



Director's Authorization for Coverage Under the 401 WQC for the Nationwide Permits: Application Instructions

Division of Surface Water 401 Water Quality Certification and
Isolated Wetland Permitting Unit

Who Must Use This Application?

A Clean Water Act Section 401 Water Quality Certification (WQC) from the State is required to obtain a Federal Section 404 permit (404 permit) from the U.S. Army Corps of Engineers (Corps) or any other federal permits or licenses for projects that will result in a discharge of dredged or fill material to any waters of the United States. On March 17, 2017, Ohio EPA issued a 401 WQC for the 2017 Nationwide Permits (NWP). A copy of the 401 WQC is available [here](#). A copy of the 2017 NWPs with the Corps' and Ohio EPA's 401 conditions is available [here](#). In accordance with the procedures outlined in the 401 WQC, Ohio EPA may grant coverage under the 401 WQC for the NWPs for any project that does not meet one or more of the terms and conditions for eligibility of the 401 WQC. This approval is referred to as a Director's Authorization (DA). This application must be completed whenever an applicant is applying for a Director's Authorization for coverage under the 401 WQC for the NWPs from Ohio EPA.

To determine whether you need to submit this application to Ohio EPA refer to the NWPs or contact the Corps District Office with jurisdiction over your project (<http://www.usace.army.mil/locations.aspx>). You can also contact an Ohio EPA Section 401/wetlands coordinator. Contact information is available at: <http://www.epa.ohio.gov/dsw/401/permitting#149524503-contacts>.

How Should I Organize my Application Package?

To ensure the most efficient and consistent review of DA applications, Ohio EPA requires every application be completed and submitted in a uniform manner. All DA applications are required to be submitted using the form dated January 2019 with associated impact tables, and *following the same organizational structure as outlined below*:

Ohio EPA requires the application packet be organized in the following systematic manner. Each "item" is required to be separated by a divider with a labeled tab. For example, the tabs should be labeled "Application Form," "Impact Tables," etc., not "Item 1", "Item 2".

- Item 1: Two-page DA application form, including fee payment
- Item 2: Stream, Wetland, and/or Lake Impact Tables
- Item 3: Pre-construction notification (PCN) as submitted to the Corps, if applicable
- Item 4: Provisional 404 NWP authorization letter issued by the Corps with all attachments and special conditions, if applicable
- Item 5: Proposed mitigation plan as approved by the Corps, if applicable
- Item 6: Description of the conditions not met within the 401 WQC for the NWPs
- Item 7: Description of any NWP conditions waived by the Corps, if applicable
- Item 8: Description of how the project minimally impacts water quality and reasons why the resources are unable to be avoided
- Item 9: Description of how the project meets public need, as defined in OAC 3745-1-50, for any proposed impacts to Category 3 wetlands
- Item 10: High resolution color photographs for each resource proposed for impact
- Item 11: Stream Habitat Assessment, if applicable
- Item 12: Ten-page ORAM forms for wetlands proposed for impact, if applicable

- Item 13: Threatened and endangered species comments from US Fish and Wildlife Service and Ohio Department of Natural Resources

How quickly will Ohio EPA review and take an action on my application?

Unlike individual 401 WQCs, there is no timeline for review and issuance of DAs. Generally, the review and issuance of DAs is shorter than that of an individual 401 WQC. Once Ohio EPA receives the application, it is posted on the Ohio EPA 401 website for 15 days to allow for public comment in accordance with Appendix A of the 401 WQC for the NWP. The DA cannot be issued until after the end of the public comment period. Ohio EPA must take an action on a DA application within 365 days of the date of provisional NWP. If Ohio EPA determines that a DA is not appropriate, the applicant will be required to apply for an individual 401 WQC.

How and where should I submit my DA application package?

Applicants can use the online application submittal through the Ohio EPA Ebusiness center located at: <https://ebiz.epa.ohio.gov/login.html>. Consultants may prepare the application package through the Ebusiness center, but applicants must PIN (sign) the application. Instructions for using the Ebusiness center for DA applications are available [here](#).

If the Ebusiness center is not used, the applicant must submit **one hard copy** (signed) and **one electronic copy** on CD, USB drive, or other electronic media, of the complete application package. Ohio EPA requires the electronic submittal contain a separate PDF file for each item discussed above. Please name each PDF file following the format above (*e.g.* Item 1: Two-page DA application form, Item 2: Stream and/or Wetland and/or Lake Impact Tables, etc.). Additionally, if the PDF file is very large or contains many forms (>50pp and/or >10Mb), it is suggested that separate PDFs (*e.g.* ORAM forms appendix, USACE Wetland Determination data forms appendix, etc.) be created.

Please submit the completed application package and fees to:

Ohio EPA
Division of Surface Water
ATTN: 401/IWP/Mitigation Section Manager

Mailing Address

P.O. Box 1049
Columbus, OH 43216-1049

Street Address

50 W. Town Street
Suite 700
Columbus, OH 43215

Item 1: Director's Authorization Application Form

Section 1: Applicant and Agent Information

1.1 Applicant Information

Applicant Company, Contact Name and Title: Provide the full, legal company name of the Applicant or responsible party. If the Applicant is an individual and not a company, indicate that a company name is not applicable. The

Applicant will be the entity or individual to whom the permit will be issued, if approved. If the Applicant is an agency, company, corporation or other organization, a contact name (First, Middle Initial, Last) of the main representative of the company and his or her title must be provided. This is the individual who will be signing the application.

Applicant Technical Point of Contact (POC): Provide a technical point of contact if different than the Applicant listed above. It may be someone else within the company that has the authority to act in the applicant's behalf regarding the processing of this DA application. The technical point of contact is not the applicant's consultant.

Applicant Contact Information: Telephone number, email address, and the company's mailing address (not the project address) including the street, city, state, and zip code must be provided. Ohio EPA cannot accept a P.O. Box as the mailing address as some correspondence is sent through certified mail.

1.2 Consultant/Agent Information (if applicable)

Consultant/Agent Company, Contact Name and Title: The agent's role is to oversee the processing of the DA application and to make the day-to-day decisions regarding the application. It is not a requirement to have an agent. If you choose to be represented by an agent, provide the agent's information in Section 1 of the application form. If you choose to not be represented by an agent, please leave this section blank.

Consultant/Agent POC: Provide a technical point of contact if different than the contact listed above. Ohio EPA will direct all communications, letters, phone calls and e-mails to this person.

Consultant/Agency Contact Information: Telephone number, email address, and the company's mailing address (not the project address) including the street, city, state, and zip code must be provided. Ohio EPA cannot accept a P.O. Box as the mailing address as some correspondence is sent through certified mail.

Section 2: Project Information

2.1 Project Overview

Project Name: Title of the project with an obvious project (site) name. The project name will be used when entering the project into the Ohio EPA database, as well as in all correspondence referencing the project. Be sure this title is consistent with other agency applications for the same project and consistent on all drawings and reports submitted as part of this DA application.

Pre-Application Coordination: Indicate if Pre-Application Coordination with Ohio EPA has occurred. If you checked YES, please select the primary 401 reviewer who handled your project during the Pre-Application stage. Indicate the date of the pre-application meeting or site visit.

Brief Project Description/ Purpose: Provide a brief technically accurate narrative description of the proposed project purpose, entire activity, and total impacts, including areas outside of jurisdictional and non-jurisdictional waters.

Project Construction Timeframe: Provide the estimated start and end dates for the proposed project. This information will be used to determine how long the permit should be valid.

Is any portion of the project complete now? Is this an After-The-Fact permit? Select **yes** or **no** to indicate whether or not any portion of the project has already been started or completed. This is not limited to activities within waters of the state. It includes tree cutting, clearing and grading in upland areas. Briefly explain the activities that have been started or completed. If waters have been impacted prior to receiving a permit, check **yes** that this is an After-The-Fact permit.

2.2 Project Location

Provide specific information relating to the location of your proposed project.

Coordinates: Indicate the location on land for the center point of your project in degrees, minutes, seconds. If you need assistance determining the project's coordinates, you can use <http://www.findlatitudeandlongitude.com/> or <http://www.google.com/earth/index.html>.

Project Address: Provide the street address of the project location. If the proposed project does not have a physical street address, be as descriptive as possible in the street address line. For example, "Walhonding Road 1.3 miles west of the intersection of State Route 93 and Walhonding Road".

12 Digit Hydrologic Unit Code (HUC): Provide the 12-digit Hydrologic Unit Code (HUC). To determine your 12-digit HUC code, use Ohio EPA's Interactive Map for the Water Quality Assessment Units for the 2018 Integrated Report: <http://oepa.maps.arcgis.com/apps/webappviewer/index.html?id=5df599f41fd241be8de26576ed4d6aae>.

Watershed Name: To determine the watershed name you can use Ohio EPA's Interactive Map for the Water Quality Assessment Units for the 2018 Integrated Report:

<http://oepa.maps.arcgis.com/apps/webappviewer/index.html?id=5df599f41fd241be8de26576ed4d6aae>. To use the project location zip code to identify the watershed, use U.S. EPA's Surf Your Watershed webpage:

<http://cfpub.epa.gov/surf/locate/index.cfm>. To use a map to identify the watershed, use the USGS Science in Your Watershed map: http://water.usgs.gov/wsc/map_index.html.

Corps District: Indicate which Corps District has jurisdiction over your project. Use the map on the following webpage to determine the appropriate district: <https://www.lrb.usace.army.mil/Missions/Regulatory/OH-PERMIT-INFO/>

2.3 Other Permits Issued or Required

Indicate each type of permit that is required for your project. This includes all state and/or federal permits that apply to your project.

Section 3: Fees

Appendix A of the 401 WQC for the NWP's requires a one-time review fee of \$2000 that is required when the DA application is submitted. The check should accompany the application. To remain consistent with fee requirements for 401 WQCs, only state agencies and the Corps are exempt from DA application fees. Indicate whether you are exempt from paying fees. Checks, cashier checks, and money orders are currently the only acceptable methods of payment if the fee is mailed with the application. The check or money order must be made payable to "Treasurer, State of Ohio." Fees may also be paid online by credit card (processing fees apply) or Automated Clearing House (ACH) transfer with a bank account through the Ebusiness center. Applicants will need their Revenue ID which is generated at the time of submittal to pay fees online. Instructions for paying fees online are located on page 32 of the [online application instructions](#).

Section 4: Submitted Documentation

Appendix A of the 401 WQC for the NWP's lists all the documentation that must be provided with a DA application. Indicate on the DA form each item that is included in the application packet.

The purpose of this checklist is to remind the applicant what items are required, and to demonstrate that those items are included with the application for the application to be considered complete. For those tabs where an item is not required to be submitted, please include a "negative declaration" stating that the item is not required for this DA application.

Section 5: Applicant and Agent Signature

Statement of Authorization: To designate and authorize a primary consultant/agent to act on your behalf in the processing of this DA application, print your name and sign and date on the appropriate lines. By signing this document,

you are certifying that the consultant/agent named in Section 1 is authorized to act in your behalf in the processing of the DA application and may furnish supplemental information in support of the application.

Regardless of whether you designate a consultant/agent, you MUST sign the DA application in Section 5. Print your name and sign and date on the appropriate line. If you have designated a consultant/agent, then this person must also print their name and sign and date on the appropriate line. These signatures certify that the information that is contained in the application is true, complete, and accurate. Failure to have the necessary signatures in this portion of the application will result in the application being considered incomplete.

Item 2: Stream, Wetland, and Lake Impact Tables

Provide all impact tables that apply to the project. The provided tables should include all water resources on-site, whether they are proposed for impact or not. For example, if the project proposes impacts to three wetlands on-site and has been minimized to avoid all on-site streams and two other wetlands, the stream impact tables should be included, and the wetland table should include all five wetlands.

If your project proposes impacts to more streams, wetlands, or other water body resources than lines available in the appropriate impact tables, provide additional impact tables. You will have to sum the auto-populated totals from each table to provide an overall impact total. Please do so in a document attached to the appropriate impact tables.

Stream Impact Table

1.1 General Information

Stream ID: Each stream on-site shall be identified and listed individually in the table – whether it is proposed to be impacted or not.

Jurisdictional: Indicate whether the stream is jurisdictional by selecting “yes” for jurisdictional and “no” for not jurisdictional.

Flow: Select the appropriate type of stream flow: ephemeral, intermittent, or perennial.

Aquatic Life Use Designation in Ohio Administrative Code (OAC) 3745-1-07: Select the stream’s aquatic life use designation for all streams that have been assigned a designated use. If a stream has not been assigned a use, then select “undesigned.” Use designations are defined in paragraph (B) of OAC 3745-1-07:

<http://www.epa.ohio.gov/portals/35/rules/01-07.pdf>

Existing Aquatic Life Use: If the streams on-site are not designated in OAC [3745-1](#), provide data sufficient to determine the existing use of the streams on-site.

Length On-site: Provide the total length in linear feet of each stream on-site.

1.2 Proposed Impacts

Impact Length: Provide the linear feet of proposed impacts associated with each stream on the project site. After the impact numbers are entered in the appropriate blank, use the TAB button to properly input the numbers. If one stream has more than one type of impact, separate each type of impact by utilizing a new line in the impact table. Only fill out the stream length on the first entry for each stream. For example:

Stream ID	Jurisdictional?	Flow	Aquatic Life Use Designation in 3745-1	Existing Use?	Length Onsite (linear ft.)	Proposed Impacts	
						Impact Length (linear ft.)	Impact Type
Stream A	YES	Perennial	MWH	MWH	1000.00	300	Culvert/Pipe
Stream A	YES	Perennial	MWH	MWH		200	Bank Stabilization
Click here to enter text.	Choose an item.	Choose an item.	Choose an item.	Choose an item.			Choose an item.

Impact Type: Indicate the impact type. If the type of impact proposed is not listed, select “other.”

Wetland Impact Table

1.1 General Information

Wetland ID: Each wetland on-site needs to be identified and listed individually regardless of whether the wetland is proposed to be impacted. All wetlands on-site need to be listed in the table.

ORAM Score: Provide the ORAM score in the space provided. If the ORAM has been reviewed by Ohio EPA, provide the score verified by Ohio EPA.

Category: The wetland category will auto-populate, based on the ORAM score provided. For wetlands that have an ORAM score in a gray zone, the wetland will be assigned to the higher of the two categories.

Category Verified by Ohio EPA: Indicate whether Ohio EPA has verified the final wetland category.

Ohio EPA Staff Who Verified: Indicate the name of the 401 Staff from Ohio EPA who verified the wetland categorization.

Acreage On-site: Provide the total acreage of each wetland on site.

1.2 Proposed Impacts

Impact Acreage and Type: Enter the total amount of impacts (in acres rounded to the nearest hundredth) and impact type (fill, etc.). Differentiate forested and non-forested wetlands impacts. The impact totals will auto-populate.

Lake Impact Table

1.1 General Information

Lake ID: Each lake on-site shall be identified and listed individually in the table – whether it is proposed to be impacted or not.

Coastal Erosion Area: If the proposed impact is on Lake Erie, indicate whether the area proposed for impact is within the Coastal Erosion Area by selecting “yes” or “no” as appropriate. If the project does not occur on Lake Erie, select “NA.” The following interactive map is maintained by the Ohio Department of Natural Resources and intended to illustrate coastal erosion areas on Lake Erie: <https://gis.ohiodnr.gov/website/dgs/cea/>

Impact Type: Indicate the impact type. If the type of impact proposed is not listed, select “other.”

1.2 Proposed Impacts

Cubic Yards of Dredged Material: Provide the amount of dredged material to be removed below the ordinary high water mark (OHWM) in cubic yards (CY). Separate out the impacts by water body resource and/or impact type.

Cubic Yards of Fill Material: Provide the amount of fill to be placed below the OWHM in CY. Separate out the impacts by water body resource and/or impact type.

Lakeward Extent (linear ft.): Indicate the amount of linear feet out into the water body/lake that will be impacted by the project. If this does not apply, leave it blank.

Shoreline Impacted (linear ft.): Provide the linear footage of the shoreline of the water body/lake that will be impacted by the project. If this does not apply, leave it blank.

1.3 Dredging Projects

Placement of Dredged Material: If the project is a dredging project, indicate where the dredged material will be placed after it is dredged.

Item 3 – Pre-construction Notification (PCN) as submitted to the Corps

Nationwide Permit General Condition 32 and Regional General Condition 6 outline the notification requirements for submittal to the Corps. The DA application should include a copy of the PCN that was submitted to the Corps in support of the NWP application. If a PCN is not required to be submitted to the Corps, then a Notification to Ohio EPA should be included with the DA application, if required by 401 WQC General Limitation and Condition E or provide a statement that the project is non-reporting to the Corps and a Notification to Ohio EPA is not required.

Item 4 – Provisional 404 NWP authorization letter issued by the Corps

Include a copy of the provisional NWP for the project issued by the Corps. If the NWP has not been issued at the time of submittal, provide a statement that the NWP authorization is pending and provide a date of submittal to the Corps. If a PCN is not required, and a provisional NWP will not be issued, provide a statement that the project is non-reporting to the Corps.

Item 5 – Proposed Mitigation Plan as Approved by the Corps

General Limitation and Condition C.1 of the 401 WQC for the NWPs requires compensatory mitigation for the discharge of dredged or fill material into wetlands for **permanent impacts exceeding 0.10 acres**. Compensatory mitigation for stream impacts may be required on a case-by-case basis. If mitigation is required by the Corps, in accordance with NWP General Condition 23, then a copy of the mitigation plan approved by the Corps should be submitted with the application. If the Corps is not requiring mitigation, and Ohio EPA determines that mitigation is required during the review of the DA application, an individual 401 WQC may be required.

Item 6 – Description of the conditions not met within the 401 WQC for the NWPs

Provide a narrative description of 401 WQC conditions that will not be met by the proposed project. Include ALL 401 limitations and conditions (general and special) that will not be met and for which you are seeking a DA. This should include a reference to the 401 WQC condition number such as "*Nationwide Permit 39 Ohio 401 Certification Special Limitation and Condition 2c*" if you are seeking coverage under NWP 39 and you are proposing to impact streams located in an ineligible area.

Item 7 – Description of any NWP conditions waived by the Corps

Provide a narrative description of any NWP conditions that have been waived by the Corps or that you are asking the Corps to waive. For example, if you are seeking coverage under NWP 29 and are proposing to impact 500 linear feet of intermittent stream, the district engineer may waive the 300-linear foot limit by making a written determination that the discharge will result in no more than minimal adverse environmental effects. In this example, you should provide a description of the limitation, the extent of exceedance of the limitation, and whether the waiver has been granted. If the Corps will not be waiving any conditions, then a negative declaration should be provided.

Item 8 – Description of how the project minimally impacts water quality and reasons why the resources are unable to be avoided

Director's Authorizations can only be granted when the Director determines that the project will have such a minimal impact on water quality that an individual 401 WQC is not necessary. Applicants should provide a narrative describing how the project will minimally impact water quality, and why the resources proposed for impact are unable to be avoided.

Item 9 – Description of how the project meets public need, as defined in OAC 3745-1-50, for any proposed impacts to Category 3 wetlands

OAC 3745-1-50 defines public need as “an activity or project that provides important tangible and intangible gains to society, that satisfies the expressed or observed needs of the public where accrued benefits significantly outweigh reasonably foreseeable detriments.” If your project is proposing to impact any Category 3 wetlands, whether temporarily or permanently, the DA application must contain a narrative description of how the project meets that definition of public need. In accordance with OAC 3745-1-54, the Director will determine if the proposed project meets the definition of public need. If your project will not be impacting Category 3 wetlands, then a negative declaration should be provided.

Item 10 – High resolution color photographs for each resource proposed for impact

In accordance with Appendix B of the 401 WQC for the NWPs, include a minimum of four high resolution color photographs taken while facing each of the four cardinal directions of each wetland proposed for impact, a minimum of three high resolution color photographs taken while facing upstream, downstream, and one close up which clearly depicts the substrate composition and size for each stream proposed for impact, and a minimum of three high resolution color photographs for all other waters of the state proposed for impact. Photographs must accurately depict the quality of the water of the state 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 water of the state will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the name, direction, and date. Also, include a topographic map or aerial photograph marking the location where each stream and/or wetland photo was taken, using the same photo identification or stream identification that is used elsewhere in this application.

Item 11 – Stream Habitat Assessments

In accordance with Appendix C of the 401 WQC for the NWP, provide the available data for all the streams proposed to be impacted. This should include an overlay of the stream eligibility map (<http://oepa.maps.arcgis.com/apps/webappviewer/index.html?id=e6b46d29a38f46229c1eb47deefe49b6>), stream habitat assessments, and other supporting documentation for Ohio EPA staff to determine the appropriate existing use of the streams. If no streams are proposed for impact, then a negative declaration should be provided.

Item 12 – Ten-page ORAM forms for wetlands proposed for impact

In accordance with Appendix B of the 401 WQC for the NWP, include a completed 10-page ORAM form (including background information, scoring boundary worksheet, narrative rating, quantitative rating, and wetland categorization worksheets) for each wetland for which a separate scoring boundary has been established and proposed for impact. All forms must be filled out completely using the format provided by Ohio EPA. Failure to do so could result in a determination that the habitat assessment is incomplete, and no further review will be conducted by Ohio EPA until the correct/complete information is provided. If no wetlands are proposed for impact, then a negative declaration should be provided.

Item 13 – Threatened and endangered species comments from US Fish and Wildlife Service and Ohio Department of Natural Resources

Provide the comments that have been received from the US Fish and Wildlife Service (USFWS) and Ohio Department of Natural Resources (ODNR) regarding threatened and endangered species. ODNR, Division of Wildlife can be contacted by phone at 614-265-6741 or by mail at 2045 Morse Rd., Bldg. G-3 Columbus, OH 43229. Instructions for the ODNR Environmental Review process can be found at: <http://wildlife.ohiodnr.gov/species-and-habitats/ohio-natural-heritage-database>. The USFWS can be consulted by phone at 614-416-8993, or by mail at 4625 Morse Road, Suite 104, Columbus, Ohio 43230.

Based upon the comments received, the application should indicate if:

- There is potential for rare, threatened, and endangered species and/or critical habitat to occur in or near the proposed project property.
- A habitat survey has been requested.
- If yes, has the habitat survey been completed and approved by ODNR or USFWS?

If ODNR or USFWS indicate that the project may have an effect on a threatened or endangered species, and a relocation or other mitigative techniques will not avoid that effect, then an individual 401 WQC may be required.