

The following templates are for certification actions on individual permit or license certification requests when EPA is acting as the Certifying Authority

Example of a Grant of Certification Without Conditions when EPA is the Certifying Authority (for non-402 permits)

This Certification applies to any potential point source discharges from [project] into waters of the United States that occur within [state, tribal boundary]. [Briefly describe where the project is located.] [Briefly describe triggering federal license or permit.] Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that potential discharges will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. In this case, [tribe/state] does not have the authority to provide CWA Section 401 certification for discharges occurring [at location/land of exclusive federal jurisdiction], therefore, the EPA is making the certification decisions for discharges that may result from the proposed project.

EPA has determined that any discharge from the proposed project will comply with water quality requirements, as defined at 40 CFR 121.1(n).

On behalf of [tribe/state], CWA Section 401 certification is granted with no conditions.

Project Description

[Concise description of the project and any potential discharge(s). For example, permit/license type; general project location within the state or tribal boundary; short description of work (installation of culvert, construction of impoundment, decommissioning of a licensed dam); anticipated project impacts (two acres of jurisdictional wetlands to be filled, ten linear feet of a water of the United States to be dredged)]

General Information

The general information provided in this section does not constitute a certification condition(s).

The project proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or tribal authorities [, including (insert specific additional permit or license)].

This certification should be retained in your files with the applicable [specific license or permit] as documentation of EPA certification for the above-referenced project. This certification is specifically associated with your [specific license or permit] and expires when your [specific license or permit] expires [date license or permit expires].

The project proponent is encouraged to contact EPA Region [X] during the project planning phase if there are any questions about relevant best management practices (e.g., [insert relevant best management practices]) and resources that can assist with compliance.

The project proponent should notify [insert appropriate tribal office/contact] and EPA Region [X] if spills or unauthorized discharges occur during the project.

Copies of this certification must be kept on the job site and made readily available for reference.

If you have any questions regarding this certification, please contact [name, phone number, email].

[Signature of Delegated Authority]

Example of a Grant of Certification Without Conditions when EPA is the Certifying Authority (for 402 permits)

[Project] is located [location]. [Tribe] is a federally recognized Indian Tribe. The Environmental Protection Agency (EPA), [region] is issuing a National Pollutant Discharge Elimination System (NPDES) Permit No. [Permit Number], under Section 402 of the Clean Water Act (CWA), to [name of facility]. [Brief description of tribal land and where it is located].

The State in which the discharge originates is responsible for issuing the CWA Section 401 certification pursuant to CWA Section 401(a)(1). When a NPDES permit is issued on Tribal Land, the Tribe is the certifying authority where the Tribe has been approved by EPA for Treatment as a State (TAS) pursuant to CWA Section 518(e) and 40 CFR § 131.8. Where a Tribe does not have TAS, EPA is the certifying authority. The [insert name] Tribe does not have TAS for the reservation where the discharge occurs. Therefore, EPA is responsible for issuing the CWA Section 401 Certification for this permit.

EPA hereby certifies that the discharge(s), as authorized by the NPDES permit for the [name of facility] will comply with the water quality requirements, as defined at 40 CFR 121.1(n)

[Signature of Delegated Authority]

Example of a Grant of Certification with Conditions when EPA is the Certifying Authority (on non-402 permits)

This Certification applies to any potential point source discharges from [project] into waters of the United States that occur within [state, tribal boundary]. [Briefly describe where the project is located.] [Describe triggering federal license or permit.] Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that potential discharges will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. In this case, [tribe/state] does not have the authority to provide CWA Section 401 certification for discharges occurring [at location/land of exclusive federal jurisdiction], therefore, the EPA is making the certification decisions for discharges that may result from the proposed project.

Project Description

[Concise description of the project and any potential discharge(s). For example, permit/license type; general project location within the state or tribal boundary; short description of work (installation of culvert, construction of impoundment, decommissioning of a licensed dam); anticipated project impacts (two acres of jurisdictional wetlands to be filled, ten linear feet of a water of the United States to be dredged)]

General Information

The general information provided in this section does not constitute a certification condition(s).

The project proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or tribal authorities [, including (insert specific additional permit or license)].

This certification should be retained in your files with the applicable [specific license or permit] as documentation of EPA certification for the above-referenced project. This certification is specifically associated with your [specific license or permit] and expires when your [specific license or permit] expires [date license or permit expires].

The project proponent is encouraged to contact EPA Region [X] during the project planning phase if there are any questions about relevant best management practices (e.g., [insert relevant best management practices]) and resources that can assist with compliance.

The project proponent should notify [insert appropriate tribal office/contact] and EPA Region [X] if spills or unauthorized discharges occur during the project.

Copies of this certification must be kept on the job site and made readily available for reference.

If you have any questions regarding this certification, please contact [name, phone number, email].

Conditions

On behalf of [tribe/state], CWA Section 401 certification is granted with conditions. EPA has determined that any discharge from the proposed project will comply with water quality requirements, as defined at 40 CFR 121.1(n), subject to the following conditions pursuant to Section 401(d):

[*FORMATTING OPTION 1:*]

1. **[Condition 1]**
 - a. This condition is necessary to assure that the discharge from the proposed project will comply with [relevant WQR] because [brief explanation]¹
 - b. Citation that authorizes this condition: [A citation to federal, state, or tribal law that authorizes the condition]
2. **[Condition 2]**
 - a. This condition is necessary to assure that the discharge from the proposed project will comply with [relevant WQR] because [brief explanation]
 - b. Citation that authorizes this condition: [A citation to federal, state, or tribal law that authorizes the condition]

[*FORMATTING OPTION 2*]

1. **[Condition 1]**
2. **[Condition 2]**

Supporting Information for Certification Conditions

Conditions	Why the condition is necessary to assure the proposed project will comply with water quality requirements	Citation that authorizes the condition
Condition 1	Without this condition, [brief explanation]	[A citation to federal, state, or tribal law that authorizes the condition]
Condition 2	Without this condition, [brief explanation]	[A citation to federal, state, or tribal law that authorizes the condition]

[Signature of Delegated Authority]

¹ If the Region would like to include additional information and would prefer to include a longer, more detailed explanation as an attachment, in addition to providing a brief explanation for why the condition is necessary to assure compliance with WQRs, it may include a footnote directing the reader to the attachment. The region may also include this longer more detailed explanation in a memo to the file in support of the certification condition.

Example of a Denial when EPA is the Certifying Authority (on non-402 permits)

This Certification Denial applies to any potential point source discharges from [project] into waters of the United States that occur within [state, tribal boundary]. [Briefly describe where the project is located.] [Describe triggering federal license or permit.] Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that potential discharges will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. In this case, [tribe/state] does not have the authority to provide CWA Section 401 certification for discharges occurring [at location/land of exclusive federal jurisdiction], therefore, the EPA is making the certification decision for discharges that may result from the proposed project.

Project Description

[Concise description of the project and any potential discharge(s). For example, permit/license type; general project location within the state or tribal boundary; short description of work (installation of culvert, construction of impoundment, decommissioning of a licensed dam); anticipated project impacts (two acres of jurisdictional wetlands to be filled, ten linear feet of a water of the United States to be dredged)]

Certification Denial

For the reasons below, EPA has determined that any discharge from the proposed project will not comply with water quality requirements, as defined at 40 CFR 121.1(n).

1. The discharge from the proposed project will not comply with [WQR 1] because [brief statement explaining why the discharge will not comply with this WQR]
2. The discharge from the proposed project will not comply with [WQR 2] because [brief statement explaining why the discharge will not comply with this WQR]
3. The discharge from the proposed project will not comply with [WQR 3] because [brief statement explaining why the discharge will not comply with this WQR]
- 4a. [If missing information]: The following water quality data or information would be needed to assure that the discharge from the proposed project will comply with the water quality requirements listed above:
 - a. [WQR 1 – missing data/information]
 - b. [WQR 2 – missing data/information]
 - c. [WQR 3 – missing data/information]
- 4b. [If not missing information]: There is no additional water quality data or information that would be needed to assure that the discharge from the proposed project will comply with water quality requirements.]

[Signature of Delegated Authority]

Example of an Express Waiver when EPA is the Certifying Authority (on non-402 permits)

This Certification Waiver applies to any potential point source discharges from [project] into waters of the United States that occur within [state, tribal boundary]. [Briefly describe where the project is located.] [Describe triggering federal license or permit.] Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that the discharge will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. In this case, [tribe/state] does not have the authority to provide CWA Section 401 certification for discharges occurring [at location/land of exclusive federal jurisdiction], therefore, EPA is making the certification decisions for discharges that may result from the proposed project.

On behalf of [tribe/state], EPA is expressly waiving its authority to act on the certification request for [project].

[Signature of Delegated Authority]