

Tammy Turley, Regulatory Division  
U.S. Army Corps of Engineers New England District  
696 Virginia Road  
Concord, MA 01742-2751

**RE: SECTION 401 WATER QUALITY CERTIFICATION**

Department of the Army  
General Permits for the State of Connecticut 2021  
CT DEEP License No.: WQC-202108351 (Non-Tidal),  
WQC-202108352 (Tidal) & FCC-202108353

**NON-TIDAL WATERS, WETLANDS AND WATERCOURSES**

Pursuant to Section 401 of the Federal Clean Water Act (33 USC 1341), and except for those activities specifically waived or denied herein, Water Quality Certification is hereby **granted with conditions** for activities that comport with the water quality standards contained within section 22a-426-1 et seq. of the Regulations of Connecticut State Agencies and with terms, limitations and conditions specified in this Certification for the Department of the Army, Regional General Permits for the State of Connecticut ("RGPs"), dated July 16<sup>th</sup> and revised July 19<sup>th</sup>, 2021 for activities, including but not limited to, the construction or operation of facilities, which may result in any discharge into the waters of the State. Such terms, limitations and conditions of this permit are outlined in the **General Terms and Conditions** contained herein.

This certification does not apply in cases where the Commissioner has deemed an activity to have greater than minimal direct, indirect, secondary or cumulative impacts to state waters.

Pursuant to Section 401 of the Federal Clean Water Act (33 USC 1341), Water Quality Certification is hereby **waived** in entirety for GP 10., GP 11., GP 12., GP 13., GP 14. and GP 15.

Further, the following limited activities that are potentially authorized by this RGP are **not eligible** for Section 401 Water Quality Certification under this general permit certification and will instead require an individual Section 401 Water Quality Certification:

Detention or retention of stormwater in non-tidal waters, wetlands or watercourses including any watercourse or wetland crossing that by design or default functions to provide stormwater detention, and any construction of a stormwater detention or retention basin in non-tidal waters or wetlands.

Piping, boxing, enclosing or covering of a non-tidal watercourse for a purpose other than a driveway or roadway crossing.

Activities with direct, indirect or secondary impact(s) to: Special Wetlands <sup>(1)</sup>, Threatened, Endangered, or Special Concern Species <sup>(2)</sup>, Significant Natural Communities/Critical Habitats <sup>(2)</sup> identified by the Connecticut Natural Diversity Database.

Activities within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain <sup>(3)</sup>.

## **TIDAL, COASTAL AND NAVIGABLE WATERS**

With respect to tidal, coastal and navigable waters, Section 401 Water Quality Certification is granted conditionally for Self-Verification (SV) and Pre-Construction Notification (PCN) eligible activities. The conditional granting of Section 401 Water Quality Certification for SV and PCN eligible activities is subject to the applicant obtaining the appropriate Structures, Dredging and Fill authorization, Tidal Wetland authorization, or Coastal Consistency Concurrence, and the Commissioner finding that the activity is reasonably likely to have no more than minimal impact on water quality individually or cumulatively. Substantive evaluations of consistency of individual activities, listed under the GP in Section 2, paragraph II. with state water quality standards and coastal management policies will be conducted at the time of application.

Pursuant to Section 307(c)(1) of the Coastal Zone Management Act the proposed regional general permits were reviewed and determined to be consistent with the enforceable policies of Connecticut's federally approved Coastal Management Program as contained in Sections 22a-90 through 22a-112 of the Connecticut General Statutes

## **GENERAL TERMS AND CONDITIONS**

Section 401 Water Quality Certification **granted with the following conditions** for **NON-TIDAL WATERS, WETLANDS and WATERCOURSES**, and **TIDAL, COASTAL and NAVIGABLE WATERS**:

1. **Activities in Non-tidal Waters.** A written determination of concurrence of eligibility for Section 401 Water Quality Certification prior to the start of construction from the Commissioner is required for all Pre-Construction Notification (PCN) for non-tidal activities. Applicants seeking a written concurrence of eligibility for PCN activities must submit an application to the Connecticut Department of Energy and Environmental Protection (CT DEEP) on

such form as the Commissioner may prescribe and with such information as the Commissioner deems necessary to fulfill the purposes of Section 401 of the Federal Clean Water Act and to determine compliance with the conditions of this Water Quality Certification. Upon completion of the review and evaluation of such application, the Commissioner will issue either a written concurrence of eligibility determination of Section 401 Certification upon such terms, limitations or conditions as the Commissioner deems necessary, or a written determination that an individual Section 401 Water Quality Certification is required for the proposed activity or activities. CT DEEP shall give the applicant a written concurrence of eligibility or a notification that the applicant must obtain an individual 401 Water Quality Certification within 120 days of receiving a complete request for a concurrence of eligibility.

2. **Best Management Practices.** In constructing or maintaining the activities authorized herein, the permittee shall employ best management practices in accordance with Section 22a-426-1 of the Regulations for Connecticut State Agencies, consistent with the terms and conditions of this certificate, to control storm water discharges and erosion and sedimentation and to prevent pollution. Such practices to be implemented by the permittee at the site include, but are not necessarily limited to:
  - a. Prohibiting dumping of any quantity of oil, chemicals or other deleterious material on the ground;
  - b. Immediately informing the Commissioner's Oil and Chemical Spill Response Division at (860) 424-3338 (24 hour phone line) of any adverse impact or hazard to the environment, including any discharges, spillage, or loss of oil or petroleum or chemical liquids or solids, which occurs or is likely to occur as the direct or indirect result of the activities authorized herein;
  - c. Separating staging areas at the site from the regulated areas by silt fences or straw/hay bales at all times;
  - d. Prohibiting storage of any fuel and refueling of equipment within twenty-five (25) feet from any wetland or watercourse;
  - e. Preventing pollution of wetlands and watercourses in accordance with the document "Connecticut Guidelines for Soil Erosion and

Sediment Control" as revised. Said controls shall be inspected by the permittee for deficiencies at least once per week and immediately after each rainfall and at least daily during prolonged rainfall. The permittee shall correct any such deficiencies within 48 hours of said deficiencies being found;

- f. Stabilizing disturbed soils in a timely fashion to minimize erosion. If a grading operation at the site will be suspended for a period of thirty (30) or more consecutive days, the permittee shall, within the first seven (7) days of that suspension period, accomplish seeding and mulching or take such other appropriate measures to stabilize the soil involved in such grading operation. Within seven (7) days after establishing final grade in any grading operation at the site the permittee shall seed and mulch the soil involved in such grading operation or take such other appropriate measures to stabilize such soil until seeding and mulching can be accomplished.
- g. Prohibiting the storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of the five hundred (500) year flood. Any other material or equipment stored at the site below said elevation by the permittee or the permittee's contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the quantity of fuel that is expected to be used by such equipment in one day.
- h. Immediately informing the Commissioner's Land & Water Resources Division at (860) 424-3019 and the U.S. Army Corps of Engineers' Permit Compliance Section at (617) 647-8674, of the occurrence of pollution or other environmental damage resulting from construction or maintenance of the authorized activity or any construction associated therewith in violation of this certificate. The permittee shall, no later than 48 hours after the permittee learns of a violation of this certificate, report same in writing to the Commissioner. Such report shall contain the following information:
  - (i) the provision(s) of this certificate that has/have been violated;
  - (ii) the date and time the violation(s) was first observed and by whom;

- (iii) the cause of the violation(s), if known
- (iv) if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;
- (v) if the violation(s) has not ceased, the anticipated date when it will be corrected;
- (vi) steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;
- (vii) the signatures of the permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with condition 7 of this certificate.

For information and technical assistance, contact the Land & Water Resources Division at (860) 424-3019.

3. **Inspection of the Facility or Activity, Adaptive Best Management Practices & Compliance with Conditions.** The concurrence of eligibility letters for Pre-Construction Notifications will be considered the initial inspection of the facility or activity for the purpose of determining whether the discharge from the certified project may violate this certification. The concurrence of eligibility letters may also address the remedial actions necessary in order to be considered to be compliance with this certification.

In the event that Best Management Practices employed to maintain compliance with the conditions of this Water Quality Certificate, as described in paragraph 2 above, have been found to be insufficient to protect existing and designated uses of waters such as propagation of fish, shellfish and wildlife, recreation, public water supply, and agriculture, industrial use and navigation, and the water quality necessary for their protection, such permittee shall employ additional or alternative adaptive best management practices to protect water quality.

All work and all activities authorized herein conducted by the permittee at the site shall be consistent with the terms and conditions of this certificate. Upon initiation of the activities authorized herein, the permittee thereby accepts and agrees to comply with the terms and conditions of this Water Quality Certificate.

4. **Rights.** This certificate is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further

subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected hereby. This certification does not comprise the permits or approvals as may be required by Chapters 440, 446i, 446j and 446k of the Connecticut General Statutes.

5. **Expiration of Certificate.** The Section 401 Water Quality Certifications contained herein shall be valid until such time as the Department of the Army Regional General Permits for the State of Connecticut expires or is modified, suspended, revoked or reissued.
6. **Transfer of Certificate.** This authorization is not transferable without the written consent of the Commissioner.
7. **Reliance on Application.** In evaluating the permittee's application, the Commissioner has relied on information provided by the permittee. If such information subsequently proves to be false, deceptive, and incomplete or inaccurate, this certificate may be modified, suspended or revoked.
8. **Installation and Removal of Confining Structures.** Confinement of a work area by cofferdam techniques using sand bag placement, sheet pile installation (vibratory method only), portadam, or similar confinement devices is allowed any time of the year unless specifically prohibited by a permit condition. The removal of such confinement devices is allowed any time of the year unless specifically prohibited by a permit condition. Once a work area has been confined, in-water work within the confined area is allowed any time of the year. The confinement technique used shall completely isolate and protect the confined area from all flowing water. The use of silt boom/curtain or similar technique as a means for confinement is prohibited.
9. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this certificate shall be signed by the permittee, a responsible corporate officer of the permittee, a general partner of the permittee, or a duly authorized representative of the permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I

understand that any false statement made in this document or its attachments may be punishable as a criminal offense in accordance with Section 22a-6 under Section 53a-157 of the Connecticut General Statutes."

10. **Submission of Documents.** The date of submission to the Commissioner of any document required by this certificate shall be the date such document is received by the Commissioner. Except as otherwise specified in this certificate, the word "day" as used in this certificate means the calendar day. Any document or action which falls on a Saturday, Sunday, or legal holiday shall be submitted or performed by the next business day thereafter.

Any document or notice required to be submitted to the Commissioner under this certificate shall, unless otherwise specified in writing by the Commissioner, be directed to:

Director, Land & Water Resources Division  
Bureau of Water Protection and Land Reuse  
Department of Energy & Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

Issued by the Commissioner of Energy & Environmental Protection on November 1, 2021

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Betsey C. Wingfield  
Deputy Commissioner

CC: Diane M. Ray, US ACENED  
Kevin Kotelly, US ACE NED  
Nathaniel Margason, US EPA Region 1  
Jacqueline LeClair, US EPA Region 1

## DEFINITIONS

- (l) **Special Wetlands:** Include vernal pools, bogs, fens, cedar swamps, spruce swamps, calcareous seepage swamps, and wetlands that provide habitat for threatened or endangered species or species of special concern as designated by the State of Connecticut Natural Diversity Database. The following definitions for bogs, calcareous seepage wetlands, cedar swamps, fens, spruce swamps, and vernal pools apply for the purposes of the RGP:

**Bog:** a peat accumulating wetland dominated by sphagnum moss. Typical plant species include sphagnum moss, leatherleaf, black spruce, pitcher plant and s u n d e w .

**Calcareous Seepage Swamp:** a forested wetland characterized by the discharge of groundwater with a chemistry influenced by an underlying limestone geology.

**Cedar Swamp:** a forested wetland characterized by the presence of Northern White Cedar or Atlantic White Cedar.

**Fen:** a peat accumulating wetland dominated by sedges and/or ericaceous shrubs. Typical plant species include low sedges, ericaceous shrubs, sphagnum and other mosses.

**Spruce Swamp:** a forested wetland characterized by the presence of Red or Black Spruce.

**Vernal Pool:** an often temporary body of water occurring in a shallow depression of natural or human origin that fills during spring rains and snow melt and typically dries up during summer months. Vernal pools supporting populations of species specially adapted to reproducing in these habitats. Such species may include wood frogs, mole salamanders (*Ambystoma* sp.), fairy shrimp, fingernail clams, and other amphibians, reptiles and invertebrates. Vernal pools lack breeding populations of fish. **All vernal pools are subject to the jurisdiction of the Connecticut Department of Energy and Environmental Protection under Connecticut Water**



**Quality Standards.**

- (2) **Threatened, Endangered or Special Concern Species; Significant Natural Communities/Critical Habitats:** Species listed by CT DEEP pursuant to Chapter 495 of the Connecticut General Statute as threatened or endangered species or species of special concern. General locations of threatened and endangered species and species of special concern, and significant natural communities/critical habitats are identified on maps published by the Connecticut Department of Energy and Environmental Protection entitled "Natural Diversity Data Base Areas" and on the CTECO Interactive Map Viewers at [www.cteco.uconn.edu](http://www.cteco.uconn.edu) .
- (3) **Adverse Effect to Hydraulic Characteristics:** An adverse effect to hydraulic characteristics includes an increase in flood water surface elevation, an increase in flood flow velocity or a restriction of flood flow conveyance in a manner that would impact upstream, downstream or adjacent property.