43, 44, and 52. Nationwide Permit 13 and 27 ARE NOT categorically certified when certain criteria are met. See the WQD 401 certification website for more information.

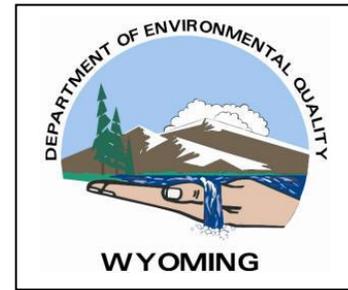
All activities involving a discharge of fill to a Class 1 water or adjacent wetland DO REQUIRE an individual certification, regardless of the type of permit or license used to authorize the activity. A public notice and comment period (14 days) also is required. See the WQD 401 certification website for a list of Class 1 waters.

**Individual CWA 404 Permits** All individual permits require an individual certification by WQD. The public notice and comment period are jointly issued by the Corps and WQD, with the Corps as the lead agency.

**Certification Process** The water quality certification process involves the following steps:

1. The applicant submits a preconstruction notification (PCN) or permit application to the Corps for the activity that is planned. For FERC and other non-404 projects, the application is sent directly to WQD and the process skips to (4) below.
2. The Corps determines if an individual certification is required. If individual certification is not required, the Corps verification letter (if issued) includes standard conditions imposed by WQD on all certifications.
3. If an individual certification is required, the PCN or application package is forwarded to the WQD.
4. WQD reviews the PCN or application package to determine if the discharge is likely to cause non-attainment of water quality standards
5. A public notice is issued (if required)
6. Review of public comments (if required)
7. If necessary, WQD requests additional information from the Corps and/or the applicant.

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8. A final water quality certification decision is issued directly to the applicant, including any special conditions, if appropriate.

**General Requirements for All Certifications** The following requirements apply to all certifications, whether categorical or individual:

1. Discharges of dredged or fill material in excess of that which is required to complete the project are not permitted
2. Discharges to waters not identified in the license or permit are not permitted
3. The permittee shall incorporate appropriate Best Management Practices (BMPs) into the project to ensure compliance with the Clean Water Act and any other conditions placed on the permit or certification.
4. Authorized representatives of WQD shall be permitted to enter the site for inspection purposes. Failure to permit access for inspection may result in revocation of the water quality certification
5. The WQD shall be notified immediately upon discovery of any spill or other discharge to waters of the state not authorized by the applicable license or permit

**Required submittals** For any permit requiring individual certification, the PCN or application shall include the following supplemental information:

1. BMPs: Provide a description of techniques that would be implemented to protect surface water quality through control of pollutants, storm water runoff, and turbidity.
2. Turbidity: WDEQ encourages permittees to apply for a turbidity waiver for excavation activities in Class 1 or 2 waters that are likely to cause an increase in turbidity of more than 10 NTU (15 NTU for Class 2AB ww) above ambient background concentrations. Those applications should be submitted to the WDEQ concurrent with the PCN.
3. PCNs for Nationwide Permit #27 have special requirements, which can be found on the WQD 401 certification website ([http://deq.state.wy.us/wqd/watershed/index.asp#401\\_Certification](http://deq.state.wy.us/wqd/watershed/index.asp#401_Certification)).

**For more information on Wyoming water quality certifications**, please visit [http://deq.state.wy.us/wqd/watershed/index.asp#401\\_Certification](http://deq.state.wy.us/wqd/watershed/index.asp#401_Certification), or contact the water quality certification coordinator:

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