



**Key Elements for a Request for a CWA Section 401 Water Quality Certification as required by
40 C.F.R. § 121.5 and COMAR 26.08.02.10 (rev. Nov. 2023)**

All requests for a Water Quality Certification shall be in writing and mailed to:

Maryland Department of the Environment
Water and Science Administration
Wetlands and Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

Please call 410-537-3745 if you have any questions.

1. In accordance with 40 C.F.R. § 121.5 and COMAR 26.08.02.10, you shall submit to the Department a request which includes:

- (a) Identify the project proponent(s) and a point of contact. Name, address, phone number, email address of the applicant and the authorized agent or contact (as applicable).
- (b) Identify the applicable federal license or permit, and include a copy of the license or permit application submitted to the Federal agency. For example, include the assigned U.S. Army Corps of Engineers and Maryland Department of Environment tracking numbers along with a copy of the Joint Permit Application (JPA). The JPA shall be included with any Request for a Water Quality Certification, as well as any supplemental documents addressing Key Elements not contained in the JPA.
- (c) The project site address, including coordinates in degrees, minutes, seconds, 12 digit HUC no., Watershed name.
- (d) The name(s) and address(es) of adjacent property owners.
- (e) Signed Public Notice Billing Form.
- (f) Identify the proposed project. Description of the facility or activity.
- (g) A plan showing the proposed activities to scale including:
 - The location(s) and boundaries of the activities;
 - The location(s), dimension(s), and type(s) of any existing and/or proposed structures; and
 - The location(s), name(s), identification number(s), and extent of all potentially affected surface water bodies, including wetlands.

(h) Identify the location and nature of any potential discharge that may result from the proposed project and the location of receiving waters; A description of any discharge which **may result** from the conduct of any activity including:

(i) Biological, chemical, thermal or other characteristics of the potential discharge;

(a) A description of any other aspect associated with construction and operation of the activity that would affect the chemical composition, temperature, flow, or physical aquatic habitat of the surface water.

(b) The characteristics of the discharge

- o Flow rate (cfs)
- o Potential chemical, physical, biological constituents
- o Frequency (e.g., daily, hourly,)
- o Duration
- o Temperature (Celsius)

(ii) The location or locations at which any discharge may enter navigable waters;

(a) Latitude and longitude (dd:mm:ss)

(b) An original or color copy/reproduction of a United States Geological Survey Quadrangle Map that clearly shows the location of the activity and all potential discharge points

(iii) Data supporting existing aquatic life use for each waterway; and

(iv) Antidegradation alternatives analysis as applicable to Tier II waters.

(v) The existing and designated use(s) that are potentially affected by the proposed activities.

(i) Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge; A description, if applicable, of the function and operation of any equipment or facilities to treat any discharge and the degree of treatment to be attained. A description of any other aspect associated with construction and operation of the activity that would affect the chemical composition, temperature, flow, or physical aquatic habitat of the surface water.

(j) The date on which the activity will begin or end, if known, and the date or dates on which any discharge may occur.

(k) A description, if applicable, of the methods proposed or employed to monitor the quality and characteristics of any discharge.

(l) A specific and detailed mitigation plan as applicable for projects requiring mitigation.

(m) Include a list of all other federal, interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received; Other related permits issued or required (Individual 404 Permit, Nationwide Permit No., Section 10 Permit, Erosion and Sediment Control Plan Approval, NPDES permit (including Stormwater Permits), Regional Permits.

(n) Any other information for evaluation of the impact of the activity on water quality. This may include quantitative analysis to demonstrate that the proposed activity may not violate State water quality standards.

(o) Include documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request; if you have not completed this step you may file a Pre-Filing Meeting request with MDE [here](#).

(p) Contain the following statement: ‘The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief’; and

(q) Contain the following statement: ‘The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.’

2. Discharges to Outstanding National Resource Waters will not be certified unless:

- a. there is minimal adverse impact;
- b. the discharge will not impair water quality necessary to maintain the exceptional biological resource of the ONRW; and
- c. all practical actions have been taken to avoid impacts.