

The Chief of Engineers  
HQUSACE  
Attn: CECW-OR  
Washington, D.C. 20314-1000

Re: All Counties, Cities and Townships in Ohio  
**Modification** of Grants of Clean Water Act section 401 water quality certifications and replaces the certifications issued on March 30, 2012 and April 19, 2012  
Authorization of discharge of dredged or fill material to various waters of the State for the following nationwide permits as published in the February 21, 2012, *Federal Register* (Volume 77, Number 34)  
Ohio EPA ID Numbers 113742 and 123911

Dear Stakeholder:

Pursuant to section 401 of the Federal Water Pollution Control Act, 33 U.S.C. section 1341; Ohio Revised Code chapters 119 and 6111; Ohio Administrative Code chapters 3745-1, 3745-32 and 3745-49; and, the proposed United States Army Corps of Engineers (the Corps) regional conditions public noticed on April 13, 2011, I hereby certify that the nationwide permits (NWP) described herein as issued the March 19, 2012 *Federal Register* and as listed below will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act. These certifications are specifically limited to section 401 water quality certifications (401 WQC) with respect to water pollution and do not relieve the applicant of further certifications or permits as may be necessary under applicable state and federal laws and/or local ordinances. The Corps Civil Works Projects in the State of Ohio are subject to the general and special limitations and conditions of this certification.

I have determined that any lowering of water quality in various waters of the state as authorized by these certifications is necessary. I have considered the technical, social and economic factors concerning these applications and their impact on waters of the state. These certifications are issued for impacts to waters of the state that may occur pursuant to activities authorized by the NWP, as listed below, provided the specified certification conditions are satisfied.

#### Nationwide Permits

1. Aids to Navigation (Section 10 Only - No 401 WQC Required)
2. Structures in Artificial Canals (Section 10 Only - No 401 WQC Required)
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices

FINAL 401 WQC Modification for the NWP

6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Continental Shelf (Not Applicable in Ohio)
9. Structures in Fleeting and Anchorage Areas (Section 10 Only - No 401 WQC Required)
10. Mooring Buoys (Section 10 Only - No 401 WQC Required)
11. Temporary Recreational Structures (Section 10 Only - No 401 WQC Required)
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects (Denied - Individual 401 WQC Required)
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs (Not Applicable in Ohio)
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas (Section 10 Only - No 401 WQC Required)
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins (Section 10 Only - 401 WQC Required)
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities (Denied - Individual 401 WQC Required)
45. Repair of Uplands Damaged by Discrete Events

46. Discharges into Ditches (Denied - Individual 401 WQC Required)
47. [Reserved]
48. Existing Commercial Shellfish Aquaculture Activities (Denied - Individual 401 WQC Required)
49. Coal Remining Activities (401 WQC issued on April 19, 2012)
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects (Denied - Individual 401 WQC Required)

**PART ONE: GENERAL LIMITATIONS AND CONDITIONS FOR ALL OHIO EPA CERTIFIED NATIONWIDE PERMITS**

**A. CULVERTS**

For intermittent and perennial streams:

1. When practicable, bottomless or buried culverts are required when culvert size is greater than 36" in diameter. This condition does not apply if the culverts have a gradient of greater than 1% grade or installed on bedrock. A buried culvert means that the bottom 10% by dimension shall be buried below the existing stream bed elevation.
2. The culvert shall be designed and sized to accommodate bankfull discharge and match the existing depth of flow to facilitate the passage of aquatic organisms.
3. When practicable, culverts shall be installed at the existing streambed slope, to allow for the natural movement of bedload and aquatic organisms.

**B. BEST MANAGEMENT PRACTICES**

1. Unless subject to a more specific storm water National Pollutant Discharge Elimination System (NPDES) permit, all best management practices for storm water management shall be designed and implemented in accordance with the most current edition of the NPDES construction general permit available at: [http://www.epa.ohio.gov/dsw/storm/construction\\_index.aspx#Construction%20General%20Permit](http://www.epa.ohio.gov/dsw/storm/construction_index.aspx#Construction%20General%20Permit), or any watershed specific construction general permit.
2. Sediment and erosion control measures and best management practices must be designed, installed, and maintained in effective operating condition at all times during construction activities. Proper maintenance ensures corrective measures will be implemented for failed controls within 48 hours of discovery.

3. For perennial and intermittent streams, in-stream sediment control measures shall not be utilized, with the exception of turbidity curtains parallel to the stream bank, for the purpose of sediment collection. All sediment and erosion control measures shall be entirely removed and the natural grade of the site restored once construction is completed.
4. All avoided water resources and associated buffers/riparian areas shall be demarcated in the field and protected with suitable materials (e.g., silt fencing, snow fencing, signage, etc.) prior to site disturbance. These materials shall remain in place and be maintained throughout the construction process and shall be entirely removed once construction is completed.
5. Disturbance and removal of vegetation from the project construction area is to be avoided where possible and minimized to the maximum extent practicable. Entry to surface waters shall be through a single point of access to the maximum extent practicable to minimize disturbance to riparian habitat. Unavoidable temporary impacts to forested riparian habitat shall be restored as soon as practicable after in-water work is complete using tree and shrub species native to the specific ecoregion where the project is located.
6. All dredged material placed at an upland site shall be controlled so that sediment runoff to adjacent surface waters is minimized to the maximum extent practicable.
7. Straw bales shall not be used as a form of sediment control unless used in conjunction with another structural control such as silt fencing.
8. Heavy equipment shall not be placed below the ordinary high water mark of any surface water, except when no other alternative is practicable.
9. Temporary fill for purposes of access or staging shall consist of suitable non-erodible material and shall be maintained to minimize erosion.
10. Chromated copper arsenate (CCA) and creosote treated lumber shall not be used in structures that come into contact with waters of the state.
11. All dewatering activities must be conducted in such a manner that does NOT result in a violation of water quality standards.
12. All areas of final grade must be protected from erosion within seven days.
13. All disturbed areas which remain dormant in excess of fourteen days must be protected from erosion within seven days from the last earth disturbing activity.

14. In the event of authorized in-stream activities, provisions must be established to redirect the stream flow around or through active areas of construction in a stabilized, non-erosive manner to the maximum extent possible.

### **C. MITIGATION**

1. Compensatory mitigation is required for the discharge of dredged or fill material into wetlands, for permanent impacts exceeding 0.10 acres.
2. When required, compensatory mitigation shall be provided in accordance with chapters 3745-1 and 3745-32 of the Ohio Administrative Code.
3. When compensatory mitigation will be provided wholly or in part at a mitigation bank or through an in-lieu fee program, credit purchase shall only be authorized at those banks or in-lieu fee programs approved by the interagency review team and have an active instrument signed by the director of Ohio EPA.
4. Compensatory mitigation for stream impacts, if required, shall be conducted in accordance with the requirements in the applicable Nationwide Permit.

### **D. DIRECTOR'S AUTHORIZATION**

1. In accordance with the procedures outlined in Appendix A, Ohio EPA may grant coverage under this certification for any project that does not meet one or more of the terms and conditions for eligibility of this certification or where the district engineer has been granted authority to waive certain requirements. Coverage may be granted when Ohio EPA determines, consistent with the special limitations and conditions for each certification, and after considering comments received on the requested director's authorization, that a project will have such a minimal impact on water quality that an individual 401 WQC is not necessary provided all other terms and conditions of this certification have been met. If a director's authorization is not granted, an individual 401 WQC must be obtained. In no case may a director's authorization issued under this certification exceed an impact threshold authorized by the Corps' Nationwide Permit.

### **E. MISCELLANEOUS**

1. Authorization under this certification does not relieve the certification holder from the responsibility of obtaining any other federal, state or local permits, approvals or authorizations.
2. For purposes of this certification the Corps' definition of single and complete linear and non-linear projects shall be applied to all conditions regarding impacts, mitigation, and Director's Authorizations. If a project includes impacts that are ineligible under this certification, an applicant must apply for an individual 401

WQC or a Director's Authorization for those impacts to resources that do not meet one or more of the terms and conditions within this certification.

3. For purposes of this certification temporary impact means temporary activities which facilitate the nature of the activity or aid in the access, staging, or development of construction that are short term in nature and which are expected, upon removal of the temporary impact, to result in the surface water returning to conditions which support pre-impact biological function with minimal or no human intervention within 12 months following the completion of the temporary impact. Examples of temporary impacts include, but are not limited to access roads, work pads, staging areas, and stream crossings, including utility corridors. Activities that result in a wetland conversion (e.g. forested to non-forested) are not considered temporary impacts.
4. In the event that the issuance of a nationwide permit by the Corps requires individual 401 WQC for an activity that constitutes an emergency as defined in 33 CFR 325.2(e)(4), the limitation and/or condition requiring the individual 401 WQC is not applicable and the project may proceed upon approval by the Corps provided all other terms of this certification, including mitigation, are met.
5. Representatives from Ohio EPA, Division of Surface Water will be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this certification. This includes, but is not limited to, access to and copies of any records that must be kept under the conditions of this certification; and, authorization to sample and/or monitor any discharge activity or mitigation site. Ohio EPA will make a reasonable attempt to notify the applicant of its intention to inspect the site in advance of that inspection.
6. Impacts as referenced in this certification consist of waters of the state directly impacted by the placement of fill or dredged material. Fill material does not include temporary swamp or timber mats unless the mats have the effect of raising the bottom elevation of the aquatic resource.
7. In accordance with the procedures outlined in Appendix B, and where specifically addressed in the special limitations and conditions of this certification, an applicant proposing to impact a wetland shall perform a wetland characterization analysis consistent with the Ohio Rapid Assessment Method (ORAM) to demonstrate wetland category for all projects requiring pre-construction notification (PCN) to the Corps.

8. In accordance with the procedures outlined in Appendix C, and where specifically addressed in the special limitations and conditions of this certification, an applicant proposing to impact a stream shall determine the eligibility of the stream proposed for impact for all projects requiring PCN to the Corps.

**PART TWO: SPECIAL LIMITATIONS AND CONDITIONS FOR OHIO EPA CERTIFIED NATIONWIDE PERMITS**

***Nationwide Permit 1 (Aids to Navigation)***

No 401 WQC required.

***Nationwide Permit 2 (Structures in Artificial Canals)***

No 401 WQC required.

***Nationwide Permit 3 (Maintenance)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Temporary or permanent impacts to category 3 wetlands are limited to less than 0.1 acres for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need. Ohio EPA will make the determination if a project meets public need if the wetland is determined to be category 3.
3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to 0.50 acres.
4. This certification does not authorize the replacement of existing structures that are open to the flow of water with structures that are not open to the flow of water.
5. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.
6. Replacement vertical bulkheads shall not be placed more than an average of one foot waterward of the intersection of the ordinary high water mark of the waterbody and the existing shoreline.
7. Removal of accumulated sediment shall occur only once per year and shall be limited to low-flow conditions, except in cases of emergency situations that threaten life or property.

8. For projects which involve temporary impacts to wetlands: upon the cessation of earth moving activities, any hydric topsoil removed from a wetland shall be separated and saved for later placement as the topmost backfill layer when the wetland is restored to grade.

***Nationwide Permit 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. streams located in ineligible areas as depicted in the GIS NWP's Stream Eligibility Map, Appendix C;
  - d. streams located in possibly eligible areas as depicted in the GIS NWP's Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 5 (Scientific Measurement Devices)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. state wild and scenic rivers;
  - d. national wild and scenic rivers; and
  - e. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 6 (Survey Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts, other than the backfilling of exploratory-type bore holes less than or equal to 12 inches in diameter, are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. streams located in ineligible areas as depicted in the GIS NWP's Stream Eligibility Map, Appendix C;
  - d. streams located in possibly eligible areas as depicted in the GIS NWP's Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and

- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 7 (Outfall Structures and Associated Intake Structures)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Except for maintenance activities authorized under this nationwide permit, individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. streams located in ineligible areas as depicted in the GIS NWP's Stream Eligibility Map, Appendix C;
  - d. streams located in possibly eligible areas as depicted in the GIS NWP's Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 8 (Oil and Gas Structures on the Outer Continental Shelf)***

Not applicable.

***Nationwide Permit 9 (Structures in Fleeting and Anchorage Areas)***

No 401 WQC required.

***Nationwide Permit 10 (Mooring Buoys)***

No 401 WQC required.

***Nationwide Permit 11 (Temporary Recreational Structures)***

No 401 WQC required.

***Nationwide Permit 12 (Utility activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Except for maintenance activities authorized under this nationwide permit, individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 1 or 2 wetlands when impacts exceed 0.50 acres;
  - b. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - c. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - d. state wild and scenic rivers;
  - e. national wild and scenic rivers; and
  - f. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. Temporary or permanent impacts to category 3 wetlands are limited to less than 0.1 acres for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need. Ohio EPA will make the determination if a project meets public need during the ORAM wetland category review.

4. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.
5. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.
6. All hydric soils up to 12 inches in depth within wetlands shall be stockpiled and replaced as the topmost backfill layer. Best management practices, such as silt fencing and soil stabilization, shall be implemented to reduce erosion and sediment run-off into adjacent wetlands.
7. Buried utility lines shall be installed at a 90 degree angle to the stream bank to the maximum extent practicable. When a 90 degree angle is not possible, the length of any buried utility line within any single water body shall not exceed twice the width of that water body at the location of the crossing.
8. The total width of any excavation, grading or mechanized clearing of vegetation and soil shall not exceed a maximum of 50 feet.

***Nationwide Permit 13 (Bank Stabilization)***

1. Unless otherwise stated, the certification conditions listed below apply to all bank stabilization projects.
2. Ohio state certification general limitations and conditions apply to this nationwide permit.
3. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;

- f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
4. Bioengineering techniques shall be utilized, if practicable.
  5. Material used for bank stabilization shall be free from toxic contaminants in other than trace quantities, free of exposed rebar, free of debris and may consist of rock, stone, vegetative erosion control measures, broken concrete rubble and clean soil. Asphalt and tires are explicitly excluded as materials suitable for bank stabilization.
  6. Vertical bulkheads shall not be placed more than one foot waterward of the intersection of the ordinary high water mark of the water body and the existing shoreline. Toe stone shall be placed at the base of the vertical bulkhead except in areas where the original shoreline is composed of bedrock and slopes are predominantly greater than 75 percent or where the placement of toe stone will interfere with shipping activity. When required, toe stone shall be placed at an average rate of one-third the total height of the exposed face of the vertical bulkhead at a 2:1 slope.

***Nationwide Permit 14 (Linear Transportation Projects)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Except for maintenance activities authorized under this nationwide permit, individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the any of following waters:
  - a. category 1 and category 2 wetlands when impacts exceed 0.50 acres.
  - b. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - c. Streams located in possibly eligible areas as depicted in the GIS NWP's Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - d. state wild and scenic rivers;

- e. national wild and scenic rivers; and
  - f. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. Temporary or permanent impacts to category 3 wetlands are limited to less than 0.1 acres for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need. Ohio EPA will make the determination if a project meets public need during the ORAM wetland category review.
  4. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.
  5. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 15 (U.S. Coast Guard Approved Bridges)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and

- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 16 (Return Water from Upland Contained Disposal Areas)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the any of following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP's Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. This nationwide permit shall be limited to the authorization of the disposal of materials dredged from sites where there are no known areas of contaminated sediments, provided best management practices are used to minimize adverse impacts to water quality.

***Nationwide Permit 17 (Hydropower Projects)***

Individual 401 WQC is required for the use of this nationwide permit.

***Nationwide Permit 18 (Minor Discharges)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.1 acre;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. This nationwide permit shall not authorize disposal of dredged material into Lake Erie where that is the primary project purpose.

***Nationwide Permit 19 (Minor Dredging)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

***Nationwide Permit 20 (Response Operations for Oil and Hazardous Substances)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. This certification does not authorize impacts, temporary or permanent, to wetlands for the purpose of spill response training exercises.

***Nationwide Permit 21 (Surface Coal Mining Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual 401 WQC is required for the use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies, which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For every project which authorization under this nationwide permit is sought, the applicant shall provide to the Corps the Application and Hydrology Mining Map showing all water resources on the site.
4. This certification does not authorize the placement of any permanent in-stream sediment ponds or permanent haul road crossings. All in-stream sediment ponds and haul road crossings shall be removed in accordance with ODNR-DMRM regulations.
5. This certification does not authorize valley fills or hollow fills.

***Nationwide Permit 22 (Removal of Vessels)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;

- b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
- c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
- d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
- e. state wild and scenic rivers; and
- f. national wild and scenic rivers.

***Nationwide Permit 23 (Approved Categorical Exclusions)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. This certification only authorizes activities described in 23 CFR Part 771.117 of the Federal Highway Administration regulations.
3. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in potentially eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 24 (Indian Tribe or State Administered Section 404 Program)***  
Not Applicable.

***Nationwide Permit 25 (Structural Discharges)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 26 (Reserved)***

***Nationwide Permit 27 (Aquatic Habitat Establishment, and Enhancement Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. This certification does not authorize projects where the primary purpose of the project is not the restoration, enhancement and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters.

3. Bank stabilization activities authorized under this nationwide permit must utilize bioengineering techniques.
4. This certification does not authorize impacts to more than 0.50 acres of category 2 forested wetlands associated with the construction of a wetland mitigation bank unless Ohio EPA is a signatory to an Interagency Review Team (IRT) instrument which addresses the impact.
5. Temporary and permanent impacts to category 3 wetlands are not authorized under this certification except for impacts to Lake Erie coastal wetlands<sup>1</sup>, which are category 3 wetlands for the following reasons:
  - a. The wetland scores less than 60 on the Quantitative Rating of the Ohio Rapid Assessment Method for Wetlands (ORAM), are "hydrologically unrestricted" and contain a predominance of native species within vegetation communities (i.e., they are category 3 wetlands using the Narrative Rating of ORAM), but the wetland has been drained, farmed, or degraded and is unvegetated or sparsely vegetated with wetland annuals or is vegetated with one or several of the following species: *Butomus umbellatus*, *Lythrum salicaria*, *Myriophyllum spicatum*, *Najas minor*, *Phalaris arundinacea*, *Phragmites australis*, *Potamogeton crispus*, and/or *Typha angustifolia*; or
  - b. The wetland is diked and managed ("hydrologically restricted"), scores less than 60 on the Quantitative Rating of ORAM, is a category 3 wetland using the Narrative Rating of ORAM because of the presence of state or federally threatened or endangered species, and/or because of the documented presence of significant breeding or non-breeding bird concentration areas, and the proposed activities will not destroy, jeopardize or adversely affect, either directly or indirectly, *the continued existence of the threatened or endangered species*.
6. Impacts to Lake Erie coastal wetlands described above that are authorized under this NWP are as follows (no other impacts to category 3 wetlands except those described below that occur at Lake Erie coastal wetlands are authorized by this certification):
  - a. *Tile alteration*. Removing, altering, disabling drain tile or replacing perforated drain tile with non-perforated drain tile.

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<sup>1</sup> "Lake Erie coastal wetland" means a wetland located at an elevation less than 575 feet on the USGS map, adjacent to this elevation or along a tributary to Lake Erie that is accessible to fish.

- b. *De-leveling*. Re-grading for the purposes of microtopography to enhance hydrologic diversity, including the creation of shallow scrapes, channels, submerged islands and interconnected areas of deeper water is authorized. Final grade of any excavation, following topsoil replacement if applicable, shall not exceed 60-cm (approximately two feet). Replacement of the original excavated topsoil is required for all de-leveling activities except when the seed bank is dominated by invasive vegetation. In these cases the area must be seeded by using a seed mix of native Ohio vegetation indigenous to the area/region where the project is located and appropriate for the hydrological regime present in the area. Excess spoils that are not able to be incorporated into the re-grading activities shall be deposited in adjacent non-wetland areas, used in other restoration activities listed in this paragraph or trucked to an upland area off-site.
- c. *Ditch plugs and ditch fills*. Ditch plugs and water control structures: Disabling surface drains by filling lengths, provided that the surface drains originate on the property of the project sponsors and have no base flow or installing water control structures (e.g., riser structures, flap gates, fixed weirs, trickle tubes). Ditch plugs may include an emergency spillway to safely route flows back into the ditch below the plug.
- d. *Earthen embankments*. Earthen fill structures that do not exceed 1.8 m (six feet) in height with side slopes of 3:1 or greater with less than 50 acre-feet of storage. The embankments may include rock or vegetated overflow structures to pass base-flow as needed.
- e. *Interior dikes*. Earthen fill structures constructed within the interior of an existing diked and managed wetland for the purpose of improving management of hydrology in the diked wetland in order to facilitate control of invasive plant species, exclude or control invasive animal species, improve habitat features, etc.

***Nationwide Permit 28 (Modifications of Existing Marinas)***

No 401 WQC required.

***Nationwide Permit 29 (Residential Developments)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:

- a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 30 (Moist Soil Management for Wildlife)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;

- e. state wild and scenic rivers;
- f. national wild and scenic rivers; and
- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 31 (Maintenance of Existing Flood Control Facilities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. This nationwide permit shall only authorize projects constructed by the Corps and maintained by the Corps or transferred by the Corps to a local sponsor.

***Nationwide Permit 32 (Completed Enforcement Actions)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. This certification does not authorize any project with impacts to category 3 wetlands; impacts to category 1 and category 2 wetlands that exceed three acres; or impacts to any stream in excess of 500 linear feet unless Ohio EPA has been informed, in writing, of each specific project that exceeds these criteria and based on this information, has not chosen to issue a State Administrative Order or Consent Order resulting from a State enforcement action.

***Nationwide Permit 33 (Temporary Construction, Access and Dewatering)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;

- d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.
  4. This certification does not authorize construction or maintenance or modification of marina basins;
  5. This nationwide permit shall not authorize temporary construction access and dewatering associated with mining activities.

***Nationwide Permit 34 (Cranberry Production Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;

- f. national wild and scenic rivers; and
- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 35 (Maintenance Dredging of Existing Basins)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.
3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to 0.50 acres.

***Nationwide Permit 36 (Boat Ramps)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

3. This nationwide permit shall not authorize boat ramps where dredging is required to establish and maintain water depths necessary for boat launching.

***Nationwide Permit 37 (Emergency Watershed Protection and Rehabilitation)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Unless authorized under procedures established in Part One: General Conditions E.4., above, individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 38 (Cleanup of Hazardous and Toxic Waste)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Except for emergency response actions required to address immediate threats to public health or the environment, an individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;

- b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. This nationwide permit shall only authorize projects that are performed, ordered or sponsored by state or federal government agency with established legal or regulatory authority.

***Nationwide Permit 39 (Commercial and Institutional Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and



5. This certification does not authorize the construction of farm ponds in streams or wetlands (i.e., non-tidal waters of the United States).

***Nationwide Permit 41 (Reshaping Existing Drainage Ditches)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWP Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. This certification only authorizes impacts to existing maintained and channelized water conveyances that have been created or previously modified and maintained for the purpose of draining abutting existing agricultural land or existing roadways and meet the following criteria:
  - a. The ditch was man-made and is existing; or
  - b. The stream/ditch has existing entrenchment ratios that are less than 1.4 and the proposed dredging impacts do not reduce the sinuosity of the stream/ditch channel.

4. Prior to the commencement of the project, all drainage ditch reshaping projects must be certified in writing by either the Natural Resources Conservation Service or Soil and Water Conservation District or County Engineer in the County where the project occurs, or by a certified professional engineer, that the project complies with the above criteria. In order to be authorized under this paragraph, such certification shall be maintained by the person or entity engaged in the project and a copy shall be sent to: Ohio EPA, Division of Surface Water, Section 401 Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

***Nationwide Permit 42 (Recreational Facilities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. This certification does not authorize the construction, modification or expansion of golf courses or ski areas.

***Nationwide Permit 43 (Stormwater Management Facilities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

***Nationwide Permit 44 (Mining Activities)***

Individual 401 WQC is required for the use of this nationwide permit.

***Nationwide Permit 45 (Repair of Uplands Damaged by Discrete Events)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;

- d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
- e. state wild and scenic rivers;
- f. national wild and scenic rivers; and
- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

***Nationwide Permit 46 (Discharges into Ditches)***

Individual 401 WQC is required for the use of this nationwide permit.

***Nationwide Permit 47 [Reserved]***

***Nationwide Permit 48 (Existing Commercial Shellfish Aquaculture Activities)***

Individual 401 WQC is required for the use of this nationwide permit.

***Nationwide Permit 50 (Underground Coal Mining Activities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and

- g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.
3. For every project which authorization under this nationwide permit is sought, the applicant shall provide to the Corps the Application and Hydrology Mining Map showing all water resources on the site.
4. This certification does not authorize the placement of any permanent in-stream sediment ponds or permanent haul road crossings. All in-stream sediment ponds and haul road crossings shall be removed in accordance with ODNR-DMRM regulations.
5. This certification does not authorize valley fills or refuse disposal areas associated with underground mining activities.

***Nationwide Permit 51 (Land-Based Renewable Energy Generation Facilities)***

1. Ohio state certification general limitations and conditions apply to this nationwide permit.
2. Individual 401 WQC is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in any of the following waters:
  - a. category 3 wetlands;
  - b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;
  - c. Streams located in ineligible areas as depicted in the GIS NWP Stream Eligibility Map, Appendix C;
  - d. Streams located in possibly eligible areas as depicted in the GIS NWPs Stream Eligibility Map determined to be high quality through one of the NWP eligibility flowcharts, Appendix C;
  - e. state wild and scenic rivers;
  - f. national wild and scenic rivers; and
  - g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County.

3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.
4. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.
5. All hydric soils up to 12 inches in depth within wetlands shall be stockpiled and replaced as the topmost backfill layer. Best management practices, such as silt fencing and soil stabilization, shall be implemented to reduce erosion and sediment run-off into adjacent wetlands.
6. The stockpiling of side cast dredged material in excess of three months requires individual 401 WQC.
7. Buried utility lines shall be installed at a 90 degree angle to the stream bank to the maximum extent practicable. When a 90 degree angle is not possible, the length of any buried utility line within any single water body shall not exceed twice the width of that water body at the location of the crossing.

***Nationwide Permit 52 (Water-Based Renewable Energy Generation Facilities)***

Individual 401 WQC is required for the use of this nationwide permit.

You are hereby notified that this action of the director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Josh Mandel," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, OH 43215

Sincerely,

Craig W. Butler  
Director

cc: Ginger Mullins, Department of the Army, Huntington District, USACE  
Scott Hans, Department of the Army, Pittsburgh District, USACE  
Diane Kozlowski, Department of the Army, Buffalo District, USACE  
Lee Anne Devine, Department of the Army, Louisville District, USACE  
Norma Condra, Department of the Army, Louisville District, USACE  
Suzanne Chubb, Department of the Army, LRD, USACE  
Peter Swenson, United States Environmental Protection Agency, Region V  
Dan Everson, Department of the Interior, United States Fish & Wildlife Service  
Brian Mitch, ODNR, Office of Real Estate  
John Kessler, ODNR Office of Real Estate  
Dave Snyder, Ohio Historical Preservation Office

Appendix A  
Director's Authorization Process

1. To apply for a director's authorization for coverage under this certification, the applicant must provide to Ohio EPA the following:
  - a. A completed Director's Authorization Request Form available at: <http://www.epa.ohio.gov/dsw/401/permitting.aspx#149524499-nationwide-permits>;
  - b. A copy of the pre-construction notification submitted to the Corps including all attachments;
  - c. A copy of the provisional nationwide permit authorization letter issued by the Corps including all attachments and special conditions, if any;
  - d. A copy of the mitigation plan as approved by the Corps, if applicable;
  - e. A detailed description of the conditions within this certification that are not being met;
  - f. A detailed description of any NWP terms and conditions, including impact limits that the Corps district engineer has waived for the project, if applicable;
  - g. A rationale of how the applicant believes the project will minimally impact water quality for those impacts to resources that do not meet one or more of the terms and conditions within this certification, including reason(s) why the resources are unable to be avoided;
  - h. Comments received from the Ohio Department of Natural Resources and United States Fish and Wildlife Service regarding threatened and endangered species or comments from an applicant that has been authorized by these entities to make threatened and endangered species determinations;
  - i. A one-time review fee of \$2000 for the project;
  - j. A detailed description of how the project meets public need, as defined in OAC 3745-1-50, for impacts to category 3 wetlands;
  - k. Qualitative Habitat Evaluation Index (QHEI) or Headwater Habitat Evaluation Index (HHEI) forms for all streams proposed for impact;
  - l. 10 page ORAM forms for all wetlands proposed for impact;

- m. A minimum of four high resolution color photographs taken while facing each of the four cardinal directions of each wetland proposed for impact. Photographs must accurately depict the quality of the wetland and may not include a majority of dying or dead vegetation and excessive cover due to seasonal conditions that vegetation and substrates cannot be observed, such as leaf litter, snow, or ice. Photographs deemed to be insufficient of representing the wetland will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the wetland name, direction, and date;
  - n. A minimum of three high resolution color photographs taken while facing upstream of the proposed impact area, downstream of the proposed impact area, and a close up which clearly depicts the substrate composition and size for each stream proposed for impact. Photographs must accurately depict the quality of the stream and may not include excessive cover due to seasonal conditions that substrates cannot be observed such as snow or ice. Photographs deemed to be insufficient of representing the stream will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the stream name, direction, and date; and
  - o. Any other documentation as may be required under this certification.
2. Upon receipt of the director's authorization request containing items a. through o. outlined above, excluding item c., the director will post the materials on the Ohio EPA, DSW webpage and invite public comment on the request for 15 days. The director will review and consider the comments received during the public comment period before making a decision on the director's authorization.

Appendix B  
ORAM Verification Process

The ORAM results shall be submitted to the Corps with the pre-construction notification (PCN).

For each wetland proposed for impact the applicant must provide to Ohio EPA the following information for review in accordance with the ORAM verification procedure:

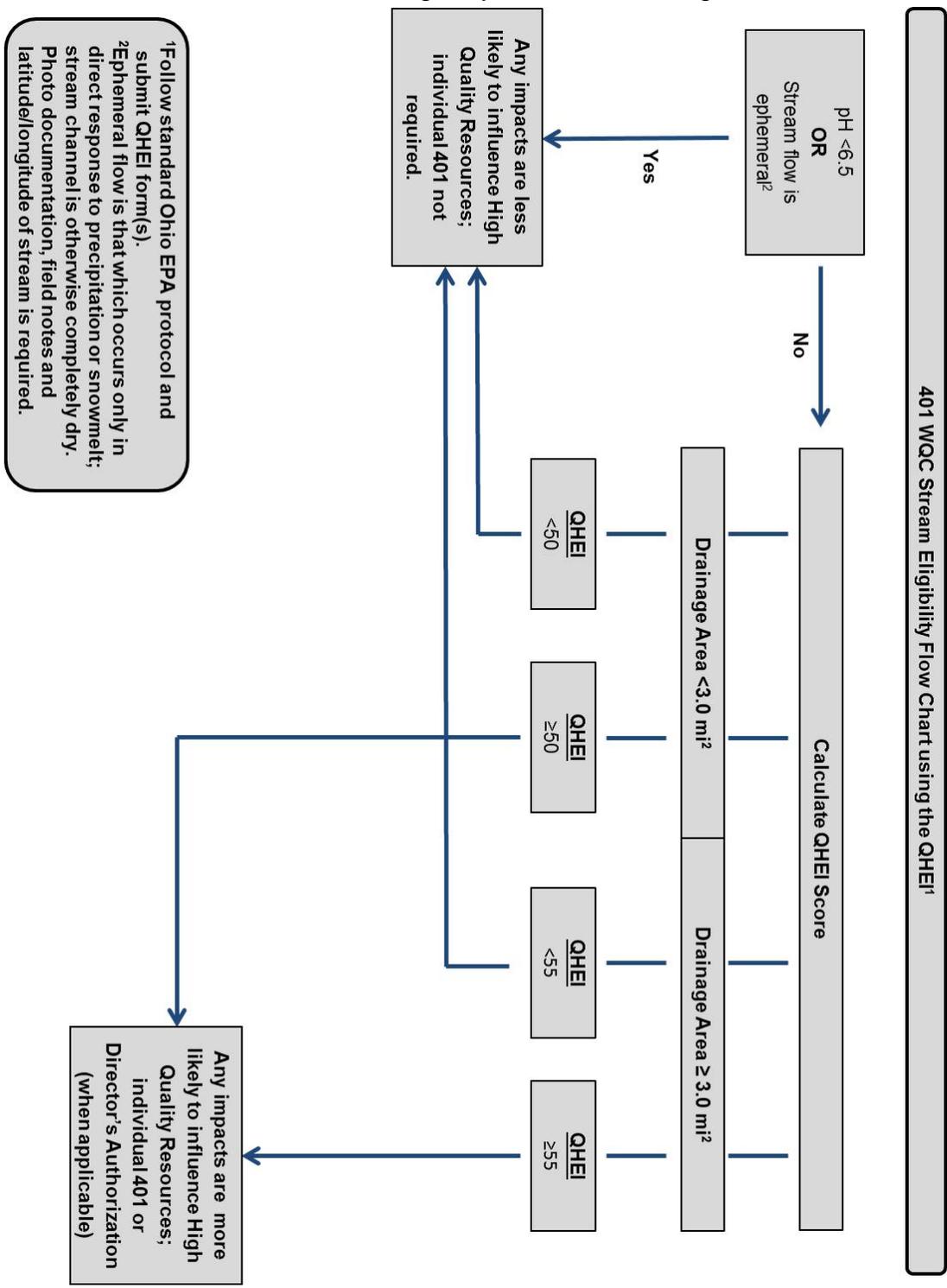
- a. Complete ORAM forms prepared in accordance with the current ORAM manual;
- b. Wetland delineation prepared in accordance with the current method required by the Corps;
- c. A minimum of four high resolution color photographs taken while facing each of the four cardinal directions of each wetland proposed for impact. Photographs must accurately depict the quality of the wetland and may not include a majority of dying or dead vegetation and excessive cover due to seasonal conditions that vegetation and substrates cannot be observed, such as leaf litter, snow, or ice. Photographs deemed to be insufficient of representing the wetland will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the wetland name, direction, and date;
- d. USGS topographical map, National Wetland Inventory map, Soil Survey Map and aerial images (both historical and current) which clearly outline the entire wetland boundary; and
- e. Coordination letter from the Ohio Department of Natural Resources (ODNR), Natural Heritage Database indicating the presence or absence of state listed threatened or endangered species or comments from an applicant that has been authorized by ODNR to make threatened and endangered species determinations.

Appendix C  
Stream Eligibility Determination Process

1. The stream eligibility results shall be submitted to the Corps with the PCN. For each single and complete project with potential impacts to streams where it is specifically required in the special limitations and conditions of this certification, the applicant shall determine if the streams proposed for impact are eligible for coverage under the 401 WQC for the nationwide permits using the following procedure:
  - a. Navigate to the Ohio EPA 401 website at: <http://www.epa.ohio.gov/dsw/401/permitting.aspx>
  - b. Click on the “Nationwide Permits Tab” and then click on the “Stream Eligibility Web Map” link. Download the shapefile or layer file from the web map.
  - c. Using a GIS program, overlay the project boundary, streams proposed for impact, current aerial imagery, and the stream eligibility layer;
    - i. If any stream proposed for impact within the project area falls within an ineligible area, impacts to that stream are not eligible for coverage under the 401 WQC for the nationwide permits, and the applicant shall apply for an individual 401 WQC or a Director’s Authorization.
    - ii. If any stream proposed for impact within the project area falls within a possibly eligible area, the applicant shall take pH values for each stream, when applicable, within the project area and perform a Qualitative Assessment Habitat Evaluation Index (QHEI) or Headwater Habitat Evaluation Index (HHEI) assessment for each stream proposed for impact within the project area that falls within a possibly eligible area. Using the flow charts provided below, the applicant shall determine if their project is eligible for coverage under the 401 WQC for the nationwide permits or if an individual 401 WQC is required.
    - iii. If all streams proposed for impact within the project area are located within the eligible area, the project is eligible for coverage under the 401 WQC for the nationwide permits and no further assessment is necessary.
  - d. Upon determination of stream eligibility, the applicant shall submit to the Corps the following information with the PCN:

- i. Color map(s), no smaller than 8"x10", which clearly shows the project boundary, streams proposed for impact, current aerial imagery, and the stream eligibility GIS layer;
- ii. For each stream located in possibly eligible areas;
  - (1) A minimum of three high resolution color photographs taken while facing upstream of the proposed impact area, downstream of the proposed impact area, and a close up which clearly depicts the substrate composition and size for each stream proposed for impact. Photographs must accurately depict the quality of the stream and may not include excessive cover due to seasonal conditions that substrates cannot be observed such as snow or ice. Photographs deemed to be insufficient of representing the stream will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the stream name, direction, and date;
  - (2) pH values for each stream proposed for impact taken within the proposed project area, where applicable;
  - (3) Complete QHEI or HHEI sheets prepared in accordance with the current manuals; and
  - (4) Statement of whether the streams proposed for impact within the project area are eligible for coverage under the 401 WQC for the nationwide permits or if an individual 401 WQC or a Director's authorization is required.

401 WQC Stream Eligibility Flow Chart Using the QHEI



401 WQC Stream Eligibility Flow Chart Using the HHEI

