

TO BE RESCINDED

3745-32-05 **Criteria for decision by director.**

- (A) The director shall not issue a section 401 water quality certification unless he determines that the applicant has demonstrated that the discharge of dredged or fill material to waters of the state or the creation of any obstruction or alteration in waters of the state will:
- (1) Not prevent or interfere with the attainment or maintenance of applicable water quality standards;
 - (2) Not result in a violation of any applicable provision of the following sections of the Federal Water Pollution Control Act including:
 - (a) Effluent limitations as described in section 301;
 - (b) Water quality related effluent limitations as described in section 302;
 - (c) Water quality standards and implementation plans as described in section 303;
 - (d) National standards of performance as described in section 306; or
 - (e) Toxic and pretreatment effluent standards as described in section 307.
- (B) Notwithstanding an applicant's demonstration of the criteria in paragraph (A) of rule 3745-32-05 of the Administrative Code, the director may deny an application for a section 401 water quality certification if the director concludes that the discharge of dredged or fill material or obstructions or alterations in waters of the state will result in adverse long or short term impact on water quality.
- (C) The director may impose such terms and conditions as part of a section 401 water quality certification as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of water quality.
- (D) Prior to the issuance of a section 401 water quality certification or prior to, during, or after the discharge of dredged or fill material to waters of the state or the creation of any obstruction or alteration in waters of the state to ensure adequate protection of water quality, the director may require that the applicant perform various environmental quality tests including, but not limited to, chemical analyses of water, sediment or fill material, and bioassays.

Effective:

R.C. 119.032 review dates: 12/28/2011

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 6111.03
Rule Amplifies: 6111.03
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