Idaho Section 401 Water Quality Certification Guidance



State of Idaho

Department of Environmental Quality

December 2024

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DEQ, December 2024, Cost codes: 24530079.245032.22503. Costs associated with this publication are available from the State of Idaho Department of Environmental Quality in accordance with Idaho Code § 60-202.

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Abbreviations, Acronyms, and Symbols

CFR	Code of Federal Regulations
CWA	Clean Water Act
DEQ	Idaho Department of Environmental Quality
EPA	United States Environmental Protection Agency
FERC	Federal Energy Regulatory Commission
IDAPA	Idaho Administrative Procedures Code
IPDES	Idaho Pollutant Discharge Elimination System
NEPA	National Environmental Policy Act
REA	Ready for environmental analysis
RPT	Reasonable period of time
§	Section
USACE	United States Army Corps of Engineers
USC	United States Code

1 Purpose and Objectives

This document provides the Idaho Department of Environmental Quality (DEQ) and other stakeholders guidance to support an accurate, consistent, and timely statewide approach for issuing water quality certifications under the provisions of Section (§) 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 United States Code (USC) Section 1341(a)(1); 40 Code of Federal Regulations (CFR) 121; Idaho Code §§ 39-101 et seq. and 39-3601 et seq.; Idaho's "Water Quality Standards" (IDAPA 58.01.02), and other state water quality requirements. This guidance does not substitute the provisions, regulations, or rules. The recommendations are not binding; DEQ may consider other approaches consistent with the Clean Water Act (CWA), federal regulations, and Idaho's water quality standards.

This guidance describes DEQ's § 401 water quality certification process for permits issued by the United States Army Corps of Engineers (USACE) under the CWA § 404, and licenses for hydroelectric facilities issued by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act. Other permits, licenses, or federal activities that DEQ must provide certification for are not addressed in this document, including required actions specific to the § 401(a)(2) post-certification process for "neighboring jurisdiction" notification, review, and "may affect" determination.

DEQ may vary from the recommended approaches outlined in this guidance based upon site-specific information, comments provided by the public, the permit or license applicant, and the permit or licensing agency, or for any other reason. This guidance may be revised as needed to enhance and facilitate process efficiency and effectiveness according to federal regulations and state requirements.

2 Background

The United States Environmental Protection Agency (EPA) published the *Final 2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule* (2023 Rule) in the Federal Register on September 14, 2023 (40 CFR 121; *88 FR 66661*), effective on November 27, 2023. The 2023 Rule provides substantive requirements for the certification process that applies to project proponents (applicants), certifying authorities, and federal licensing or permitting agencies.

Federal regulations at 40 CFR 121 (§ 401) provide a direct grant of authority to states and authorized Tribes to review compliance with applicable federal, state, and tribal water quality requirements for any discharge from a point source into waters of the United States that may result from a proposed activity requiring a federal license or permit (40 CFR 121.2).

DEQ is the agency designated in Idaho to make § 401 certification decisions on nontribal land. Functions of the 401 program are coordinated from DEQ's State Office and administered from six regional offices (Appendix A). Regarding certification issuance for USACE projects, DEQ has

2 certification pathways: general and individual. *DEQ's general § 401 Water Quality Certification* offers a streamlined and expedited approach to pre-certify activities authorized by federal Nationwide Permits and are evaluated every 5 years. DEQ's individual certification process applies when project activities are not pre-certified by the *general § 401 Water Quality Certification*. For activities for which general certification has been denied, the applicant is required to request an individual certification before the activity can be conducted. Individual certification requests provide DEQ with the opportunity to review project details and determine if additional conditions are necessary to ensure that water quality requirements will be met.

3 Guidance Applicable to all Federal Permits and Licenses

The following sections provide DEQ's individual certification process overview applicable to all federal permits and licenses.

3.1 Information to Support the § 401 Certification Request

DEQ must obtain sufficient project information to make an informed certification decision. When submitting a certification request, the federal permit or license applicant is required to provide readily available water quality-related project information for review. The certification request should include supporting information that the activity will comply with applicable provisions of the CWA, IDAPA 58.01.02, and other applicable water quality requirements. Federal regulations at 40 CFR 121.5 and DEQ's *water quality certifications* web page specify the minimum required contents for a valid certification request. DEQ may request additional information from the applicant to resolve an incomplete certification request.

3.1.1 Prefiling Meeting Request

All applicants, including federal agencies, seeking certification must request a prefiling meeting with DEQ at least 30 days before submitting a *Section 401 Water Quality Certification Request*. This federal requirement ensures that DEQ has an opportunity to review and discuss the proposed project and to request additional information necessary for evaluation before the statutory time frame for review begins.

Upon receipt of a *Prefiling Meeting Request*, DEQ reviews the form for completion and responds by email with an acknowledgement receipt to indicate the certification process has been initiated. DEQ considers on a case-by-case basis if the prefiling meeting is needed, or if the 30-day period will be waived or shortened. The prefiling meeting is organized by DEQ's regional office and may be conducted via phone, virtually, or in-person, within 30 days of receiving the prefiling meeting request.

During the prefiling meeting, if important data or relevant information is lacking in the project proposal, DEQ may request additional data. If data is not readily available within one year of the anticipated certification request submittal date, DEQ will recommend the applicant submit

a certification request after all water quality-related materials can be provided to avoid a denial of certification for lack of adequate information.

3.1.2 Water Quality Certification Request

At least 30 days after receiving a completed *Prefiling Meeting Request* or unless otherwise indicated, the applicant may submit a completed *Section 401 Water Quality Certification Request*. To comply with federal regulations and DEQ's procedures, the certification request submitted for an individual federal license or permit must be written, signed, dated, and include the following applicable project information (40 CFR 121.5):

- Copy of the Joint Application for Permits (if not previously provided)
- Erosion and sediment control plan
- Storm water pollution prevention plan
- Water quality monitoring, control, and protection plan
- Wetland delineation report and ratings
- Soils testing and characterization reports
- Suitability determination for dredging projects within water disposal
- Dredging and excavation plans
- Flow diversion, cofferdam, and dewatering system plan
- Mitigation plan
- Riparian revegetation, restoration, and management plan
- Aquatic invasive species management plan
- Spill prevention control and countermeasures plan
- Summary of wastewater servicing for marina operations
- National Environmental Policy Act (NEPA) analysis

This list is not all-inclusive; any plan or documentation that supports the goal of protecting water quality is acceptable. Once a certification request is received, DEQ must act within the reasonable period of time (RPT), not exceeding one year. DEQ conducts a preliminary review for completion and confirms that water quality-related documents supporting the goal of protecting water quality are included. DEQ provides an acknowledgement receipt or prompt notification to the applicant if a certification request is not submitted according to DEQ's procedures or the 2023 Rule.

3.2 Reasonable Period of Time

The RPT begins on the date that DEQ receives a request for certification (40 CFR 121.6). For USACE dredge and fill permits, the USACE and DEQ agree the default RPT is 60 days. The USACE and DEQ may agree to extend the RPT for any reason in writing if additional time is needed to evaluate project complexity or it is necessary to accommodate DEQ's public notice procedures or force majeure events (including, but not limited to, government closure or natural disasters) provided it does not exceed one year from the date that the certification request was received.

For FERC licenses, the RPT is one year.

3.3 DEQ § 401 Certification Decisions

The CWA § 401 allows DEQ to grant, grant with conditions, deny, or waive certification (either expressly or by operation of law). Unless certification is waived by operation of law, DEQ issues its certification decision in writing (40 CFR 121.7) within the RPT noted in the certification request receipt.

DEQ may grant certification with conditions. Under § 401(d), the certification may include any effluent limitations and monitoring requirements necessary to ensure the applicant will comply with applicable sections of the CWA and state water quality standards. Conditions under 40 CFR 121.7(d) become an enforceable condition on the federal license or permit.

If DEQ denies certification under 40 CFR 121.7(e), the federal agency cannot issue the federal license or permit. Depending upon the circumstances and applicable federal requirements and timelines, the applicant may request certification again. This request may be appropriate when information is insufficient to establish that the activity will comply with applicable sections of the CWA or state water quality standards. DEQ will attempt to work with the appropriate federal agencies and applicants to receive adequate and readily available water quality-related information. However, DEQ may deny certification if such information is not provided in a timely manner or is not made available within the RPT. Alternatively, the applicant may choose to withdraw the request for certification to develop additional information and then reapply for the § 401 certification. If changes to the project result from new supporting information, then the applicant should resubmit an updated *Prefiling Meeting Request* to reinitiate the certification process.

DEQ's final decision on § 401 certification may be appealed by the applicant or "other aggrieved person" under the Idaho Environmental Protection and Health Act (Idaho Code § 39-107(5)) and the Idaho Administrative Procedure Act (IDAPA). Such an appeal is a prerequisite to any district court action and must be initiated by filing a petition for a contested case according to the "Rules of Administrative Procedure before the Board of Environmental Quality" (IDAPA 58.01.23) within 35 days of the date of DEQ's decision on the § 401 certification.

3.4 Certification Modification by Joint Agreement

Federal regulations at 40 CFR 121.10 allow modifications to a grant of certification. The federal agency and DEQ may consent to certification modifications upon written agreement. DEQ may only modify portions of a grant of certification that are agreed upon. DEQ is not required to obtain the federal agency's agreement on the language of the modification. DEQ will not revoke or change a grant of certification into a denial or waiver of certification.

4 Guidance for Specific Permit or License Decisions

The following sections provide specific certification process information applicable to CWA § 404 permits and FERC licensing.

4.1 Section 404 Permits

4.1.1 Federal Law and Regulations

The CWA § 404 provides authority, implemented by the USACE, to issue permits for the discharge of dredged or fill material into waters of the United States, including wetlands. The USACE may issue individual or general permits (33 CFR 325.5(a)(1)). Within 15 days of receiving an application for an individual CWA § 404 permit, the USACE must determine whether the application is complete and issue a public notice of the receipt of a complete application (33 CFR 325.1(d) and 33 CFR 325.2(a)(2)). The USACE determines if the proposed project is covered by a *Nationwide* or *Regional General* permit that has obtained *DEQ's general § 401 Water Quality Certification*. If DEQ's general § 401 certification does not apply, then an individual § 401 certification will be required.

4.1.2 DEQ § 401 Certification Procedures

DEQ provides the public with the opportunity to review and comment on draft § 401 certification decisions. Because of the timelines established in the federal regulations, DEQ and the USACE do not run concurrent public notices. DEQ certification procedures for projects seeking a CWA § 404 permit authorization or verification and individual § 401 certification are outlined below and shown in the process overview flow chart in Appendix B.

Step 1. All applicants seeking an individual certification for a federal permit must submit a *Prefiling Meeting Request* to DEQ at least 30 days before submitting a *Section 401 Water Quality Certification Request* to DEQ at *certificationrequests@deq.idaho.gov.* DEQ reviews the form for completion and considers on a case-by-case basis if a prefiling meeting is needed or if the 30-day period will be waived or shortened. DEQ provides an acknowledgement email receipt to the applicant and USACE to indicate the certification process has been initiated (40 CFR 121.4).

The prefiling meeting period allows DEQ to identify potential water quality concerns and work with the USACE and the applicant in addressing those concerns. DEQ's regional office may hold the meeting via phone, virtually, or in-person, within 30 days of receiving the prefiling meeting request. DEQ may invite the USACE to discuss the following: the permit pathway, additional information necessary for DEQ to make a certification decision, permit and certification process timelines, project construction timelines, and whether the default 60-day RPT is adequate.

Step 2. Federal regulations require the applicant to submit a *Section 401 Water Quality Certification Request.* DEQ reviews the request for completion and confirms that supporting water quality-related documents are included to inform the § 401 certification decision. DEQ provides prompt notification to the applicant if a certification request is not submitted according to DEQ's procedures or the 2023 Rule. DEQ provides an email acknowledgement receipt to the applicant and the USACE to establish the RPT, which begins when DEQ receives a certification request that complies with 40 CFR 121.5.

Step 3. If the project can be certified as proposed, DEQ drafts a certification. If additional time is needed for review, DEQ requests an extension, not to exceed one year. If the project cannot

be certified as proposed, DEQ issues a denial of certification to the applicant and provides a copy to the USACE.

Step 4. Public participation provisions of Idaho's continuing planning process are satisfied by providing a public comment period for draft CWA § 401 water quality certifications (within the RPT) before finalizing, distributing, and posting to DEQ's website (IDAPA 58.01.02.052.08.e.iii). Once completed, the draft certification is posted on DEQ's website for *public comment,* typically for 21 days.

Step 5. After the public comment period concludes, DEQ may respond to comments, include comments and their associated responses into an appendix, and may revise the CWA § 401 water quality certification within the RPT accordingly. DEQ may contact commenters to request additional information or clarification needed to develop a response and documents certification revisions that comply with the CWA and other applicable water quality requirements. The final CWA § 401 water quality certification is published to *DEQ's Issued Permits and Water Quality Certifications* web page and distributed by email from DEQ's regional office to the applicant and USACE. DEQ provides notice to parties that commented on the preliminary decision regarding its final decision.

4.2 FERC Licenses

The following sections provide specific certification process information applicable to FERC licenses.

4.2.1 Federal Law and Regulations

The Federal Power Act grants FERC authority to license nonfederal hydroelectric projects located on navigable waters. Because such facilities may include a discharge to surface water, a CWA § 401 water quality certification is required to issue the FERC license. In addition to the general federal regulations for water quality certification at 40 CFR 121, FERC adopted regulations for water quality certification under CFR Title 18.

Most hydroelectric projects in the United States are operating under a license issued for a period of 30 to 50 years. To operate beyond the original license period, the facility must obtain a new license from FERC. A number of facilities in Idaho are, or will soon be, in the process of obtaining a new license.

FERC regulations provide for several different licensing processes, including the traditional, integrated, and alternative licensing processes. Under traditional and integrated licensing processes, within 60 days from the date of issuing the notice of ready for environmental analysis (REA), the applicant must provide FERC with either:

1. A copy of the state's § 401 water quality certification
2. A copy of the request for certification, including proof of the date on which the certifying agency received the request, or
3. Evidence of waiver of certification (18 CFR 4.34(b)(5)(i) and 18 CFR 5.23(b)(1))

If the alternative licensing process is allowed, then 18 CFR 4.34(b)(5)(ii) requires the applicant to provide FERC with the above-described information upon issuing notice that FERC has accepted an application as provided in 18 CFR 4.32(d).

A state is deemed to have waived the certification requirements if it has not granted or denied certification by one year after the date a written request for certification was received (18 CFR 4.34(b)(5)(iii) and 18 CFR 5.23(b)(2)).

FERC provides no specific notice to the public that the state is considering § 401 certification.

4.2.2 DEQ § 401 Certification Procedures

DEQ provides the public with the opportunity to review and comment on draft § 401 certification decisions. Because FERC does not provide notice to the public, DEQ issues its own public notices for certification decisions. DEQ certification procedures for hydroelectric facility licenses are outlined below and provided in the process overview flow chart in Appendix C.

Step 1. To initiate the certification process, the applicant must complete and submit DEQ's *Prefiling Meeting Request* to *certificationrequests@deq.idaho.gov* at least 30 days before submitting a *Section 401 Water Quality Certification Request*. DEQ reviews the form for completion and considers on a case-by-case basis, if a prefiling meeting is needed, or if the 30-day period will be waived or shortened. DEQ provides an acknowledgement of receipt email to the applicant to indicate the certification process has been initiated (40 CFR 121.4). This federal requirement ensures that DEQ has an opportunity to review and discuss the project and to request additional information necessary for evaluation before the statutory time frame for review begins. DEQ's regional office may hold the meeting via phone, virtually, or in-person, within 30 days of receiving the prefiling meeting request.

During the prefiling meeting, if sizable data or relevant information is lacking in the project proposal, DEQ may request additional data. If data is not readily available within one year of the anticipated certification request submittal date, DEQ will recommend the applicant submit a certification request after all water quality-related materials can be provided for review (e.g., NEPA analysis). Ideally, a certification request should be submitted to DEQ after FERC issues a notice of REA assuming the NEPA analysis can be made available for review within one year from the date the notice was issued. Because FERC requires the applicant to provide either (a) a copy of the state's § 401 water quality certification; (b) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (c) evidence of waiver of certification (18 CFR 4.34(b)(5)(i) and 18 CFR 5.23(b)(1)), and DEQ requires the NEPA analysis for review, DEQ suggests the applicant submit an extension request to FERC stating the justification for extension is needed to accommodate DEQ's certification request requirements. This request avoids a denial of certification for lack of adequate project information. After the prefiling meeting, if questions or information gaps exist, DEQ contacts the applicant to request additional information.

Step 2. The one-year RPT for issuing a CWA § 401 certification for a hydroelectric facility begins the day DEQ receives a *Section 401 Water Quality Certification Request*. DEQ reviews the request

for completion and confirms that supporting water quality-related documents are included to inform the certification decision. DEQ provides prompt notification to the applicant if a certification request is not submitted according to DEQ's procedures or the 2023 rule. When DEQ receives a certification request that complies with 40 CFR 121.5, DEQ acknowledges receipt via email.

Step 3. Within 30 days, DEQ provides notice to the public about receipt of the *Section 401 Water Quality Certification Request* by posting information to DEQ's website and issuing a press release. The 30-day public notice indicates timelines for DEQ to complete the following:

- Issue a draft certification decision by establishing the RPT.
- Provide information on *public comment opportunities.*
- Provide document access information to the FERC license and § 401 certification.

Step 4. Public participation provisions of Idaho's continuing planning process are satisfied by providing a public comment period for draft CWA § 401 certifications before finalizing, distributing, and posting to DEQ's website (IDAPA 58.01.02.052.08.e.iii). Ninety days before the end of the RPT (one-year date), DEQ provides a draft certification and notice to the public that it has made a preliminary decision to certify the project. Once completed, the draft certification is posted on DEQ's website for *public comment* for at least 45 days. The public may provide written comments to DEQ on the draft § 401 certification. Within 15 days of the date of notice of the preliminary decision, any person may request a public hearing or meeting to submit oral comments to DEQ. If DEQ determines a public hearing or meeting is appropriate, the meeting or hearing will be held within the 45-day comment period, unless a later date is warranted (Appendix C).

Step 5. After the public comment period concludes, DEQ may respond to comments, include comments and their associated responses into an appendix, and may revise the CWA § 401 water quality certification within the RPT accordingly. DEQ may contact commenters to request additional information or clarification needed to develop a response and documents certification revisions that comply with the CWA and other applicable water quality requirements. The final CWA § 401 water quality certification is published to *DEQ's Issued Permits and Water Quality Certifications* web page, distributed by email from DEQ's regional office to the applicant, and submitted to FERC's *eFiling* system. DEQ provides notice to parties that commented on the preliminary decision about the final decision.

References

CFR (Code of Federal Regulations). 2014. "Processing of Department of the Army Permits" 33 CFR 325.

DEQ (Idaho Department of Environmental Quality). 2020. "Water Quality Standards." IDAPA 58.01.02. *https://adminrules.idaho.gov/rules/current/58/580102.pdf*

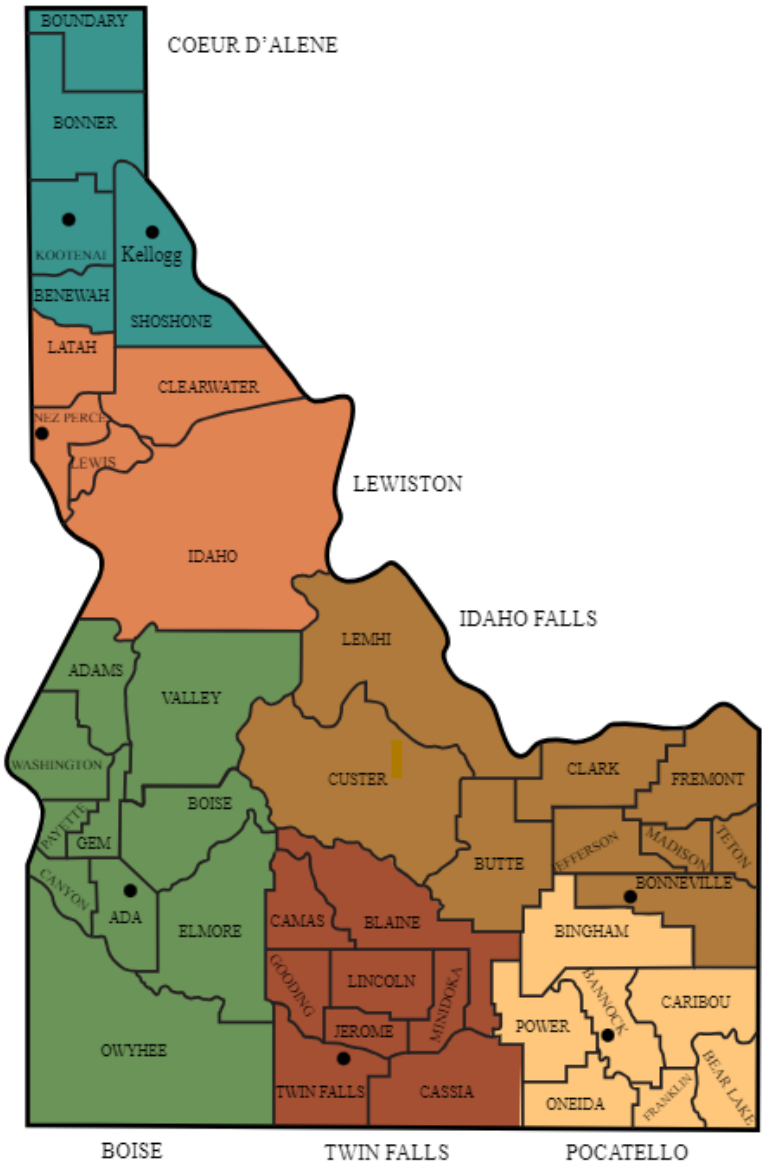
EPA (United States Environmental Protection Agency). "Clean Water Act Section 401 Certification Rule." 40 CFR 121; 88 FR 66661. *federal-register-version-of-2023-clean-water-act-section-401-water-quality-certification-improvement-rule.pdf (epa.gov)*

EPA (United States Environmental Protection Agency). 1972. Clean Water Act. 33 USC § 1251 et seq.

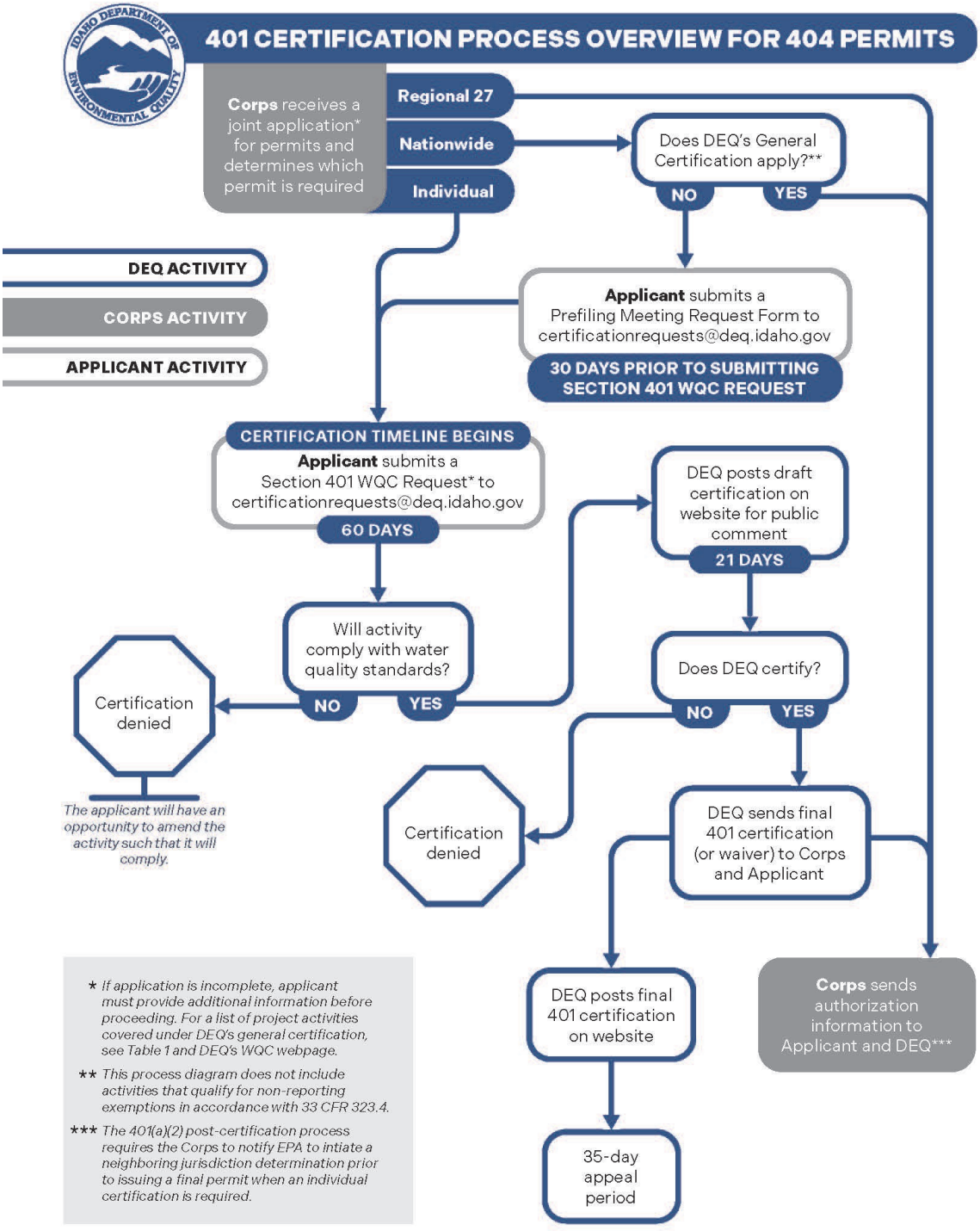
FERC (Federal Energy Regulatory Commission, Department of Energy). "Conservation of Power and Water Resources." 18 CFR Chapter I*https://www.law.cornell.edu/cfr/text/18/chapter-I*

Appendix A. DEQ Contact Information

Office	Main Phone
Coeur d'Alene	(208) 769-1422
Lewiston	(208) 799-4370
State Office	(208) 373-0502
Boise	(208) 373-0550
Twin Falls	(208) 736-2190
Pocatello	(208) 236-6160
Idaho Falls	(208) 528-2650

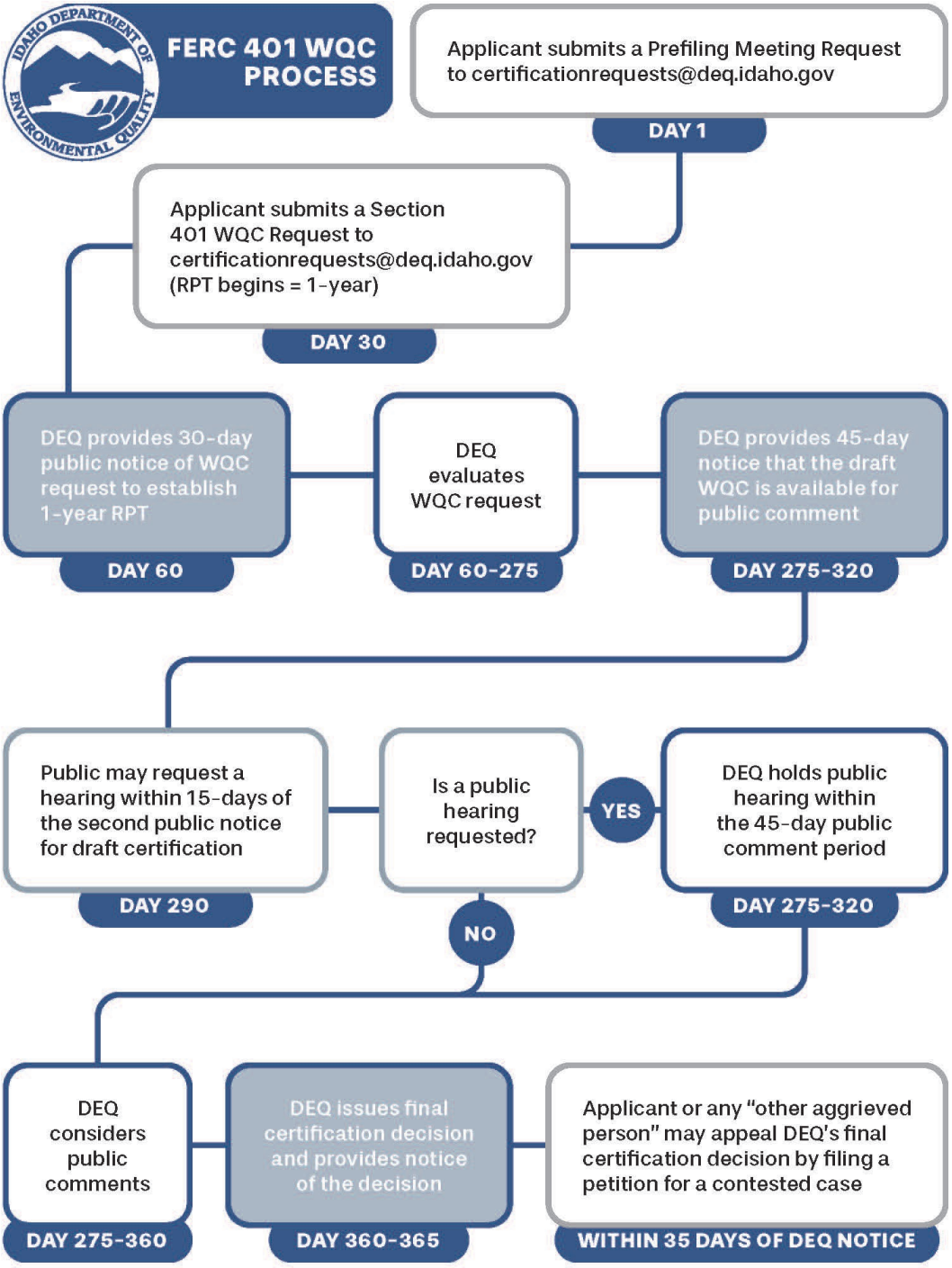


Appendix B. Section 401 Certification Process Overview for 404 Permits



For a list of project activities covered under DEQ's general certification, see *Table 1* on DEQ's 401 web page.

Appendix C. Section 401 Certification Process Overview for FERC Licenses



Appendix D. Response to Comments

1	Nicole Deinarowicz, USACE, nicole.e.deinarowicz@usace.army.mil
2	Sara Hansen, ITD, Sarah.Hansen@itd.idaho.gov
3	James Joyner, USACE, james.m.joyner@usace.army.mil

Comment Number	Section Title	Commenter	Comment Summary	Response
1	401/404 Process Overview (Appendix B)	1	In addition to issuing a NWP or individual, we could also determine that a project is non-reporting or exempted. Non-reporting, meaning the impacts are below the thresholds of a particular NWP and a PCN is not required. In these cases, we will forward an email stating that, as proposed, the project appears to qualify for the non-reporting tier of the NWP. Exempted activities in accordance with 33 CFR 323.4(a)(1-6).	Thank you for your comment. The first asterisk and key have been updated to say "This process diagram does not include activities that qualify for non-reporting exemptions in accordance with *33 CFR 323.4*."
2	Abbreviations, Acronyms, and Symbols (Page IV)	2	USC only appears once in the text on page 1, section 1, paragraph 1 and once in References, recommend spelling it out and removing from the abbreviation list or spelling out at first instance.	Thank you for your comment. United States Code (USC) has been spelled out at first instance.
3	Abbreviations, Acronyms, and Symbols (Page IV)	2	Add the symbol § to the list and define.	Thank you for your comment. The "Section" symbol (§) has been added to the "Abbreviations, Acronyms, and Symbols" list and defined.
4	Abbreviations, Acronyms, and Symbols (Page IV)	2	Include IDAPA in the abbreviations list.	Thank you for your comment. IDAPA has been added to the "Abbreviations, Acronyms, and Symbols" list and defined.

Comment Number	Section Title	Commenter	Comment Summary	Response
5	Purpose and Objectives (Page 1)	2	Paragraph 1, introduce the § symbol at "…provisions of Section (§) 401(a)(1) of the Federal…"	Thank you for your comment. The section symbol (§) has been added.
6	Purpose and Objectives (Page 1)	2	Paragraph 1, Spell out CFR in the first instance.	Thank you for your comment. "Code of Federal Regulations" has been added at first instance.
7	Purpose and Objectives (Page 1)	2	Paragraph 2, Spell out United States for defining the USACE abbreviation since that is how it shown in the abbreviations list.	Thank you for your comment. "United States" has been spelled out.
8	Guidance Applicable to all Federal Permits and Licenses (Page 2)	2	Section 3.1, the last sentence says "…request additional information from the applicant to resolve an invalid certification" I am wondering if it would be more appropriate to say incomplete versus invalid.	Thank you for your comment. The word "invalid" has been replaced with the word "incomplete".
9	Guidance Applicable to all Federal Permits and Licenses (Page 2)	2	Under section 3.1.1, paragraph 1, you mention a "Section 401 Water Quality Certification Request," I recommend having this form as an appendix versus a hyperlink as provided in section 3.1.2.	Thank you for your comment. The forms have not been included in the guidance in the event they are updated. Guidance documents are subject to the public participation process and each update would require public review, leading to timeline and document availability inefficiencies.
10	Guidance for Specific Permit or License Decision (Page 4)	2	Section 4, says "following sections…applicable to CWA § 404 permits." Is this true since section 4.2 addresses FERC licensing? I suggest adding to this sentence to read 'applicable to CWA § 404 permits and FERC licensing.'	Thank you for your comment. Section 4 has been updated to include FERC licensing.
11	Step 5 (Page 6)	2	The hyperlink to the DEQ website where you can search for permits lists two option (401 Cert and 401 cert). Is there a reason for both?	Thank you for bringing this to our attention. The webpage has been corrected from "401 Cert" and "401 cert" to "401 Certification."

Comment Number	Section Title	Commenter	Comment Summary	Response
12	References (Page 9)	2	The last reference, for FERC, appears to be missing the letter "I" after 18 CFR Chapter.	Thank you for your comment. The reference has been corrected to include the letter "I".
13	DEQ Contact Information (Appendix A)	2	I recommend calling it simply State Office since that is how you refer to it in the body on page 1.	Thank you for your comment. The office name has been corrected for consistency.
14	Water Quality Certification Request (Page 3)	3	The last item indicates NEPA final action. For the Corps this typically doesn't occur until we issue the permit. This would be problematic for the request or to provide.	Thank you for your comment. Certification requests are evaluated on a case-by-case basis. We have revised the water quality certification request form and informational web page from "NEPA final action" to "NEPA analysis."
15	General Comment	3	Regarding the 401(a)(2) process (neighboring jurisdiction), you may want to consider that in the guide/flowcharts.	Thank you for your comment. DEQ's certification process does not include steps required by the § 401(a)(2) post-certification process for "neighboring jurisdictions". Clarification has been added to Section 1 and is also included in the 401 Certification Process Overview for 404 Permits flow chart (Appendix B).