

HYDROLOGIC DETERMINATIONS AND CERTIFICATION OF HYDROLOGIC PROFESSIONALS

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The Tennessee Water Quality Control Act of 1977

- Recognizes that the waters of Tennessee are the property of the state and are held in public trust
- States that people have a right to unpolluted water
- Defines waters of the state
- Defines pollution
- Establishes the need for permits for the alteration of the physical, chemical, radiological, biological, or bacteriological properties of waters of the state
- Defines wet weather conveyance

WATERS OF THE STATE

Any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters.

PUBLIC CHAPTER 464

- Re-defines wet weather conveyance
- Requires development of rules establishing standard operating procedures for hydrologic determinations
- Defines “qualified hydrologic professional”
- Requires TDEC to develop rules for implementing a certification program for TDEC staff and others who wish to become certified hydrologic professionals
- Establishes a presumption of correctness when a certified hydrologic professional submits a hydrologic determination to the department

Wet weather conveyances

Man-made or natural watercourses, including natural watercourses that have been modified by channelization:

- That flow only in direct response to precipitation runoff in their immediate locality;
- Whose channels are at all times above the ground water table;
- That are not suitable for drinking water supplies; and
- In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months.

Stream

A surface water that is not a wet weather conveyance.



WETLANDS

Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions



Waters of the State except wet weather conveyances must be managed to support designated uses

- Fish and aquatic life
- Recreation
- Livestock watering and wildlife
- Irrigation
- Domestic water supply
- Industrial water supply
- Navigation

ALTERATION OF WET WEATHER CONVEYANCES

WWCs may be altered without notification to the division, subject to the provisions of 1200-04-07-.04(10)

1. The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife.
2. Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area.
3. Sediment shall be prevented from entering other waters of the state.
4. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state
5. There shall be no additional conditions upon a person's activity within a wet weather conveyance. This provision does not apply to National Pollutant Discharge Elimination System Permits.

STREAM OR WETLAND ALTERATIONS

- ❑ Require permits, either individual or general
- ❑ Must comply with water quality standards and protect for classified uses
- ❑ Cannot result in a condition of pollution
- ❑ Cannot result in a loss of water resource value
- ❑ Often must comply with various buffer requirements

TYPES OF PERMITS

- INDIVIDUAL - FEE AND PUBLIC NOTICE REQUIRED
- GENERAL – FOR ROUTINE ACTIVITIES WITH LIMITED IMPACT TO WATER RESOURCE - NO FEE OR PUBLIC NOTICE

GENERAL PERMITS

- BANK STABILIZATION
- EMERGENCY ROAD REPAIR
- LAUNCHING RAMPS AND PUBLIC ACCESS STRUCTURES
- ROAD CROSSINGS
- GRAVEL DREDGING
- STREAM RESTORATION
- UTILITY LINE CROSSINGS
- ALTERATION OF WET WEATHER CONVEYANCES
- SURVEYING AND GEOTECH. EXPLORATION
- MINOR DREDGING AND FILLING
- MAINTENANCE ACTIVITIES
- WETLANDS RESTORATION
- MINOR ALTERATIONS TO WETLANDS
- INTAKE AND OUTFALL STRUCTURES
- SEDIMENT REMOVAL FOR STREAM RESTORATION

STATE/FEDERAL CONSISTENCY

- ❑ Definition of waters of the U. S. is not the same as waters of the state
- ❑ For surface watercourses, there is >95% consistency
- ❑ Sometimes use different terminology

“EPHEMERAL STREAM”

The term is not used in the state’s regulatory structure. A watercourse that is an ephemeral stream may be either a stream or a wet weather conveyance under the state’s framework.

PUBLIC CHAPTER 464 IMPLEMENTATION

- TDEC has promulgated rules for certification and SOP for hydrologic determinations
- Have developed detailed guidance and field form
- Have developed a training program
- http://www.tn.gov/environment/wpc/training/hydro_prof.shtml

QHP TRAINING PROGRAM

- TDEC has worked with the U.T. Water Resources Research Center and Tennessee Tech to develop and deliver training
- Have completed training of state personnel
- Have completed two classes for consultants (about 50 individuals)
- Next class is scheduled for Jackson on October 24-26
- Information at:
http://www.tnepsc.org/HDT/hdt_main.asp.

QUALIFIED HYDROLOGIC PROFESSIONAL MINIMUM QUALIFICATIONS

- ❑ Must hold a bachelor's degree in biology, geology, ecology, engineering, or related sciences
- ❑ Must have a minimum of five years relevant experience (each year must include at least one hydrologic determination)
- ❑ Must successfully complete training course

QUALIFIED HYDROLOGIC PROFESSIONALS

- ❑ May choose to assert the “presumption of correctness” when submitting hydrologic determinations
- ❑ Must maintain certification by completing refresher courses every three years
- ❑ Must submit evidence of successful completion with application for renewal of certification >90 days prior to expiration of current certification
- ❑ May be decertified for cause

You do not have to be certified as a Qualified Hydrologic Professional to conduct hydrologic determinations.

If you are not asserting the “presumption of correctness”, you are not required to submit all of the information required in 0400-40-17-.04 Requirements for Wet Weather Conveyance Determination Reports.

PRESUMPTION OF CORRECTNESS

- ❑ Certified QHP on behalf of a person who proposes to alter a watercourse
- ❑ Must submit all of the required documentation
- ❑ Department has 30 days to notify the person (not the QHP) in writing or by e-mail that they have determined there is a significant question about the determination
- ❑ Department has an additional 30 days following the notification to conduct their own determination and notify the person of findings
- ❑ The person may appeal the department's determination to the Water Quality Control Board within 30 days of notification

REQUIREMENTS FOR WWC DETERMINATION REPORTS BY QHP ASSERTING PRESUMPTION OF CORRECTNESS (from 0400-40-17)

- Must state in bold print on first page of document that submittal is to qualify for treatment provided for in §69-3-108(r).
- A written and electronic copy of the report must be submitted to appropriate Environmental Field Office.
- Include name, address, and phone number of current property owner(s) and the person who proposes to alter watercourse.
- Name, affiliation, and certification identification number of the QHP submitting the report.
- A statement, signed by the certified QHP, attesting that all submitted information is true, accurate, and complete.
- An explanation of the purpose and context of the HD report, including any proposed alterations to WWCs, streams, wetlands, or other aquatic resources.

SUBMITTAL REQUIREMENTS CONTINUED

- Identification of starting and ending points along a watercourse of the areas determined to be WWC.
- Vicinity map with property boundaries or review area (color copy of USGS topo map with overlain boundaries preferred). Map must clearly indicate location of all features subject to §69-3-108(r).
- Latitude/longitude of each hydrologic feature must be indicated on map or in report.
- Color photographs of each hydrologic feature identified in report including date of each photo, lat/long (decimal) and direction of each, with locations marked on map or plans. Include reach to be altered, up-channel, and down-channel for each.
- Completed Hydrologic Determination Field Data Sheet using current Guidance. At least one sheet for each watercourse to potentially be altered.
- Any previous assessments for site known to submitter.
- Any other information used in making the determination(s).

SUBMITTAL INFORMATION RECOMMENDED BUT NOT REQUIRED

- Site development plans and project name;
- Close-contour survey maps;
- An aerial photo with an overlay of property boundary;
- Municipal jurisdiction of the project site; and
- Location, dimensions, and type of sewage/septic system proposed if applicable.

Maintaining Certification

- Certificates are valid for three years from issuance
- QHPs must complete a refresher course offered by TDEC every three years
- Must apply for renewal of certification at least 90 days before expiration
- Must provide evidence of successful completion of refresher course

Decertification:

TDEC may revoke certification for cause

- Failure to timely and successfully complete any required refresher courses
- Submission of materially false information
- Repeated submission of reports in support of HDs that contain significant failures to exercise the skills of a certified QHP
- Revocation may be appealed to the Water Quality Control Board within 30 days of receipt of revocation
- Decertified person may not re-apply to take the class for one year after revocation