

Reference: RGL 86-06

Subject: WATER QUALITY CERTIFICATION

Title: WATER QUALITY CONSIDERATIONS

Issued: 06/07/86 Expires: 12/31/88

Originator: DAEN-CWO-N

Description: DENIAL OF 404 CERTIFICATION IS CONCLUSIVE; HOWEVER, IF STATE CERTIFIES & EPA EXPRESSES WATER QUALITY CONCERNS, DE WILL HAVE TO MAKE FINAL DECISION ON WHETHER DISCHARGE VIOLATES APPLICABLE STANDARDS

1. Section 320.4(d) provides for the state's certification of compliance with applicable effluent limitations and water quality standards to be conclusive with respect to water quality considerations, unless EPA advises of other water quality aspects to be taken into consideration. Issuance by a state of a water quality certification meets the requirements of Section 401 of the Clean Water Act, 40 CFR 230.10(b)(1) and 33 CFR 320.4(d). However, should EPA object to the state certification or raise other water quality concerns beyond the scope of the 401 certification, EPA's objections and concerns are to be considered as "other water quality aspects" as provided by 33 CFR 320.4(d). Such other water quality aspects may include considerations outside the scope of the 401 certification review by the state or indirect impacts on water quality aspects not covered by the state certification.

2. In such cases, district engineers will give full and fair consideration to those EPA views in the public interest balancing process. Such consideration should include, as appropriate, additional coordination among the state certifying agency, EPA, and the district engineer.

3. This guidance expires 31 December 1988 unless sooner revised or rescinded.

FOR THE CHIEF OF ENGINEERS: