

## 401 PROCESS FLOWCHART

401 Application **RECEIVED** by  
Regional Water Board.

Regional Water Board has **30 days from the date the application was received to determine completeness**, otherwise it's statutorily complete (CCR §3835).

- a. If incomplete, the Regional Water Board notifies applicant and U.S. Army Corps of Engineers (Corps), then the 30-day clock re-starts when missing materials are submitted.

If Regional Water Board fails or refuses to act within 60 days of the application being deemed complete the Corps will consider 401 certification to be waived (CFR 33 section 325.2.b.ii).

- a. Note: The Corps has discretion to shorten or lengthen this time at will or by request of Regional Board.

Application deemed **COMPLETE**  
by Regional Water Board.

Regional Water Board provides a minimum 21- day public notice period, once application is deemed complete.

Review full application, conduct site visit, etc. If Regional Water Board needs more than 60 days to issue a certification, the Board should request a time extension from the Corps.

State Code says the Regional Water Board has 180 days to take an action from the time the application is deemed complete or 180 days from when CEQA is final, whichever is longer (California Government Code § 65952, Permit Streamlining Act, for **development projects only**).

- a. This is partly supported by Clean Water Act section 401 and related US Code (33 U.S.C. 1341) that says the State must act within a "reasonable time" not to exceed one year.
- b. State 401 regulations (CCR §3835, 3836) simply say the State needs to act within the "Federal time period for certification" (or seek extension) and don't specify an exact period.

Regional Water Board takes an **ACTION**.

1. Issue certification;
2. Deny certification; or
3. Deny without prejudice (procedural), once Corps denies extension pursuant to reasons laid out in CCR §3836. This gives applicant 1 year to sort things out, after which a new application and fee is required.