



USACE, Honolulu District - Outreach Program



Water Quality Certification Program in Hawaii

<https://health.hawaii.gov/cwb/section-401-wqc>

Presented by Michael Kaneshiro (HDOH Environmental Engineer)

September 5 & September 12, 2024



Hawaii State Department of Health (HDOH), Clean Water Branch (CWB)



Agenda

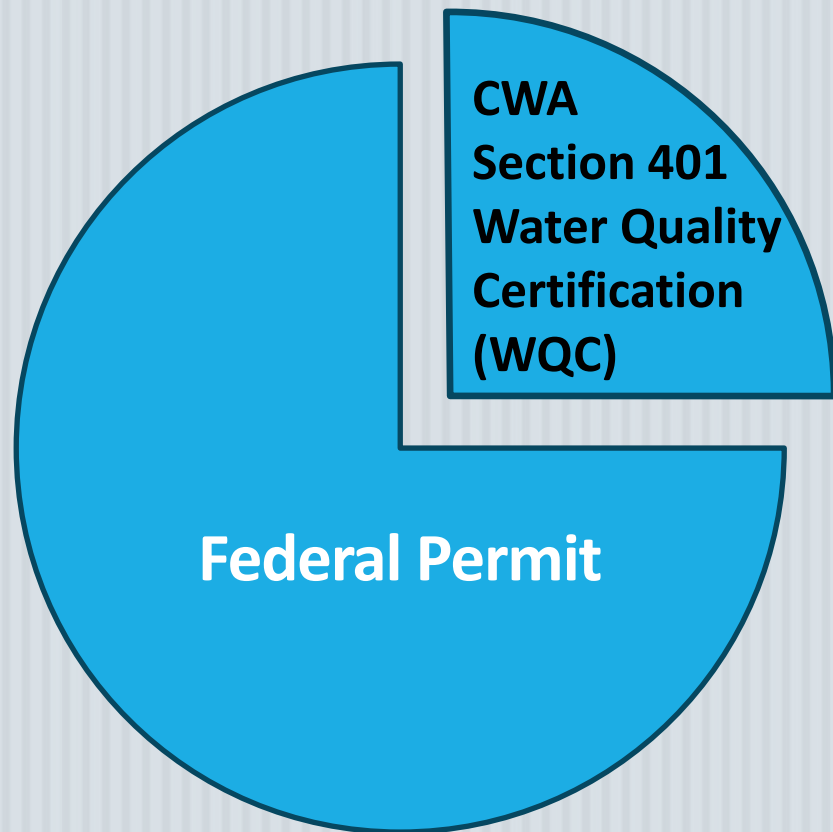
- **Water Quality Certification (WQC) Program in Hawaii**
- **Activities Requiring Section 401 WQC**
- **Blanket Section 401 WQC**
- **Individual Section 401 WQC**

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What is a Clean Water Act Section 401 WQC?

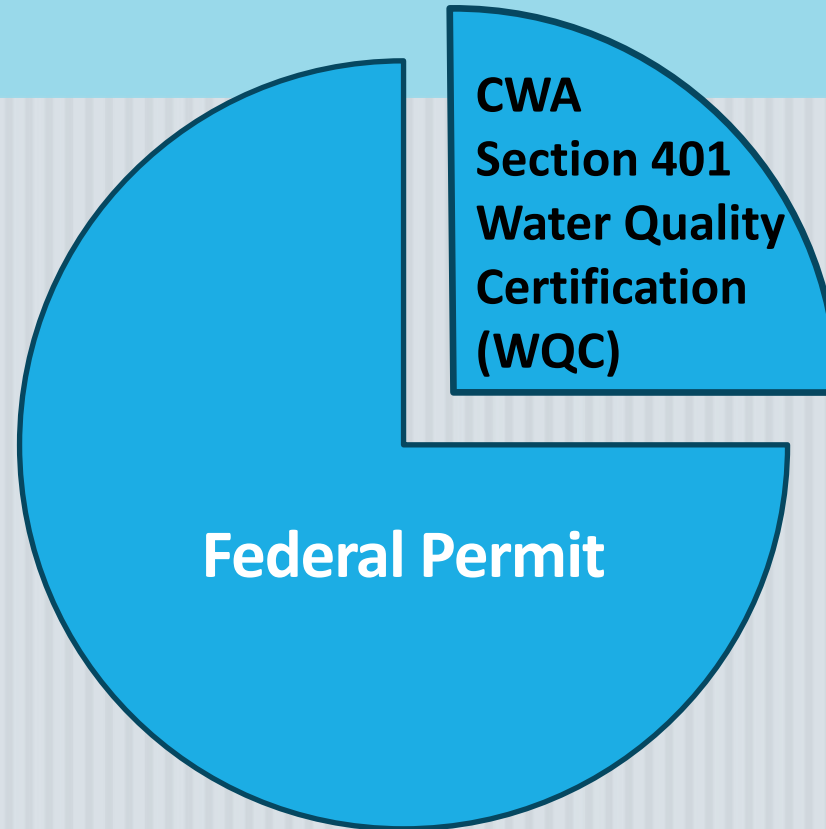


- A Clean Water Act Section 401 Water Quality Certification (WQC) is a statement asserting that a proposed discharge/activity will not violate applicable State Water Quality Standards (WQS) as specified in Hawaii Administrative Rules (HAR) Chapter 11-54, and Clean Water Act (CWA) Sections 301, 302, 303, 306, and 307.
- A Section 401 WQC is not a permit but a pre-requisite to the Federal permit or license for an activity that may result in the discharge of a water pollutant to State waters.
- It does not authorize the conduct of any in-water work.



When is a Section 401 WQC needed?

Federal agencies include, but are not limited to, U.S. Army Corps of Engineers, U.S. Coast Guard Office of Bridge Programs, U.S. Environmental Protection Agency, and Federal Energy Regulatory Commission.



A Section 401 WQC is needed before the start of an activity that requires a federal permit, license, certificate, approval, registration, or statutory exemption, and that may result in the discharge of a water pollutant into State waters.

As defined in HRS 342D-1 and HAR 11-54-1, “water pollutant” means dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, oil, sediment, cellar dirt and industrial, municipal, and agricultural waste.



What is the purpose of a Section 401 WQC?

States have a role in making sure that the project or activity will meet our water quality standards and be protective of water quality. States can use WQC's to:



- To ensure that project owners with Federal permits do not use such permits to disregard their responsibilities in preventing pollution to State waters.



- To provide States with the power to enforce “any other appropriate requirement of State law” [33 U.S.C. 1341 (d)] by imposing conditions on Federal licenses for activities that may result in the discharge of a water pollutant.



WQC Program in Hawaii

US Army Corps of Engineers Honolulu District

Administers federal permitting programs to regulate:

- Work for structures in, over, or under navigable waters of the US (RHA Section 10).
- Discharge of dredged/fill material into WOTUS (CWA Section 404).
- Transportation of dredged material for the purposes of ocean disposal (MPRSA Section 103).

Hawaii State Department of Health

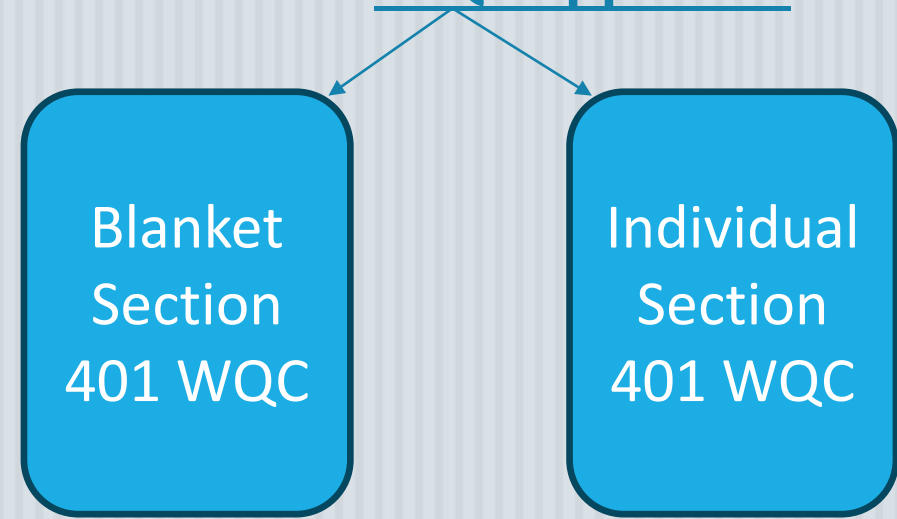
- Administers the Section 401 WQC program to regulate activities that may discharge water pollutants into State waters.
- WQC program rules are specified in HAR Chapter 11-53 titled “Section 401 WQCs.”
- Blanket Section 401 WQC
- Individual Section 401 WQC



Activities Requiring Section 401 WQC

Activities that involve work in, over, or under State waters, and that may discharge water pollutants into State waters.

Project owners must first contact USACE, Honolulu District at (808) 835-4303 to determine if their activities require a Department of the Army (DA) permit and the WQC approach. Do not call CWB.



Blanket Section 401 WQC

Blanket Section 401 WQC (WQC1092) was issued to USACE, Honolulu District for certain DA Nationwide Permits (NWP) and applicable activities (April 28, 2022).

- WQC1092 expires on March 14, 2026, at midnight.
- WQC1092 is available on the CWB website at:
https://health.hawaii.gov/cwb/files/2022/05/WQC1092.FNL_.22.pdf

LIST of DA NWP covered under Blanket Section 401 WQC (WQC1092)

NWP 2 thru NWP 7, NWP 9, NWP 10 thru NWP 19

NWP 20, NWP 22, NWP 23, NWP 25, NWP 27 thru NWP 29

NWP 31 thru NWP 33, NWP 35 thru NWP 39

NWP 40 thru NWP 43, NWP 45, NWP 46, NWP 48, NWP 51, NWP 53 thru NWP 59



Blanket Section 401 WQC (continued)

- **Compliance with conditions of WQC1092 means that activities will not violate applicable State Water Quality Standards.**
- Conditions of WQC1092 are incorporated as requirements in issued DA permits.
- **All non-compliance activities shall be reported to USACE, Honolulu District.**
- Under WQC1092, there are no submissions of applications/documents to HDOH.



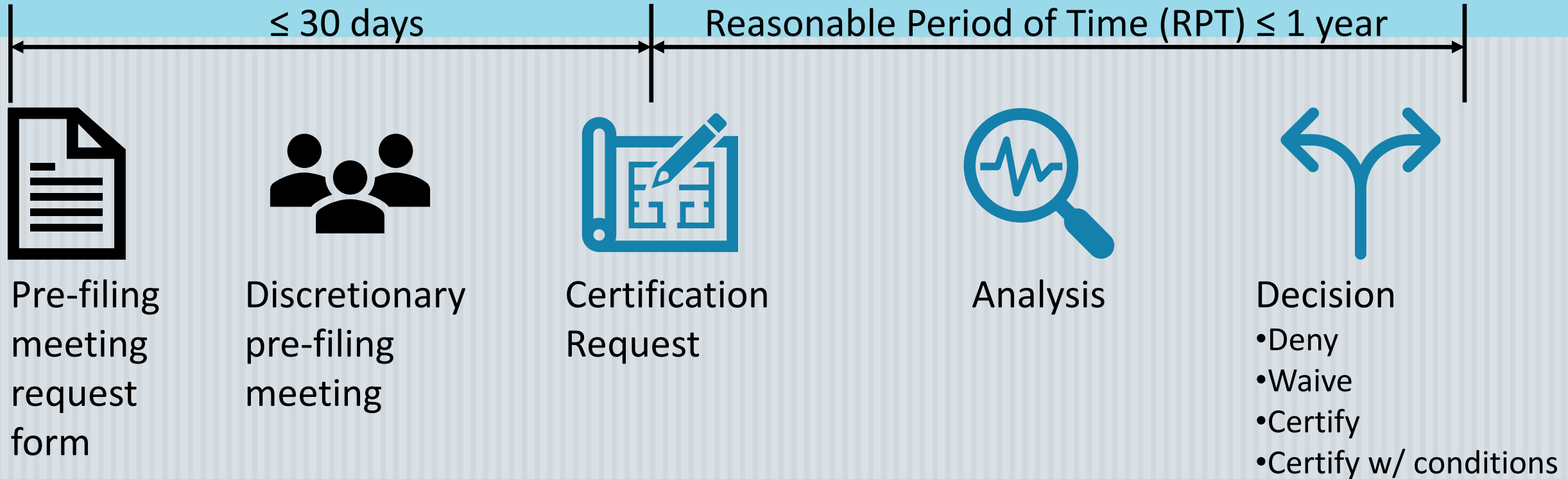
Individual Section 401 WQC

An Individual Section 401 WQC may be required for activities that are not covered under Blanket WQC or that cannot comply with the conditions of Blanket WQC must apply for Individual Section 401 WQC, e.g.,

- Activities not authorized under the list of Department of the Army Nationwide Permits (NWP) covered under the Blanket Section 401 WQC.
- Projects that may have significant impacts on water quality such as concrete lining of natural stream beds or banks and bridge replacement projects.
- Projects involving the removal of dams, impoundments, structures, or sand bars that will result in the down stream/down drift mobilization of material, sediment, and/or water pollutants.



Individual Section 401 WQC



- Pre-filing meeting request form: <https://health.hawaii.gov/cwb/files/2021/03/20210315-Fillable-Pre-Filing-WQC-Meeting-Request.pdf>
- Submission of Individual Section 401 WQC application and Section 401 compliance documents shall be made on the e-Permitting Portal at: <https://eha-cloud.doh.hawaii.gov/epermit/>
- Electronic Subscriber Agreement is needed to submit at the e-Permitting Portal.



Individual Section 401 WQC (continued)

- **Pre-filing meeting with HDOH must be at least 30 days before submission of Individual Section 401 WQC application.**
- Submission of Individual Section 401 WQC application and Section 401 compliance documents shall be made on the e-Permitting Portal at:
<https://eha-cloud.doh.hawaii.gov/epermit/>
- **Electronic Subscriber Agreement (ESA) is needed to submit at the e-Permitting Portal.** For more information on ESAs, please visit our website at: [Clean Water Branch | Permitting FAQs \(hawaii.gov\)](#)



Individual Section 401 WQC (continued)

Project owner must disclose in the Individual Section 401 WQC application:

- Entire scope of project (during construction and post construction) including all activities on land and in-water that may result in discharges to State waters.
- All potential physical, chemical, biological, and thermal impacts from the project.
- All potential impacts to designated and existing uses.

Last two bullet points are required for Antidegradation analysis.



Individual Section 401 WQC (continued)

The conditions of an Individual Section 401 WQC include, but are not limited to:

- Implementation of Best Management Practices (BMPs) to protect designated uses, human health, aquatic life, and ensure compliance with Antidegradation Policy.
- Implementation of a Monitoring Plan to assess the quality and characteristics of discharges, and all pollution control measures, and to demonstrate compliance with the conditions of Individual Section 401 WQC.

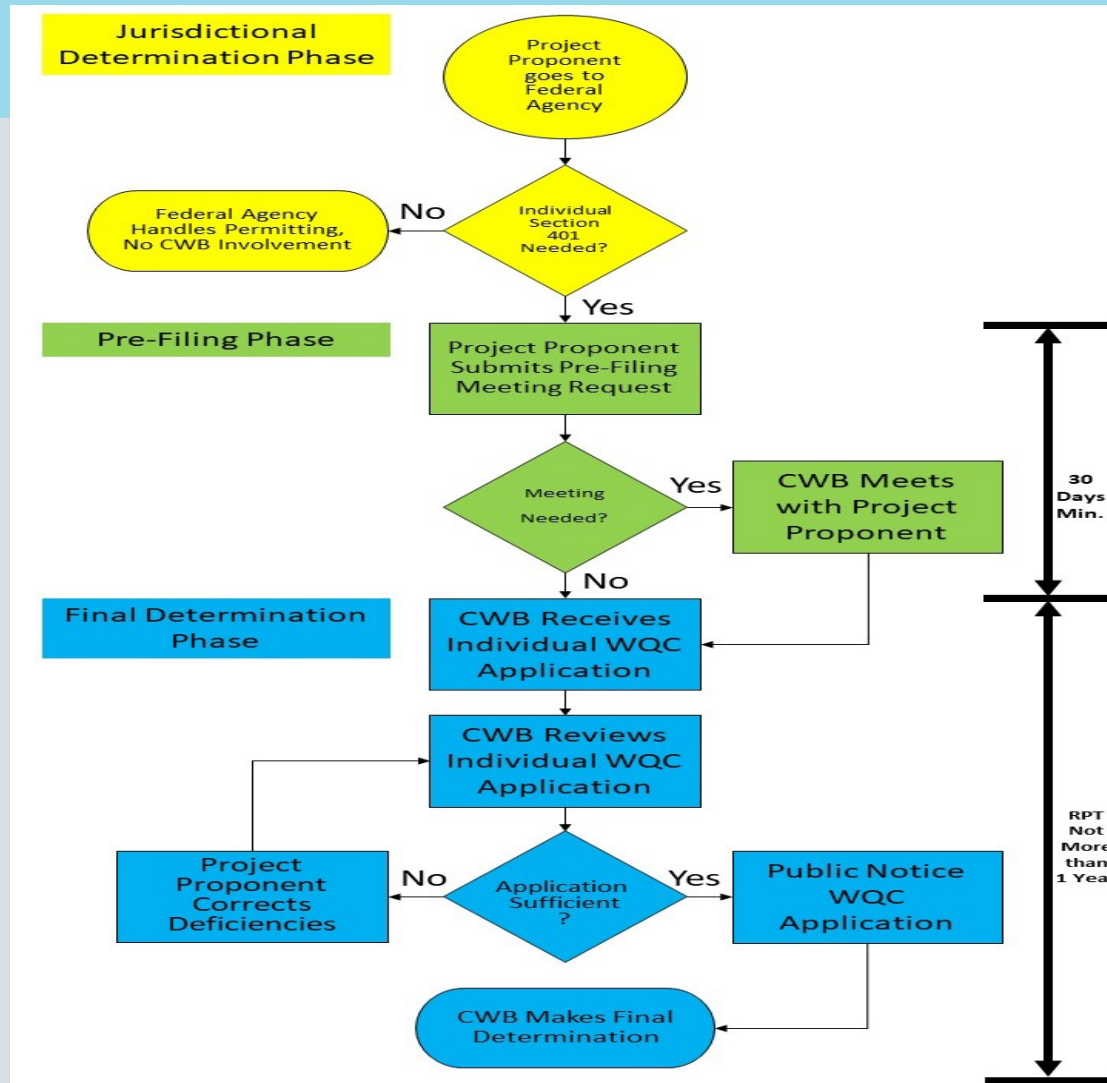


Individual Section 401 WQC (continued)

- Individual Section 401 WQC application must be public noticed.
- HDOH provides language for public notice.
- Public notice must be published in local newspapers.
- Project owner is responsible for all publication and mailing costs associated with public notice, and for coordination with newspapers.



Individual Section 401 WQC (Overview)



Contact Information

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Mahalo for your attention, comments, and questions.

