



**US Army Corps  
of Engineers**®

Rock Island District

# **PUBLIC NOTICE**

**Sponsor:** US Army Corps of Engineers

**Issue Date:** February 4, 2022

---

## **Special Public Notice for the Nationwide Permit Issuance, Reissuance, Regional Conditions, Water Quality Certification, and Coastal Zone Consistency Determination, for the State of Illinois**

1. On December 27, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the Federal Register (86 FR 73522) announcing the reissuance of 40 existing nationwide permits (NWP) and one new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. These 41 NWP will go into effect on February 25, 2022, and they will expire on March 14, 2026:

- NWP 1 – Aids to Navigation
- NWP 2 – Structures in Artificial Canals
- NWP 3 – Maintenance
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleeting and Anchorage Areas
- NWP 10 – Mooring Buoys
- NWP 11 – Temporary Recreational Structures
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 15 – U.S. Coast Guard Approved Bridges
- NWP 16 – Return Water From Upland Contained Disposal Areas
- NWP 17 – Hydropower Projects
- NWP 18 – Minor Discharges
- NWP 19 – Minor Dredging
- NWP 20 – Response Operations for Oil or Hazardous Substances
- NWP 22 – Removal of Vessels
- NWP 23 – Approved Categorical Exclusions
- NWP 24 – Indian Tribe or State Administered Section 404 Programs

- NWP 25 – Structural Discharges
- NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- NWP 28 – Modifications of Existing Marinas
- NWP 30 – Moist Soil Management for Wildlife
- NWP 31 – Maintenance of Existing Flood Control Facilities
- NWP 32 – Completed Enforcement Actions
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 34 – Cranberry Production Activities
- NWP 35 – Maintenance Dredging of Existing Basins
- NWP 36 – Boat Ramps
- NWP 37 – Emergency Watershed Protection and Rehabilitation
- NWP 38 – Cleanup of Hazardous and Toxic Waste
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 45 – Repair of Uplands Damaged by Discrete Events
- NWP 46 – Discharges in Ditches
- NWP 49 – Coal Remining Activities
- NWP 53 – Removal of Low-Head Dams
- NWP 54 – Living Shorelines
- NWP 59 – Water Reclamation and Reuse Facilities

2. The NWP general conditions and definitions that were issued in the final rule that was published in the January 13, 2021, issue of the Federal Register (86 FR 2744) apply to the 40 reissued NWPs and the new NWP 59 that were published in the Federal Register on December 27, 2021.

3. The 40 existing NWPs published in the December 27, 2021 final rule replace the 2017 versions of these NWPs. The 2017 versions of NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 45, 46, 49, 53, and 54 expire on February 24, 2022. The 40 existing NWPs published in the December 27, 2021 final rule replace the 2017 versions of these NWPs. If an activity verified under a 2017 NWP qualifies for authorization under one of the reissued NWPs, the original NWP verification letter will continue to be valid until March 18, 2022, unless the district engineer identified a different expiration date in that verification letter {33 CFR 330.6(a)(3)(ii). If the permittee cannot complete the NWP activity before March 18, 2022, the district can issue an NWP verification under the 2021 NWP by using the previously submitted PCN (as long as there are no changes to the activity that would preclude NWP authorization. If an activity verified under a 2017 NWP no longer qualifies for NWP authorization under one of the 40 reissued 2021 NWPs, the project proponent would have 12 months to complete the authorized activity as long as that activity is under construction or under contract to commence construction on or before February 24, 2022 [33 CFR 330.6(b)].

4. **REGIONAL CONDITIONS:** The Mississippi Valley Division (MVD) has finalized the regional conditions for these 41 NWPs in Illinois. Regional conditions provide additional protection for the aquatic environment and help ensure that the NWPs authorize only those activities with no more than minimal adverse environmental effects. Regional conditions help ensure protection of high value waters within the state of Illinois. The Regional Conditions can be found below or accessed at the Rock Island District Regulatory web page:

<https://www.mvr.usace.army.mil/Portals/48/docs/regulatory/2021%20NWPs/Illinois%20Regional%20Conditions%202021%20Nationwide%20Permits.pdf?ver=F1o0zPBDtrIZTLCAJCJVvg%3d%3d>

**5. WATER QUALITY CERTIFICATION:** The Section 401 Water Quality Certifications (WQC) have been issued for Section 404 NWP activities by the Illinois Environmental Protection Agency (IEPA) on 8/October/2021, corrected version on 21/Dec/2021. The WQCs were approved by the Mississippi Valley (MVD) Commander and are added as regional conditions to the NWPs. Section 401 Water Quality Certification with conditions (General Conditions and/or Special Conditions) has been issued for NWPs 3, 4, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 30, 31, 32, 33, 36, 37, 38, 41, 45, 53, and 54 with the special and/or general conditions specified below. This document also provides the certification conditions for NWPs previously certified on 11/Dec/2020: NWPs 12, 29, 39, 40, 42, 43, 51, 52, 57, and 58, and notice of the Agency determination to deny Water Quality Certification for NWPs 21, 34, 44, 46, 48, 49, 50, and 59. The WQC can be found below or accessed at the Rock Island District Regulatory web page: <https://www.mvr.usace.army.mil/Portals/48/docs/regulatory/Permits/NW-IL/IL%20401%20WQC.pdf?ver=u4N4MpokxjrcVeQ4hGzhzw%3d%3d>

**6. Coastal Zone Management Consistency (applicable in Chicago District only):** On November 1, 2020, the Illinois Coastal Management Program (ICMP) concurred that the NWPs complied with the enforceable policies of the ICMP and will be conducted in a manner consistent with the ICMP.

7. The December 27, 2021, Federal Register notice is available for viewing at: <https://www.federalregister.gov/documents/2021/12/27/2021-27441/reissuance-and-modification-of-nationwide-permits>

8. The January 13, 2021, Federal Register notice is available for viewing at: <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-andmodification-of-nationwide-permits>

9. As an alternative, interested parties can access the December 27, 2021 and January 13, 2021 final rules and related documents at: <https://www.usace.army.mil/Missions/CivilWorks/Regulatory-Program-and-Permits/Nationwide-Permits/>

10. POINT OF CONTACT: If you have questions or need additional information please contact Samantha Chavez via email at [Samantha.j.chavez@usace.army.mil](mailto:Samantha.j.chavez@usace.army.mil) or by phone at (309) 794-5104.

Enclosures:

Illinois Regional Conditions for the 2021 Nationwide Permits, (encl 1)

Illinois EPA Section 401 Water Quality Certification for the 2021 Nationwide Permits (encl 2)



**US Army Corps  
of Engineers** ®

## **Illinois Proposed Regional Conditions 2021 Nationwide Permits**

- 1) For NWP 12, 57, and 58: pre-construction notification is required in accordance with General Condition 32 for the following activities; (a) activities that involve mechanized land clearing in a forested wetland for the utility line right-of-way; (b) utility lines placed within, and parallel to or along a jurisdictional stream bed.
- 2) For Nationwide Permit 14, all proposed projects that result in the loss of greater than 300 linear feet of streambed located within Waters of the U.S., requires a Pre - Construction Notice in accordance with General Condition No. 32.
- 3) Any bank stabilization activity involving a method that protrudes from the bank contours, such as jetties, stream barbs, and/or weirs, will require a pre-construction notification in accordance with General Condition No. 32.



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/782-0610

**DEC 21 2021**

U.S. Army Corps of Engineers, Rock Island  
ATTN: Ms. Samantha Chavez, Regulatory Branch  
Post Office Box 2004  
Clock Tower Building  
Rock Island, IL 61204-2004

Re: Correction of Nationwide Permits CWA §401 Certification/Denial  
Illinois EPA Log No. C-0210-20

Dear Ms. Chavez:

On October 8, 2021 the Agency granted §401 water quality certification for Nationwide Permits (NWP) 3, 4, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 30, 31, 32, 33, 36, 37, 38, 41, 45, 53, and 54 with special conditions and/or general conditions. Please find attached a corrected copy of the October 8, 2021 §401 water quality certification to correct the typographical errors in the first paragraph. Mention of granting §401 water quality certification for NWP 34, 49, and 59 were removed and references to certification conditions for NWP 21, 44, 48, 50, 55, and 56 were removed.

Should you have any questions or comments regarding the content of this nationwide certification, please contact Francisco Herrera at 217-782-3362.

Sincerely,

Darin E. LeCrone, P.E.  
Manager, Permit Section  
Division of Water Pollution Control

DEL:FJH:C-0210-20.docx

Attachment: Corrected Copy of Illinois EPA 401 Water Quality Certifications of Nationwide Permits

cc: Records Unit  
CoE, Chicago District  
CoE, Louisville District (Indianapolis Office)  
CoE, Louisville District (Newburgh Regulatory Office)  
CoE, Memphis District  
CoE, St. Louis District  
IDNR, Bartlett  
IDNR, OWR, Chicago  
IDNR, OWR, Springfield  
USEPA, Region 5  
USFWS, Rock Island, Chicago and Marion



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

Corrected Copy

**October 8, 2021**

Corrected Copy Date: **DEC 21 2021**

U.S. Army Corps of Engineers, Rock Island  
ATTN: Ms. Samantha Chavez, Regulatory Branch  
Post Office Box 2004  
Clock Tower Building  
Rock Island, IL 61204-2004

Re: Federal Register [Docket Number: COE-2020-0002] Proposal to Reissue and Modify  
Nationwide Permits, September 15, 2020  
CWA §401 Certification/Denial and applicable conditions  
Illinois EPA Log no. C-0210-20

Dear Ms. Chavez:

On September 15, 2020 the Corps of Engineers issued the notice of proposed rulemaking concerning their determination to reissue and modify the current Nationwide Permits (NWP) that are set to expire on March 18, 2022. By letter dated August 19, 2021 your office extended the reasonable period of time to revise the §401 water quality certification to October 13, 2021 for thirty-two (32) NWPs. The Agency has made modifications to the certification conditions issued on December 11, 2020. By this final determination document the Illinois EPA grants §401 water quality certification for NWPs 3, 4, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 30, 31, 32, 33, 36, 37, 38, 41, 45, 53, and 54 with the special and/or general conditions specified below. This document also provides the certification conditions for NWPs 12, 29, 39, 40, 42, 43, 51, 52, 57, and 58 and notice of the Agency determination to deny eight (8) of the proposed nationwide permits which are provided below with reasons in accordance with 40 CFR 121.7(e)(2).

**CWA §401 certification is hereby granted, subject to General Conditions 1 through 12 below, for the following nationwide permits:**

NWP 3 – Maintenance  
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Device and Activities  
NWP 5 – Scientific Measurement Devices  
NWP 7 – Outfall Structures and Associated Intake Structures  
NWP 18 – Minor Discharges  
NWP 19 – Minor Dredging  
NWP 20 – Response Operations for Oil or Hazardous Substances  
NWP 22 – Removal of Vessels  
NWP 25 – Structural Discharges  
NWP 30 – Moist Soil Management for Wildlife  
NWP 31 – Maintenance of Existing Flood Control Facilities  
NWP 33 – Temporary Construction, Access and Dewatering  
NWP 36 – Boat Ramps  
NWP 41 – Reshaping Existing Drainage Ditches  
NWP 45 – Repair of Uplands Damaged by Discrete Events

2125 S. First Street, Champaign, IL 61820 (217) 278-5800  
2009 Mall Street Collinsville, IL 62234 (618) 346-5120  
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000  
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200  
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022  
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

**CWA §401 certification is hereby granted, subject to General Conditions 1 through 12 below and the Special Conditions which are contained in the referenced attachment for the following identified nationwide permits:**

- NWP 6 – Survey Activities. Refer to Special Conditions for NWP 6 in Attachment.
- NWP 12 – Oil or Natural Gas Pipeline Activities. Refer to Special Conditions for NWP 12 in Attachment.
- NWP 13 – Bank Stabilization. Refer to Special Conditions for NWP 13 in Attachment.
- NWP 14 – Linear Transportation Projects. Refer to Special Conditions for NWP 14 in Attachment.
- NWP 15 – U.S. Coast Guard Approved Bridges. Refer to Special Conditions for NWP 15 in Attachment.
- NWP 16 – Return Water from Upland Contained Disposal Areas. Refer to Special Conditions for NWP 16 in Attachment.
- NWP 17 – Hydropower Projects. Refer to Special Conditions for NWP 17 in Attachment.
- NWP 23 – Approved Categorical Exclusions. Refer to Special Conditions for NWP 23 in Attachment.
- NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities. Refer to Special Conditions for NWP 27 in Attachment.
- NWP 29 – Residential Developments. Refer to Special Conditions for NWP 29 in Attachment.
- NWP 32 – Completed Enforcement Actions. Refer to Special Conditions for NWP 32 in Attachment.
- NWP 37 – Emergency Watershed Protection and Rehabilitation. Refer to Special Conditions for NWP 37 in Attachment.
- NWP 38 – Cleanup of Hazardous and Toxic Waste. Refer to Special Conditions for NWP 38 in Attachment.
- NWP 39 – Commercial and Institutional Developments. Refer to Special Conditions for NWP 39 in Attachment.
- NWP 40 – Agricultural Activities. Refer to Special Conditions for NWP 40 in Attachment.
- NWP 42 – Recreational Facilities. Refer to Special Conditions for NWP 42 in Attachment.
- NWP 43 – Stormwater Management Facilities. Refer to Special Conditions for NWP 43 in Attachment.
- NWP 51 – Land-Based Renewable Energy Generation Facilities. Refer to Special Conditions for NWP 51 in Attachment.
- NWP 52 – Water-Based Renewable Energy Generation Pilot Projects. Refer to Special Conditions for NWP 52 in Attachment.
- NWP 53 – Removal of Low-Head Dams. Refer to Special Conditions for NWP 53 in Attachment.
- NWP 54 – Living Shorelines. Refer to Special Conditions for NWP 54 in Attachment.
- NWP 57 – Electric Utility Line and Telecommunications Activities. Refer to Special Conditions for NWP 12 in Attachment.
- NWP 58 – Utility Line Activities for Water and Other Substances. Refer to Special Conditions for NWP 12 in Attachment.

**CWA §401 certification is hereby denied with reasons provided in accordance with 401 CFR 121.7 for the following NWPs:**

- NWP 21 – Surface Coal Mining Activities. The Illinois EPA has determined that a case-specific review is warranted for all surface mining activities including carbon extraction because pursuant to 35 Ill. Admin. Code Section 401.102, mining activities are identified as having, when certain refuse materials are used, the capability to cause or threaten to cause a nuisance or render waters harmful or detrimental to public health and to all legitimate uses including but not limited to livestock and wildlife uses. The likelihood that contaminants related to coal extraction, particularly acid producing minerals in mine refuse, would be found within overburden and soil stockpiles and therefore present within fill materials warrant a facility specific antidegradation assessment pursuant to 35 Ill. Admin. Code Section 302.105. Additionally, Illinois' Section 401 implementation rules at 35 Ill. Admin. Code Part 395 regarding material testing exemptions specifically exclude material with known sources of pollution. Therefore, Section 401 certification is denied for this nationwide permit (NWP21).

---

NWP 34 – Cranberry Production Activities: The Illinois EPA has determined that the area of impact that is allowed by an authorization under this nationwide permit exceeds 1/2 acre. 1/2 acre is determined to be representative of the maximum threshold for minimal degradation of existing uses of aquatic resources. Consequently, any activity authorized under this nationwide permit must be subject to a case-specific antidegradation assessment pursuant to 35 Ill. Admin. Code Section 302.105. Therefore, the Illinois EPA denies 401 certification for NWP 34.

NWP 44 – Mining Activities: The Illinois EPA has determined that a case-specific review is warranted for all surface mining activities because pursuant to 35 Ill. Admin. Code Section 401.102, mining activities are identified as having, when certain refuse materials are used, the capability to cause or threaten to cause a nuisance or render waters harmful or detrimental to public health and to all legitimate uses including but not limited to livestock and wildlife uses. Furthermore, all mining activities are regulated by the Illinois EPA under federal and state statute because of their potential to cause or threaten to cause water pollution. Therefore, for the above reasons, the Illinois EPA denies 401 certification for NWP 44.

NWP 46 – Discharges into Ditches: The Illinois EPA has determined that a case-specific review is warranted for all discharge activities into ditches because of the nationwide permit exceeds the 1/2 acreage determined to be the maximum threshold for minimal degradation of existing uses of aquatic resources. Consequently, any activity authorized under this nationwide permit must be subject to a case-specific antidegradation assessment pursuant to 35 Ill. Admin. Code Section 302.105. Therefore, the Illinois EPA denies 401 certification for NWP 46.

NWP 48 – Commercial Shellfish Mariculture Activities: As proposed, the Illinois EPA believes this nationwide permit is inapplicable to waters of the U.S. that are found within the State of Illinois. Therefore, the Illinois EPA denies 401 certification for NWP 48.

NWP 49 – Coal Remining Activities: By reference to the certification denial explanation for NWP 21, the Illinois EPA denies 401 certification for NWP 49.

NWP 50 – Underground Coal Mining: By reference to the certification denial explanation for NWP 21, the Illinois EPA denies 401 certification for NWP 50.

NWP 59 – Water Reclamation and Reuse Facilities: As proposed in the Federal Register, this proposed nationwide permit would appear to allow utilization of existing natural waterbodies as treatment devices. According to 35 Ill. Admin. Code 301.440 such utilization is not permissible. Therefore, the Illinois EPA denies 401 certification for NWP 59.

---

#### 401 Certification General Conditions

---

General Conditions 1 through 12 shall be applicable to all NWPs that are granted 401 certification.

**General Condition 1: Waterbodies that Require Individual Certification**

Pursuant to 35 Ill. Adm. Code Section 302.105(d)(6), an individual 401 water quality certification will be required for activities permitted under these Nationwide Permits for discharges to waters designated by the State of Illinois as waters of particular biological significance or Outstanding Resource Waters under 35 Ill. Adm. Code 302.105(b). Biologically Significant Streams (BSS) are cataloged in Illinois DNR's publication



“Integrating Multiple Taxa in a Biological Stream Rating System” and may be identified at: <https://www2.illinois.gov/dnr/conservation/BiologicalStreamratings/Pages/default.aspx>.

### **General Condition 2: Water Quality Impairments**

Pursuant to 35 Ill. Adm. Code Sections 302.105(a), 302.105(c)(2)(B), and 395.401(a), an individual 401 water quality certification will be required for activities permitted under these Nationwide Permits that may cause a discharge that, whether temporarily or permanently, may cause or contribute to additional loading of any pollutant, or deterioration of any water quality parameter, such as pH or dissolved oxygen, where such pollutant or parameter is also designated by the State of Illinois as a cause of water quality impairment of the particular segment of the receiving water body according to the Illinois Environmental Protection Agency's Section 303(d) list. The most recent Illinois Integrated Water Quality Report and Section 303(d) List can be found at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/303d-list.aspx>.

### **General Condition 3: Threatened and Endangered Species**

Pursuant to 35 Ill. Admin. Code Section 302.105(f)(1)(F), prior to proceeding with any work in furtherance of activities permitted under these Nationwide Permits, potential impacts to State threatened or endangered species and Natural Areas shall be determined in accordance with applicable consultation procedures established under 17 Ill. Admin Code Part 1075. The Department of Natural Resources (IDNR) Ecological Compliance Assessment Tool (EcoCAT) is available to complete consultation at <http://dnr.illinois.gov/EcoPublic/>. If IDNR determines that adverse impacts to protected natural resources are likely, the applicant shall address those identified concerns with IDNR through the consultation process. Please contact IDNR, Impact Assessment Section at 217-785-5500 if you have any questions regarding consultation.

### **General Condition 4: TMDLs**

Pursuant to 35 Ill. Admin. Code Sections 302.105(a), 302.105(c)(2)(B), and 395.401(a), activities permitted under these Nationwide Permits that may cause a discharge that, whether temporarily or permanently, may cause or contribute to additional loading of any pollutant, or deterioration of any water quality parameter, such as pH or dissolved oxygen, where such pollutant or parameter is addressed by a USEPA approved Total Maximum Daily Load (TMDL) report for the receiving water body shall develop and implement additional measures and or procedures which ensure consistency with the load allocations, assumptions and requirements of the TMDL report. TMDL program information and water listings are available at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/reports.aspx>.

### **General Condition 5: Prohibitions**

Pursuant to 35 Ill. Admin. Code Section 395.401(a), the applicant shall not cause:

- violation of applicable provisions of the Illinois Environmental Protection Act;
- water pollution defined and prohibited by the Illinois Environmental Protection Act;
- violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation; or
- interference with water use practices near public recreation areas or water supply intakes.

### **General Condition 6: Erosion and Sedimentation Control Measures**

Pursuant to the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Sections 302.203 and 395.402(b)(2), the applicant shall implement all necessary sedimentation and erosion control measures consistent with the current edition of

the "Illinois Urban Manual" found at <https://illinoisurbanmanual.org/>. Interim measures to prevent erosion during construction shall be taken and may include the installation of sedimentation basins, silt fencing and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. All areas affected by construction shall be seeded and stabilized as soon after construction as possible.

**General Condition 7: NPDES Stormwater Construction Permit**

Pursuant to the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), the applicant shall be responsible for obtaining an NPDES Storm Water Permit required by the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be applied for at <https://www2.illinois.gov/epa/topics/forms/water-permits/storm-water/Pages/construction.aspx>.

**General Condition 8: Spill Response Plan**

Pursuant to 35 Ill. Admin. Code Sections 395.401, 302.203, and 302.208, the applicant shall ensure that a spill avoidance and response plan has been developed and implemented for management of accidental releases of petroleum, oil, and lubricant products to the aquatic environment during construction and for emergency notification of applicable downstream water supply operators. Absorbent pads, containment booms and skimmers shall be available to facilitate the cleanup of petroleum spills. If floating hydrocarbon (oil and gas) products are observed, the applicant or his designated individual will be responsible for directing that work be halted so that appropriate corrective measures are taken in accordance with the plan prior to resuming work.

**General Condition 9: Hydraulic Machinery**

Pursuant to 35 Ill. Admin. Code Sections 302.203, 302.304, and 302.515, all hydraulic machinery utilized for the permitted activity and used in or immediately adjacent to waters of the State shall utilize biodegradable or bio-based hydraulic fluids to minimize pollution in the case of broken or leaking hydraulic equipment.

**General Condition 10: Temporary Structures and Work**

Pursuant to 35 Ill. Admin. Code Sections 302.203, 395.204, and 395.401(b), temporary work pads, cofferdams, access roads and other temporary fills are approved provided that such activities are constructed with clean coarse aggregate or non-erodible non-earthen fill material that will not cause siltation. Sandbags, pre-fabricated rigid materials, sheet piling, inflatable bladders and fabric lined basins may be used for temporary facilities. Temporary fills within streams, creeks or rivers shall utilize adequate bypass measures (i.e. dam and pump, flumes, culverts, etc.) to minimize sedimentation and erosion and to maintain normal stream flow during construction.

**General Condition 11: Construction Site Dewatering**

Pursuant to Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), dewatering of a construction site is authorized provided the dewatering activity is limited to the immediate work area within a cofferdam or otherwise isolated from waters of the State, and the work site is free from sources of contamination including those of natural origin. Dewatering activities shall incorporate Best Management Practices in accordance with the current edition of the "Illinois Urban Manual"

<https://illinoisurbanmanual.org/>. Practice Standard for Dewatering (no. 813) or as otherwise appropriate to ensure that return flows from the dewatering activity are free of unnatural turbidity and floating debris and meet applicable water quality standards. Dewatering or discharge of flush water from construction of drilled piers or boreholes is not authorized and must be conducted in accordance with an NPDES permit issued by the Illinois EPA.

**General Condition 12: Discharged Material Quality**

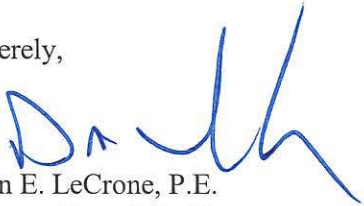
Pursuant to 35 Ill. Admin. Code Sections 302.203, 302.208, and 395.401(b), any spoil material excavated, dredged or otherwise produced must not be returned to the water body but must be deposited in a self-contained area in compliance with all state statutes. Except as specifically allowed by special condition, any backfilling must be done with clean material that is predominantly sand or larger size material, with no more than 20% passing a #230 U. S. sieve and placed in a manner to prevent violation of applicable water quality standards.

401 Certification Special Conditions

Special Conditions including the conditional exclusions of 401 certification coverage that are listed within the Attachment: "Special Conditions for Illinois EPA 401 Water Quality Certifications of Certain Nationwide Permits" shall be applicable as stated therein.

Should you have any questions or comments regarding the content of this nationwide certification, please contact Darren Gove at 217-782-3362.

Sincerely,



Darin E. LeCrone, P.E.  
Manager, Permit Section  
Division of Water Pollution Control

DEL:DRG:C-0210-20.docx

Attachment: Special Conditions for Illinois EPA 401 Water Quality Certifications of Certain Nationwide Permits Regarding Federal Register [Docket Number: COE-2020-0002] Proposal to Reissue and Modify Nationwide Permits dated September 15, 2020

cc: Records Unit  
CoE, Chicago District  
CoE, Louisville District (Indianapolis Office)  
CoE, Louisville District (Newburgh Regulatory Office)  
CoE, Memphis District  
CoE, St. Louis District  
IDNR, Bartlett  
IDNR, OWR, Chicago  
IDNR, OWR, Springfield  
USEPA, Region 5  
USFWS, Rock Island, Barrington and Marion

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 6  
Survey Activities**

1. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(iii), 302.203, and 395.401(a), the applicant for the applicable nationwide permit shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
2. Pursuant to 35 Ill. Admin. Code Section 395.401(a), material resulting from trench excavation within surface waters of the State may be temporarily sidecast adjacent to the trench excavation provided that:
  - a. Sidecast material is not placed within a creek, stream, river or other flowing water body such that material dispersion could occur;
  - b. Sidecast material is not placed within ponds or other water bodies other than wetlands; and
  - c. Sidecast material is not placed within a wetland for a period longer than twenty (20) calendar days. Such sidecast material shall either be removed from the site or used as backfill (refer to Condition 4).
3. Pursuant to 35 Ill. Admin. Code Sections 302.203, 395.205, and 395.401(a), backfill used within trenches passing through surface water of the State, except wetland areas, shall be clean coarse aggregate, gravel or other material which will not cause siltation. Excavated material may be used only if:
  - a. Particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using a #230 U.S. sieve; or
  - b. Excavation and backfilling are done under dry conditions.
4. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii) and 395.401(a), backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMITS 12, 57, and 58.  
Utility Line Activities, Electric, Water, and Others.**

1. Pursuant to 35 Ill. Adm. Code Sections 302.105(c)(2)(B), 302.208, and 395.401, a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for:
  - a. activities in the following waters:
    - i. Lake Calumet
    - ii. Fox River (including the Fox Chain of Lakes)
    - iii. Lake Michigan
    - iv. Chicago Sanitary and Ship Canal
    - v. Calumet-Sag Channel
    - vi. Little Calumet River
    - vii. Grand Calumet River
    - viii. Calumet River
    - ix. Pettibone Creek (in Lake County)

- x. South Branch of the Chicago River (including the South Fork)
  - xi. North Branch of the Chicago River (including the East and West Forks and the Skokie Lagoons)
  - xii. Chicago River (Main Stem)
  - xiii. Des Plaines River
  - xiv. Kankakee River
- b. activities in the following waters if material is sidecast into waters of the State or wetlands:
- i. Saline River (in Hardin County)
  - ii. Richland Creek (in St. Clair and Monroe Counties)
  - iii. Rock River (in Winnebago County)
  - iv. Illinois River upstream of mile 229.6 (Illinois Route 178 bridge)
  - v. Illinois River between mile 140.0 and 182.0
  - vi. DuPage River (including the East and West Branches)
  - vii. Salt Creek (Des Plaines River Watershed)
  - viii. Waukegan River (including the South Branch)
- c. activities in waters designated as Public and Food Processing Water Supplies with surface intake facilities within 2000 feet of the proposed discharge unless the discharge is reasonably considered downstream of the intake. The Illinois EPA's Division of Public Water Supply at 217/782-1020 may be contacted for information on these water supplies

2. Section 401 water quality certification is hereby issued for all other waters, with the following conditions:

- a. Pursuant to 35 Ill. Admin. Code Sections 395.401(b) and 302.105(c)(2)(B)(iii), the applicant for the applicable nationwide permit(s) shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
- b. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, 302.208, 395.203, and 395.401, dredged material resulting from trench excavation within surface waters of the State may be temporarily sidecast adjacent to the trench excavation provided that:
- i. Sidecast material is not placed within a creek, stream, river or other flowing water body such that material dispersion could occur;
  - ii. Side cast material is not placed within ponds or other water bodies other than wetlands; and
  - iii. Sidecast material is not placed within a wetland for a period longer than twenty (20) calendar days. Such sidecast material shall either be removed from the site (refer to Condition 2.e) or used as backfill (refer to Condition 2.d).
- c. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, 302.208, 395.203, and 395.401, backfill used within trenches passing through surface water of the State, except wetland areas, shall be clean course aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
- i. Particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using a #230 U.S. sieve; or
  - ii. Excavation and backfilling are done under dry conditions.

- 
- d. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, 302.208, 395.203, and 395.401, backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.
- e. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, 302.208, 395.203, and 395.401, all material excavated which is not being used as backfill as stipulated in Condition 2.d and 2.c shall be stored or disposed in self-contained areas with no discharge to waters of the State. Material shall be disposed of appropriately under the regulations at 35 Il. Adm. Code Subtitle G.
- f. Pursuant to 35 Ill. Admin. Code Sections 395.401(b), 302.203, and 302.208, the use of directional drilling to install utility pipelines below surface waters of the State is hereby certified provided that:
- i. All pits and other construction necessary for the directional drilling process are located outside of surface waters of the State;
  - ii. All drilling fluids shall be adequately contained such that they cannot cause a discharge to surface waters of the State. Such fluids shall be treated as stipulated in Condition 2.F; and
  - iii. Erosion and sediment control is provided in accordance with Conditions 2.B, 2.G, and 2.H.
- g. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(iii), 302.203, and 395.401(b), permanent access roads shall be constructed of clean coarse aggregate or non-erodible nonearthen fill material that will not cause siltation. Material excavated or dredged from the surface water or wetland shall not be used to construct the access road in waters of the state. The applicant for Nationwide Permit 12 that constructs access roads shall maintain flow in creeks, streams and rivers by installing culverts, bridges or other such techniques.
- h. Pursuant to 35 Ill. Admin. Code Sections 395.401(b) and 302.203, adjacent banks and slopes disturbed by construction shall be stabilized immediately following construction. The applicant shall undertake necessary measures and procedures to eliminate stormwater channelization via the utility route during and after construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of sedimentation basins, check dams, straw bales and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions.
- i. Pursuant to 35 Ill. Admin. Code Sections 395.401(b) and 302.203, asphalt, bituminous material and concrete with protruding material such as reinforcing bar or mesh shall not be 1) used for backfill, 2) placed on shorelines/stream banks, or 3) placed in waters of the State.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 13**

**Bank Stabilization**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a) and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for bank stabilization activities that will exceed 1000 linear feet.
2. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), asphalt, bituminous material and concrete with protruding material such as reinforcing bars or mesh shall not be:
  - a. used for backfill;
  - b. placed on shorelines/streambanks; or
  - c. placed in waters of the State.
3. Pursuant to 35 Ill. Admin. Code Sections 302.203, 302.208, and 395.401(b), the applicant shall consider installing bioengineering practices in lieu of structural practices of bank stabilization to minimize impacts to the lake, pond, river or stream and enhance aquatic habitat. The applicant shall document the selection process for the bank stabilization technique(s) and the basis for the selection of the bank stabilization practices. Bioengineering techniques may include, but are not limited to:
  - a. adequately sized riprap or A-Jack structures keyed into the toe of the slope with native plantings on the banks above;
  - b. vegetated geogrids;
  - c. coconut fiber (coir) logs;
  - d. live, woody vegetative cuttings, fascines or stumps;
  - e. brush layering; and
  - f. soil lifts.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 14**

**Linear Transportation Projects**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for linear transportation activities that cause loss of greater than 500 linear feet of stream channel, as measured along the stream corridor.
2. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for linear transportation activities covered by this nationwide permit that include the temporary or permanent placement of steel or other painted structures within the waterbody as result of demolition work of previous structures.
3. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for new or expanded roadways that affect waterways which are designated by the State of Illinois as having water quality impairments caused by chloride. The most recent Illinois Integrated Water Quality Report and Section 303(d) List can be found at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/303d-list.aspx>

4. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 15  
U.S. Coast Guard Approved Bridges**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA shall be required for linear transportation activities covered by this nationwide permit that include the temporary or permanent placement of demolished structural or decking materials within the waterbody as result of demolition work of previous structures.
2. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), a case-specific (individual) 401 water quality certification from the Illinois EPA shall be required for new bridges (not replacing another) that affect waterways which are designated by the State of Illinois as having water quality impairments caused by chloride. The most recent Illinois Integrated Water Quality Report and Section 303(d) List can be found at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/303d-list.aspx>.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 16  
Return Water from Upland Contained Disposal Areas**

1. Pursuant to 35 Ill. Adm. Code Sections 302.105(c)(2)(B), 302.208, and 395.401, a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for:
  - a. return water discharge resulting from dredging activities in the following waters:
    - i. Lake Calumet
    - ii. Fox River (including the Fox Chain of Lakes)
    - iii. Lake Michigan
    - iv. Chicago Sanitary and Ship Canal
    - v. Calumet-Sag Channel
    - vi. Little Calumet River
    - vii. Grand Calumet River
    - viii. Calumet River
    - ix. Pettibone Creek (in Lake County)
    - x. South Branch of the Chicago River (including the South Fork)
    - xi. North Branch of the Chicago River (including the East and West Forks and the Skokie Lagoons)
    - xii. Chicago River (Main Stem)
    - xiii. Des Plaines River
    - xiv. Kankakee River
    - xv. Saline River (in Hardin County)
    - xvi. Richland Creek (in St. Clair and Monroe Counties)



- xvii. Rock River (in Winnebago County)
  - xviii. Illinois River upstream of mile 229.6 (Illinois Route 178 bridge)
  - xix. Illinois River between mile 140.0 and 182.0
  - xx. DuPage River (including the East and West Branches)
  - xxi. Salt Creek (Des Plaines River Watershed)
  - xxii. Waukegan River (including the South Branch)
  - xxiii. any waters designated as
- b. return water discharge, resulting from dredging activities, in waters designated as Public and Food Processing Water Supplies with surface intake facilities within 2000 feet of the proposed discharge unless the discharge is reasonably considered downstream of the intake. The Illinois EPA's Division of Public Water Supply at 217/782-1020 may be contacted for information on these water supplies.
- c. disposal areas or return water discharges that are located within a designated Environmental Justice (EJ) area of concern. An EJ mapping tool is available at <https://illinois-epa.maps.arcgis.com/apps/webappviewer/index.html?id=f154845da68a4a3f837cd3b880b0233c>.
- d. dredging activities that would result in upland placement of more than 125,000 cubic yards of material or would produce effluent discharge on a recurring basis for a period lasting more than 5 years, including periods covered under a previous Department of the Army authorization.
- e. hydraulic dredging activities if the total quantity of dredged material per dredge event would exceed 500 cubic yards and the receiving water:
- i. is listed on the Agency's 303(d) List, or
  - ii. has a USEPA approved Total Maximum Daily Load (TMDL) is in effect, or
  - iii. is designated pursuant to Section 302.206(d) Stream Segments for Enhanced Dissolved Oxygen Protection.

Information on 303(d) List and TMDLs can be found at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/default.aspx> and Information on Stream Segments for Enhanced Dissolved Oxygen Protection may be found at <https://pcb.illinois.gov/documents/dsweb/Get/Document-33354/>. You may also utilize Resource Management Mapping Service to graphically identify impaired waters at [https:// www.rmms.illinois.edu/](https://www.rmms.illinois.edu/).

2. Section 401 water quality certification is otherwise hereby issued pursuant to the Illinois Environmental Protection Act Section 12(a) [415 ILCS 5/12(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), except that applicants shall apply for and obtain a water pollution control permit for construction and operation of the upland contained disposal area as provided by 35 Ill. Admin. Code Subtitle C Part 309 Subpart B, prior to dredging activities.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 17  
Hydropower Projects**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(b), an individual Section 401 water quality certification will be required for any project that is not previously approved by a Section 401 water quality certification issued by the Illinois EPA for a Federal Energy Regulatory Commission license or permit.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 23  
Approved Categorical Exclusions**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that will cause the loss of aquatic resources which exceed the lesser of ½ acres or 300 linear feet of stream channel as measured along the stream corridor.
2. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for linear transportation activities covered by this nationwide permit which includes the temporary or permanent placement of painted steel or other painted structures within the waterbody as a result of related demolition work.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 27  
Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

1. Pursuant to the Illinois Environmental Protection Act Section 12(a)[415 ILCS 5/12(a)] and 35 Ill. Admin. Code Sections 395.401(a) and 395.401(b)(2), all activities conducted under this nationwide permit shall be in accordance with the provisions of 35 Ill. Adm. Code 405.108. Work in reclaimed surface coal mine areas are required to obtain prior authorization from the Illinois EPA for any activities that result in the use of acid-producing mine refuse.
2. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B), 302.208, and 395.401(a), a case-specific (individual) 401 water quality certification from the Illinois EPA will be required for the relocation of waters of the State.
3. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B), 302.203, and 395.401(a), any backfilled materials used within artificial channels shall be clean coarse aggregate, gravel or other material which will not cause siltation and placed in a manner to prevent violation of applicable water quality standards.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 29  
Residential Developments**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for development activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.
2. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.
3. Pursuant to 35 Ill. Admin. Code Section 395.402(b)(2), the applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 32  
Completed Enforcement Actions**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that involve carbon recovery (coal mining or coal remining) or materials that may be considered "acid-producing material".
2. Pursuant to 35 Ill. Admin. Code Sections 395.401(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that include proposed (yet to be undertaken) loss of aquatic resources which exceed the lessor of ½ acres or 300 linear feet of stream channel as measured along the stream corridor.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 37  
Emergency Watershed Protection and Rehabilitation**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that will cause the loss of aquatic resources which exceed the lessor of ½ acres or 300 linear feet of stream channel as measured along the stream corridor.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 38  
Cleanup of Hazardous and Toxic Waste**

1. Pursuant to 35 Ill. Admin. Code Section 395.401(b), a case-specific (individual) Section 401 water quality certification will be required for activities covered by this nationwide permit that do not require or will not receive authorization or approval from the Illinois EPA, Bureau of Land (BOL).
2. Pursuant to 35 Ill. Admin. Code Section 395.401(b), the applicant shall notify the Illinois EPA, Bureau of Water, Permit Section, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the BOL, for all cleanup activities under BOL jurisdiction or for which authorization or approval is sought from BOL for no further remedial action.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 39  
Commercial and Institutional Developments**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a), and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for development activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.
2. Pursuant to 35 Ill. Admin. Code Section 395.402(b)(2), the applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, water treatment plants, wastewater treatment plants and related facilities prior to construction.
3. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.
4. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, and 395.401(b), for construction of oil and gas wells, the impacted waters of the State shall be restored to pre-construction conditions within six months after construction is started. For purposes of this condition, restoration includes stabilization and seeding or planting of vegetation on the disturbed areas that were vegetated prior to construction.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 40  
Agricultural Activities**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.

2. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 42  
Recreational Facilities**

1. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for development activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.
2. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.
3. Pursuant to 35 Ill. Admin. Code Section 395.402(b)(2), the applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 43  
Stormwater Management Facilities**

1. Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), the Agency hereby issues Section 401 water quality certification of Nationwide Permit 43 exclusively for the construction and maintenance of pollutant reduction green infrastructure features designed to reduce inputs of sediments, nutrients, and other pollutants into waters to meet reduction targets established under Total Daily Maximum Loads set under the Clean Water Act. All other activities authorized under this Nationwide Permit are denied Section 401 water quality certification. For purposes of this water quality certification green infrastructure means wet weather management approaches and technologies that utilize, enhance or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration and reuse. Green infrastructure approaches currently in use include green roofs, trees and tree boxes, rain gardens, vegetated swales, pocket wetlands, infiltration planters, porous and permeable pavements, porous piping systems, dry wells, vegetated median strips, reforestation/revegetation, rain barrels and cisterns and protection and enhancement of riparian buffers and floodplains. Material excavated, dredged or produced from the maintenance of green infrastructure features shall not be discharged to waters of the State.
2. Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for development activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.

- 3 Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.
- 4 Pursuant to 35 Ill. Admin. Code Section 395.402(b)(2), the applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
REGIONAL CONDITIONS FOR NATIONWIDE PERMIT 51  
Land-Based Renewable Energy Generation Facilities**

- 1 Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.
- 2 Pursuant to 35 Ill. Admin. Code Sections 302.203 and 395.401(b), any relocated stream channel authorized under this nationwide permit shall be constructed under dry conditions and allowed to fully stabilize prior to the diversion of flow to prevent erosion and sedimentation.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 52  
Water-Based Renewable Energy Generation Pilot Projects**

- 1 Pursuant to 35 Ill. Admin. Code Sections 395.401(a), 302.105(a) and 302.105(c)(2)(B), case-specific (individual) 401 water quality certification from the Illinois EPA will be required for activities covered by this nationwide permit that cause loss of greater than 300 linear feet of stream channel, as measured along the stream corridor.
- 2 Pursuant to 35 Ill. Admin. Code Section 395.401(b), an individual Section 401 water quality certification will be required for any hydrokinetic project that is not previously approved by a Section 401 water quality certification issued by the Illinois EPA for a Federal Energy Regulatory Commission license or permit.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
REGIONAL CONDITIONS FOR NATIONWIDE PERMIT 53  
Removal of Low-Head Dams**

- 1 Pursuant to 35 Ill. Admin. Code Sections 302.203, 395.205 and 395.401(b), the applicant shall implement the following Best Management Practices and Material Testing:
  - a Sediments and river bottom material are excavated and removed to upland areas to minimize sediment transport downstream, minimize downcutting and protect water quality; or
  - b measures shall be implemented to minimize sediment transport downstream; or

- c. the sediments and river bottom materials that will be transported downstream are determined to have less than 20 percent passing a #230 U.S. Sieve based on representative sampling and analysis of the sediments and river bottom materials; or
  - d. a combination of the above practices to protect water quality; and
  - e. sediments and river bottom materials shall not be polluttional if released to downstream waters.
2. Pursuant to 35 Ill. Admin. Code Sections 302.105(c)(2)(B)(ii), 302.203, and 395.401(b), Best Management Practices shall be implemented to minimize sediment transport downstream, minimize downcutting of sediment and river bottom materials and protect water quality.
3. Pursuant to 35 Ill. Admin. Code Section 395.401(a), the applicant shall notify downstream surface water supplies of the proposed dam removal. The applicant shall implement practices to prevent interference with Public and Food Processing Water Supply intakes. The Illinois EPA's Division of Public Water Supply may be contacted at 217/782-1020 for information on the Public and Food Processing Water Supplies.
4. Pursuant to 35 Ill. Admin. Code Sections 302.203, 395.401(b) and 395.402(b)(2), any spoil material excavated, dredged or otherwise produced during dam removal activities must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by this Agency.

**ILLINOIS EPA WATER QUALITY CERTIFICATION  
SPECIAL CONDITIONS FOR NATIONWIDE PERMIT 54  
Living Shorelines**

1. Pursuant to 35 Ill. Admin. Code Section 395.401(a), an individual Section 401 water quality certification shall be required for any project that exceeds 1000 feet as measured along the bank or when the District Engineer waives the limitation of 30 feet as measured from the mean high water line.