

To Be Rescinded

3745-32-02 **Section 401 water quality certification required.**

- (A) A section 401 water quality certification is required to obtain the following:
- (1) A permit from the army corps of engineers pursuant to section 10 of the Rivers and Harbors Act;
 - (2) A permit from the army corps of engineers pursuant to section 404 of the Federal Water Pollution Control Act;
 - (3) A permit from the 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; and
 - (4) Any other federal permit or license to conduct any activity which may result in any discharge to waters of the state.
- (B) No certification issued pursuant to this chapter shall be effective until all applicable fees have been paid.

Effective: 9/15/1982

R.C. Section 119.032 review dates: 9/27/2002 and 9/30/2005

Promulgated under: R.C. Section 119.03
Rule authorized by: R.C. Section 6111.03
Rule amplifies: R.C. Section 6111.03
Prior effective dates: none

To Be Rescinded

3745-32-03 **Section 401 water quality certification exemptions.**

No section 401 water quality certification need be obtained if:

- (A) The secretary of the army has issued a general permit pursuant to section 404(e) of the Federal Water Pollution Control Act; or
- (B) 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.

Effective: 9/15/1982

R.C. Section 119.032 review dates: 9/27/2002 and 9/30/2005

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Prior effective dates: none

To Be Rescinded

3745-32-04 Section 401 water quality certification applications.

- (A) Filing an application with the army corps of engineers for any permit set forth in paragraphs (A)(1) to (A)(3) of rule 3745-32-02 of the Administrative Code constitutes application for a section 401 water quality certification from the Ohio EPA. If an application, in the judgment of the director, lacks information necessary or desirable to determine whether the applicant has demonstrated the criteria set forth in paragraph (A) of rule 3745-32-05 of the Administrative Code, the director shall inform the applicant in writing that review of the application will not proceed until the applicant has submitted additional information as described by the director.

- (B) Any person filing an application for any other federal permit or license to conduct an activity which may result in a discharge to waters of the state must submit an application to the director for a section 401 water quality certification. If an application, in the judgment of the director, lacks information necessary or desirable to determine whether the applicant has demonstrated the criteria set forth in paragraph (A) of rule 3745-32-05 of the Administrative Code, the director shall inform the applicant in writing that review of the application will not proceed until the applicant has submitted additional information as described by the director. The director may waive the application requirement if, in the judgment of the director, the activity for which a federal permit or license is sought will not result in a discharge to the waters of the state.

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Rule authorized by: R.C. Section 6111.03
Rule amplifies: R.C. Section 6111.03
Prior effective dates: none

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3745-32-05 Criteria for decision by director.

- (A) The director shall not issue a section 401 water quality certification unless he determines that the applicant has demonstrated that the discharge of dredged or fill material to waters of the state or the creation of any obstruction or alteration in waters of the state will:
 - (1) Not prevent or interfere with the attainment or maintenance of applicable water quality standards;
 - (2) Not result in a violation of any applicable provision of the following sections of the Federal Water Pollution Control Act including:
 - (a) Effluent limitations as described in section 301;
 - (b) Water quality related effluent limitations as described in section 302;
 - (c) Water quality standards and implementation plans as described in section 303;
 - (d) National standards of performance as described in section 306; or
 - (e) Toxic and pretreatment effluent standards as described in section 307.
- (B) Notwithstanding an applicant's demonstration of the criteria in paragraph (A) of rule 3745-32-05 of the Administrative Code, the director may deny an application for a section 401 water quality certification if the director concludes that the discharge of dredged or fill material or obstructions or alterations in waters of the state will result in adverse long or short term impact on water quality.
- (C) The director may impose such terms and conditions as part of a section 401 water quality certification as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of water quality.
- (D) Prior to the issuance of a section 401 water quality certification or prior to, during, or after the discharge of dredged or fill material to waters of the state or the creation of any obstruction or alteration in waters of the state to ensure adequate protection of water quality, the director may require that the applicant perform various environmental quality tests including, but not limited to, chemical analyses of water, sediment or fill material, and bioassays.

Effective: 9/15/1982

R.C. Section 119.032 review dates: 9/27/2002 and 9/30/2005

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Rule authorized by: R.C. Section 6111.03
Rule amplifies: R.C. Section 6111.03
Prior effective dates: none

To Be Rescinded

3745-32-06 **Revocation of section 401 water quality certification.**

The director may revoke a section 401 water quality certification if he concludes at any time that any applicable laws or regulations have been or are likely to be violated.

Effective: 9/15/1982

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Rule amplifies: R.C. Section 6111.03
Prior effective dates: none

To Be Rescinded

3745-32-07 **Procedure for decision by director.**

A section 401 water quality certification shall be issued, modified, revoked, or denied and may be challenged in accordance with the provisions of the rules of procedure of the Ohio EPA, Chapter 3745-47 of the Administrative Code.

Effective: 9/15/1982

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Rule amplifies: R.C. Section 6111.03
Prior effective dates: none

To Be Rescinded

3745-45-02 Certification fees.

(A) Any certification issued pursuant to Chapter 3745-32 of the Administrative Code shall not be effective until the fees required by the rule are paid. Prior to the issuance of the certification, the person receiving the certification shall pay the amounts specified in the table below:

- (1) Certifications for dredge or fill projects such as any dredging, fastland creations; shoreline protection such as riprap, jetties, groins, cribs, stone breakwaters, cofferdams, temporary or permanent haul roads; fills incidental to any construction activity such as pier construction, construction of outfalls, or placement of concrete shall be:

Cubic yardage removed or added	Fee
Less than 500	\$15
500 - 5,000	25
5,001 - 15,000	50
15,001 - 30,000	75
30,001 - 50,000	100
More than 50,000	200

- (2) Certifications for bulkhead and modular breakwater placements such as sheet steel pile, concrete or timber bulkheading as the primary activity, or the placement of a modular breakwater but excluding stone bulkheads shall be fifty cents per linear foot of bulkhead or modular breakwater subject to a minimum of fifteen dollars.
- (3) Certifications for bulk commodity facilities (transfer sites) for materials such as coal, sand, gravel, and grains shall be one hundred dollars.
- (4) Certifications pursuant to section 10 of the Rivers and Harbors Act for projects such as small recreational floating boat docks, the placement of navigation or mooring buoys, piles ski ramps, and fleeting facilities shall be fifteen dollars.
- (B) The total combined fee for any residential use project for which no revenue is generated shall not exceed one hundred dollars unless the total discharge of dredged or fill materials exceeds fifty thousand cubic yards, then the fee shall not exceed two hundred dollars.
- (C) The total combined fee for any project other than those projects under paragraph (B) of this rule shall not exceed two hundred dollars.

- (D) No fee shall be assessed if the project is to be authorized under a general permit or nationwide permit as defined in rule 3745-32-01 of the Administrative Code.
- (E) Notwithstanding any other provision of this rule, no fee shall be assessed for any project constructed by an agency or department of the state of Ohio.

Effective: 9/15/1982

R.C. Section 119.032 review dates: 9/27/2002 and 9/30/2005

Promulgated under: R.C. Section 119.03
Rule authorized by: R.C. Section 3745.11
Rule amplifies: R.C. Section 3745.11
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