

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

New RI WQC Requirements for CWA Section 401 Rule

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OFFICE OF WATER RESOURCES

New Administrative Check-In

- DEM's Permit Application Center staff checks in all new applications submitted to the Department
- They now need to identify any new WQC Requests to identify whether they relate to a federal permit (e.g. FERC, New-Expanded Marinas, CWA 404 applications for projects not covered by a General Permit)
- Makes sure Request is complete before it is logged into DEM's Database

Updated Application Forms

- New CWA 401 Regulations changed definition of a "complete" Certification Request
- Required Changes to our WQC Application form
- Created a Supplemental WQC Application Form

NEW Supplemental WQC Request Form

Required for any project that requires State Water Quality Certification as part of a Federal Permit that isn't already covered by a General Permit.



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Supplemental Water Quality Certification Request Form

This form only applies to projects that are requesting a Water Quality Certification as part of a Federal permit which is not covered by a General Permit and therefore requires State certification. Review the [WQC Application Instructions and Required Enclosures](#) document for additional submittal requirements. Provide all applicable information by completing the **shaded** areas.

Applicant Name:		Project Name:	
Additional Permits. Describe all additional permits and/or authorizations required for the project (federal, interstate, state, tribal, terretorial, local, etc.). Indicate whether the authorization has already been approved or denied.			
Federal	State	Local	Other
Date of Pre-application Meeting Request. Attach documentation showing proof of pre-application meeting request. The Pre-application Meeting Request must be made at least 30 days prior to the submittal of the WQC Request.			
Certification			
I hereby certify that all information contained herein is true, accurate, and complete, to the best of my knowledge and belief, and hereby request that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.			
Applicant/Project Proponent's Signature:	Title:	Date: 02/16/21	

Please note that RIDEM OWR reserves the right to request additional information from the applicant during the Reasonable Period of Time that is needed to determine impact to State waters.

Notable Changes & Additions

- Requirement of Request for Pre-application meeting at least 30 days prior to application submittal (with accompanying documentation)
- Required applicant certification signature for statements required by CWA Section 401
- Required notifications from federal Agency of the "reasonable period of time" within which a certifying agency must complete our review and issue a decision.

All other required components of a "complete certification request" are already covered by the State's Water Quality Rules.

• New CWA 401 Regulations Apply to:

- Projects that require licensing through FERC (e.g. Hydropower, Gas Transmission Lines, etc.)
- Projects requiring a CWA Section 404 permit that are **not** already covered by a General Permit (e.g. projects that require an Individual Permit from ACOE under the Rhode Island General Permit)
- Projects requiring a Federal Permit under Section 9 or 10 of the Rivers and Harbors Act (e.g. new or expanded marinas)

Resulting Process Changes

- Certain projects will no longer be able to take advantage of applying to only one DEM Program in order to get all of their permits. In most cases, applicants will need to now submit separate applications, packages, and fees to BOTH the Freshwater Wetlands Program and the WQC Program.
- Will coordinate review to the extent possible, but will operate under different timelines and will have different review responsibilities.
- WQC reviews will have strict time limitations, which may limit the ability to work with applicants to address concerns and allow a project to go forward.

Agency Decision Changes

- “Reasonable period of time” applies to the Agency, not the applicant. This may influence the agency decision when the applicant fails to respond to agency requests in a timely manner.
- Additional burdens on agencies to 1) justify requests for extensions of “reasonable periods of time; 2) provide additional justification and citations for each permit condition; 3) provide additional justification and citations for basis of denials.
- For many such requests, applicants will now be faced with at least two permits, with their own timelines and requirements, for the same project.



**WHERE DO
WE GO FROM
HERE?**

