



Section 401 WQC Reconsideration

What You Need to Know

The Maryland Department of the Environment (MDE or Department) has completed its administrative review of the Clean Water Act, Section 401 Water Quality Certification (WQC) 17-WQC-02 issued to Constellation Energy Generation, LLC (Constellation (formerly Exelon)) in 2018. Under this process known as reconsideration, the Department reviewed its 2018 WQC decision and associated conditions as related to Maryland's authority under the Clean Water Act and state law. As a result of reconsideration, MDE issued a Revised WQC with conditions, WQC 17-WQC-02(R1), to Constellation Energy Generation, LLC, certifying the Conowingo Hydroelectric Project, FERC No. P-405 in accordance with Section 401 of the Clean Water Act on October 2, 2025.

Please visit the MDE's Wetlands and Waterways Protection Program [Conowingo Dam Projects](#) website to view the Revised WQC and project information.

401 Water Quality Certification

Under Section 401 of the federal Clean Water Act, a WQC from the certifying authority is required prior to issuance of a federal license or permit for an activity or operation which may result in a discharge to navigable waters of the United States to ensure protection of water quality standards. Constellation requested a WQC from the Department as part of the federal relicensing of the Conowingo Hydroelectric Project (located on the Susquehanna River) by the [Federal Energy Regulatory Commission](#) (FERC). On April 27, 2018, the Department granted a WQC with conditions to Constellation. The WQC included conditions addressing water quality impacts associated with the dam, including: fish passage; sediment transport; nutrients; changes to the flow regime; trash and debris management. By issuing the WQC, the State of Maryland certified that the activity would not violate Maryland's water quality standards provided that all conditions in the WQC were met.

Legal Challenges

The Department began the reconsideration process in response to timely filed requests for administrative review of the certification in 2018. The reconsideration process was initiated in 2018 with the "Protective Petition for Reconsideration and Administrative Appeal" submitted by Constellation and the "Administrative Appeal of Final Decision To Issue Clean Water Act Section 401 Certification for the Conowingo Hydroelectric Project" submitted by Stewards of the Lower Susquehanna, d/b/a Lower Susquehanna Riverkeeper Association, and Waterkeepers Chesapeake. Both of these submissions requested reconsideration of the certification by the Department in accordance with COMAR 26.08.02.10F(4).



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In October 2019, MDE and Constellation entered into a water quality settlement agreement which contained agreed-upon proposed FERC license articles pertaining to water quality issues. On March 19, 2021 FERC issued a license incorporating certain terms and conditions of the settlement. This license was subsequently challenged in the U.S. Court of Appeals for the D.C. Circuit by Chesapeake Bay Foundation, Stewards of the Lower Susquehanna, d/b/a Lower Susquehanna Riverkeeper Association, and Waterkeepers Chesapeake. On December 20, 2022, the D.C. Circuit ordered that the FERC license be vacated, in part to allow completion of the administrative review interrupted by the settlement. In light of the D.C. Circuit's decision, administrative review by MDE resumed and has now concluded upon consideration of all information relevant to the decision.

WQC Reconsideration Process

The extensive reconsideration process included a voluntary and limited public comment period and over a year of confidential mediation involving Maryland, Constellation, Waterkeepers Chesapeake, and Lower Susquehanna Riverkeeper Association. MDE reviewed documents and materials submitted by the parties to the reconsideration, public comments provided as part of the limited public notice in 2023, MDE's existing WQC record and any new information available since 2018.

MDE has concluded the reconsideration process with a decision to issue, with conditions, a Revised WQC, 17-WQC-02(R1), to Constellation Energy Generation, LLC, certifying the Conowingo Hydroelectric Project, FERC No. P-405 in accordance with Section 401 of the Clean Water Act on October 2, 2025. The Revised WQC, which is accompanied by a settlement agreement between Maryland, Constellation, Waterkeepers Chesapeake, and Lower Susquehanna Riverkeeper Association, ensures that water quality standards will not be adversely impacted by the dam's discharge and operations. The revised WQC will be filed with FERC for the dam's operating license to be renewed.

Together the WQC and settlement contain conditions and commitments to ensure compliance with water quality standards, including an optimized operational flow regime to mitigate downstream impacts, provisions for aquatic life passage, protection and restoration, funding for a new mussel hatchery to restore freshwater mussels, water quality mitigation projects which will reduce pollution and promote resiliency, continuation of trash and debris removal efforts, and other requirements related to improving water quality and water-dependent species in the Susquehanna River and Chesapeake Bay and its tributaries..