

APPLICATION FOR OHIO EPA
SECTION 401 WATER QUALITY CERTIFICATION

Effective October 1, 1996
Revised August, 1998

This application must be completed whenever a proposed activity requires an individual Clean Water Act Section 401 Water Quality Certification (Section 401 certification) from Ohio EPA. A Section 401 certification from the State is required to obtain a federal Clean Water Act Section 404 permit from the U.S. Army Corps Engineers, or any other federal permits or licenses for projects that will result in a discharge of dredged or fill material to any waters of the State. To determine whether you need to submit this application to Ohio EPA, contact the U.S. Army Corps of Engineers District Office with jurisdiction over your project, or other federal agencies reviewing your application for a federal permit to discharge dredged or fill material to waters of the State, or the Ohio EPA Section 401 Coordinator at (614)644-2001.

The Ohio EPA Section 401 Water Quality Certification Program is authorized by Section 401 of the Clean Water Act (33 U.S.C. 1251) and the Ohio Revised Code Section 6111.03(P). Ohio Administrative Code (OAC) Chapter 3745-32 outlines the application process and criteria for decision by the Director of the Ohio EPA. In order for Ohio EPA to issue a Section 401 certification, the project must comply with Ohio's Water Quality Standards (OAC 3745-1) and not potentially result in an adverse long-term or short-term impact on water quality. Included in the Water Quality Standards is the Antidegradation Rule (OAC Rule 3745-1-05), effective October 1, 1996, revised October, 1997 and May, 1998. The Rule includes additional application requirements and public participation procedures. **Because there is a lowering of water quality associated with every project being reviewed for Section 401 certification, every Section 401 certification applicant must provide the information required in Part 10 (Pages 3 and 4) of this application.** In addition, applications for projects that will result in discharges of dredged or fill material to wetlands must include a wetland delineation report approved by the Corps of Engineers, a wetland assessment with a proposed assignment of a wetland category(ies), official documentation on evaluation of the wetland for threatened or endangered species, and appropriate avoidance, minimization, and mitigation as prescribed in OAC 3745-1-50 to 3745-1-54. Ohio EPA will evaluate the applicant's proposed wetland category assignment and make the final assignment.

Information provided with the application will be used to evaluate the project for certification and is a matter of public record. If the Director determines that the application lacks information necessary to determine whether the applicant has demonstrated the criteria set forth in OAC Rule 3745-32-05(A) and OAC Chapter 3745-1, Ohio EPA will inform the applicant in writing of the additional information that must be submitted. The application will not be accepted until the application is considered complete by the Section 401 Coordinator. An Ohio EPA Section 401 Coordinator will inform you in writing when your application is determined to be complete.

Please submit the following to "Section 401 Supervisor, Ohio EPA/DSW, P.O. Box 1049, Columbus, Ohio 43216-1049:

- Four (4) sets of the completed application form, including the location of the project (preferably on a USGS quadrangle) and 8-1/2 x 11" scaled plan drawings and sections.
- One (1) set of original scaled plan drawings and cross sections (or good reproducible copies).

(See Application Primer for detailed instructions)

1. The federal permitting agency has determined this project: (check appropriate box and fill in blanks)
- a. _____ requires an individual 404 permit/401 certification- Public notice # (if known) _____
 - b. X requires a Section 401 certification to be authorized by Nationwide Permit # Individual 404 Permit or NWP
 - c. _____ requires a modified 404 permit/401 certification for original Public Notice # _____
 - d. _____ requires a federal permit under _____ jurisdiction identified by # _____
 - e. _____ requires a modified federal permit under _____ jurisdiction identified by # _____

2. Application number (to be assigned by Ohio EPA):					
3. Name and address of applicant:			Telephone number during business hours:		
Jerry Wray, Director of Transportation Ohio Department of Transportation 1980 West Broad Street, Columbus, Ohio 43223			(614) 644-0377 (Office) (614) 728-7368 (Fax)		
3a. Signature of Applicant:			Date:		
4. Name, address and title of authorized agent:			Telephone number during business hours:		
Adrienne Earley, Office of Environmental Services Ohio Department of Transportation 1980 West Broad Street, Columbus, Ohio 43223			(614) 466-2159 (Office) (614) 728-7368 (Fax)		
4a. Statement of Authorization: I hereby designate and authorize the above-named agent to act in my behalf in the processing of this permit application, and to furnish, upon request, supplemental information in support of the application.					
Signature of Applicant:			Date:		
5. Location on land where activity exists or is proposed. Indicate coordinates of a fixed referenced point at the impact site (if known) and the coordinate system and datum used.					
The proposed project occurs along State Route 821, approximately 4.5 miles north northeast of the City of Marietta in Muskingum Township, Washington County Ohio. 39.4951 -81.4425					
Duck Creek HUC - 05030201 Watershed	Washington County	Muskingum Township	na City	OH State	na Zip Code
6. Is any portion of the activity for which authorization is sought complete? ___Yes <u>x</u> No If answer is "yes," give reasons, month and year activity was completed. Indicate the existing work on the drawings.					
7. List all approvals or certifications and denials received from other federal, interstate, state or local agencies for any structures, construction, discharge or other activities described in this application.					
Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval	Date of Denial
FHWA	CE 1	91295	12/16/2013	12/16/2013	
USFWS	ESR	91295	9/5/2013	10/21/2013	
ODNR	ESR	91295	9/5/2013	10/8/2013	
SHPO	Cultural Resource Clearance	91295	2/28/2012	4/17/2012	
8. DESCRIPTION OF THE ACTIVITY (fill in information in the following four blocks – 8a, 8b, 8c & 9)					
8a. Activity: Describe the Overall Activity: The proposed project involves the realignment of 0.70 mile of SR 821 in order to avoid a landslide slip plane. The roadway is to be shifted a maximum distance of 100 feet southeastward into the forested hillside from the existing centerline to the proposed centerline (Figures 1 and 2). This landslide was declared a Type C emergency by way of the Federal Highway Administration OH-11-02 Flood Emergency and was identified as ODOT District 10's number one landslide repair priority.					
The proposed State Route 821 realignment will require substantial cuts into the adjacent forested hillside and will eliminate approximately 2,160 linear feet of ephemeral or intermittent unnamed tributaries that flow perpendicular, and in some cases parallel, to SR 821. The streams will first be "cut" and then filled by being routed through a roadway storm-sewer system. The existing seven (7) streams are provisional Limited Resource Waters or Class 1 (no biology and QHEI scores < 32) and flow into New Years' Creek (provisional Warmwater Habitat). After construction, the remaining stream channels will continue to flow either under SR 821 by way of culvert pipe or flow parallel to SR 821 by way of a storm sewer culvert pipe system. After construction Stream 1 (intermittent at best) will continue to flow under SR 821 by way of a 24" to 36" pipe. Streams 2 through 7 (ephemeral) will flow parallel to SR 821 by way of graduating pipes (storm sewer) ranging in diameter from 15" to 36" near the outlet. In addition to stream impacts, two (2) provisional Category 1 wetlands totaling 0.064 acre will be filled and eliminated during the hillside cuts. See Tables 1 and 2 for stream and wetland impact details and Appendix A for construction plans.					

8b. Purpose: Describe the purpose, need and intended use of the activity:

The purpose of the SR 821 realignment is to repair the existing landslide problem in order to allow for continuous and safe travel for the public.

8c. Discharge of dredged or fill material: describe type, quantity of dredged material (in cubic yards), and quantity of fill material (in cubic yards). **(OAC 3745-1-05(B) (2) (a))**

Stream 1 (LRW or Class I)	earthen fill and concrete 24" to 36" pipe	44.44 cy	
Stream 2 (LRW or Class I)	earthen fill	8.51 cy	
Stream 3 (LRW or Class I)	earthen fill and type B rock channel protection	66.66 cy	
Stream 4 (LRW or Class I)	earthen fill	5.55 cy	
Stream 5 (LRW or Class I)	earthen fill	1.481 cy	
Stream 6 (LRW or Class I)	earthen fill	35.92 cy	
Stream 7 (LRW or Class I)	earthen fill and concrete 36" pipe	28.33 cy	Stream Total - 190.89 cy
Wetland 1 (Category 1) – earthen fill		11.29 cy	
Wetland 2 (Category 1) - earthen fill		91.96 cy	Wetland Total - 103.25 cy

9. Waterbody and location of waterbody or upland where activity exists or is proposed, or location in relation to a stream, lake, wetland, wellhead or water intake (if known). Indicate the distance to, and the name of any receiving stream, if appropriate.

The proposed activity is located along SR 821 approximately 5.73 miles north of Marietta. All unnamed ephemeral streams flow into New Years Creek. New Years Creek is located between 100 feet and 300 feet downstream of these ephemeral drainages. New Years Creek flows into Duck Creek which is 0.58 mile east of the project.

10 To address the requirements of the Antidegradation Rule, your application must include a report evaluating the:

- Preferred Design (your project) and Mitigative Techniques
- Minimal Degradation Alternative(s) (scaled-down version(s) of your project) and Mitigative Techniques
- Non-Degradation Alternative(s) (project resulting in avoidance of all waters of the state)

At a minimum, item a) below must be completed for the Preferred Design, the Minimal Degradation Alternative(s), and the Non-Degradation Alternative(s), followed by completion of item b) for each alternative, and so on, until all items have been discussed for each alternative (see Primer for specific instructions). (Application and review requirements appear at **OAC 3745-1-05 (B) (2), OAC 3745-1-05 (C) (6), OAC 3745-1-05 (C) (1) and OAC 3745-1-54**).

10a) Provide a detailed description of any construction work, fill or other structures to occur or to be placed in or near the surface of water. Identify all substances to be discharged, including the cubic yardage of dredged or fill material to be discharged to the surface water **(OAC 3745-1-05 (B) (2) (b))**

10b) Describe the magnitude of the proposed lowering of water quality. Include the anticipated impact of the proposed lowering of water quality on aquatic life and wildlife, including threatened and endangered species (include written comments from Ohio Department of Natural Resources and U.S. Fish and Wildlife Service), important commercial or recreational sport fish species, other individual species, and the overall aquatic community structure and function. Include a Corps of Engineers approved wetland delineation. **(OAC 3745-1-05 (C) (6) (a, b) and OAC 3745-1-54)**

10c) Include a discussion of the technical feasibility, cost effectiveness and availability. In addition, the reliability of each alternative shall be addressed (including potential recurring operational and maintenance difficulties that could lead to increased surface water degradation.) **(OAC 3745-1-05 (C) (6) (h, j-k) and OAC 3745-1-54)**

10d) For regional sewage collection and treatment facilities, include a discussion of the technical feasibility, cost effectiveness and availability, and long-range plans outlined in state or local water quality management planning documents and applicable facility planning documents. **(OAC 3745-1-05(C)(6)(i))**

10e) To the extent that information is available, list and describe any government and/or privately sponsored conservation projects that exist or may have been formed to specifically target improvement of water quality or enhancement of recreational opportunities on the affected water resource. **(OAC 3745-1-05(B)(2)(g))**

10f) Provide an outline of the costs of water pollution controls associated with the proposed activity. This may include

the cost of best management practices to be used during construction and operation of the project. **(OAC 3745-01-05(C)(6)(g))**

10g) Describe any impacts on human health and the overall quality and value of the water resource. **(OAC 3745-1-05(C)(6)(e) and OAC 3745-1-54)**

10h) Describe and provide an estimate of the important social and economic benefits to be realized through this project. Include the number and types of jobs created and tax revenues generated and a brief discussion on the condition of the local economy. **(OAC 3745-1-05(B)(2)(e), and OAC 3745-1-05(C)(6)(i))**

10i) Describe and provide an estimate of the important social and economic benefits that may be lost as a result of this project. Include the effect on commercial and recreational use of the water resource, including effects of lower water quality on recreation, tourism, aesthetics, or other use and enjoyment by humans. **(OAC 3745-1-05(B)(2)(e,f), and OAC 3745-1-05(C)(6)(e))**

10j) Describe environmental benefits, including water quality, lost and gained as a result of this project. Include the effects on the aquatic life, wildlife, threatened or endangered species. **(OAC 3745-1-05 (B)(2)(e,f), OAC 3745-1-05 (C) (6)(b) and OAC 3745-1-54)**

10k) Describe mitigation techniques proposed (except for the non-Degradation Alternative):

- Describe proposed Wetland mitigation (see **OAC 3745-1-54**)
- Describe proposed Stream, Lake, Pond Mitigation (see Primer)

11. Application is hereby made for a Section 401 Water Quality Certification. I certify that I am familiar with the information contained in this application and, to the best of my knowledge and belief, such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

Signature of Applicant

Date

Signature of Agent

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 3 has been filled out and signed.