

PERMIT PROFILE: SECTION 401 WATER QUALITY CERTIFICATION

TECHNICAL PROGRAM: Divisions of Environmental Permits, Water, Fish, Wildlife and Marine Resources, depending on issues

STATUTORY AUTHORITY: Section 401 of the Federal Clean Water Act

APPLICABLE REGULATIONS: 6NYCRR Part 608

LEGISLATIVE INTENT:

To ensure that federal agencies issuing permits or carrying out direct actions which may result in a discharge to the Waters of the United States do not violate the state's water quality standards or impair designated uses.

REGULATED ACTIVITIES:

! Any discharge into the Waters of the United States. However, in practice, 401 certifications are generally limited to discharges of dredged or fill material regulated under Section 404 of the Clean Water Act or construction and operation of hydroelectric or major interstate transmission facilities licensed by Federal Energy Regulatory Commission (FERC).

MINOR PROJECTS:

! Projects which do not exceed the minor project thresholds for Protection of Waters, Freshwater Wetlands or Tidal Wetlands and do not involve construction or operation of hydroelectric facilities.

PROGRAM SPECIFIC COMPLETENESS REQUIREMENTS:

- ! A specific statement in the form of a letter or a Joint Application for Permit form requesting issuance of a Section 401 Water Quality Certification.
- ! A copy of the properly completed application and supporting information for the federal permit.
- ! Properly completed applications for any department permits required in connection with the project.

PUBLIC NOTICE REQUIREMENTS:

! Environmental Notice Bulletin and newspaper publication required for all major projects.

STANDARDS FOR ISSUANCE:

! Project must be consistent with (1) designated use of a given waterbody and (2) water quality criteria established in regulation.

REFERENCE MATERIALS/SOURCES OF INFORMATION:

- ! Section 401 of the Clean Water Act
- ! 6NYCRR Parts 701, 702, 704, 754 and Part 800 to Part 941

SPECIAL PROCEDURES AND EXCEPTIONS:

! The federal permit cannot be issued until the 401 certification is issued or waived usually within one year of application but may be less, e.g., 60 days for certification of activities under certain Corps of Engineers Nationwide Permits.