

For Interested Party Review - February 2006 Draft

3745-32-02 **Applicability.**

- (A) Every applicant for a federal license or permit that authorizes any activity that may result in a discharge of dredged or fill material into waters of the state shall apply for and obtain a section 401 water quality certification from the director. The federal licenses and permits that require a section 401 water quality certification include, without limitation, the following:
- (1) A permit from the U.S. army corps of engineers pursuant to section 404 of the Federal Water Pollution Control Act; and
 - (2) A permit from the U.S. army corps of engineers pursuant to both section 10 of the Rivers and Harbors Act and section 404 of the Federal Water Pollution Control Act.
- (B) Every applicant for a permit from the U.S. army corps of engineers pursuant to section 10 of the Rivers and Harbors Act shall apply for and obtain a section 401 water quality certification from the director.
- (C) Any activity that, as a result of a discharge of sewage, industrial waste or other wastes, including dredged material released in the process of dredging, which will result in the loss of wetlands or otherwise impact waters of the state may require a section 401 water quality certification, which may be issued in such cases in addition to, or in lieu of, an NPDES permit pursuant to chapter 3745-33 of the Administrative Code.
- (D) No person shall engage in an activity requiring a section 401 water quality certification prior to obtaining that certification from the director.
- (E) No section 401 water quality certification need be obtained if the discharge of dredged or fill material is part of the construction of a federal project specifically authorized by congress, provided the effects of such discharge are included in an environmental impact statement submitted to congress prior to the actual discharge.

Replaces: 3745-32-02, 3745-32-03

Effective:

R.C. 119.032 rule review date: None

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 6111.03
Rule Amplifies: 6111.03
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