



**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, for the State of Iowa

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 Iowa. 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 Iowa. 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/Iowa%20Regional%20Conditions%202021%20Nationwide%20Permits.pdf?ver=r1525zvlqDJAjgNEaJv-tg%3d%3d>

5. WATER QUALITY CERTIFICATION: The Section 401 Water Quality Certifications (WQC) were issued for Section 404 NWP activities by the Iowa Department of Natural Resources (IDNR) on 12/October/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, 34, 36, 37, 38, 41, 45, 46, 49, 53, 54 and 59 with the special and/or general conditions specified below. NWP 48, 51 and 52 do not have water quality certification in the State of Iowa and will require individual water quality certification. The WQC can be found below or accessed at the Rock Island District Regulatory web page:

<https://mvr.usace.afpims.mil/Portals/48/docs/regulatory/2022%20Nationwide%20Permits/401%20water%20quality%20certificate%20for%20nwps%2010-12-2021.pdf?ver=IpGq8Bh0clvrI6kMNbyNeg%3d%3d>

The Section 401 Water Quality Certifications issued for Section 404 Nationwide Permit Activities by the Sac and Fox Tribe of the Mississippi in Iowa have been waived.

6. 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>

7. 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>

8. 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/>

9. POINT OF CONTACT: If you have questions or need additional information please contact Albert Frohlich via email at Albert.J.Frohlich@usace.army.mil or by phone at (309) 794-5859.

Enclosures:

Iowa Regional Conditions for the 2021 Nationwide Permits, (encl 1)
Iowa Department of Natural Resources Section 401 Water Quality Certification for the 2021 Nationwide Permits dated October 12, 2021 (encl 2)



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Iowa Proposed Regional Conditions 2021 Nationwide Permits

- 1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.
- 2) For projects that impact an Outstanding National Resource Water, Outstanding Iowa Water, fens, bogs, seeps, or sedge meadows, a Pre-Construction Notice in accordance with General Condition No. 32 and an Individual Section 401 Water Quality Certification will be required.
- 3) Any bank stabilization activity involving a method that protrudes from the bank contour, such as jetties, stream barbs and/or weirs, will require a Pre-Construction Notice in accordance with General Condition No. 32.
- 4) Beyond what is described in General Condition # 6, suitable fill material shall consist of clean materials, free from debris, trash, and other deleterious materials. If broken concrete is used as riprap, all reinforcing rods must be cut flush with the surface of the concrete, and individual pieces of concrete shall be appropriately graded and not exceed 3 feet in any dimension. Asphalt, car bodies, and broken concrete containing asphalt, and liquid concrete are specifically excluded.
- 5) No non-native, invasive or other plant species included on the Corps "Excluded Plant List" shall be planted for re-vegetation or stabilization purposes. The plant list can be found on the Corps website at: <http://www.mvr.usace.army.mil/Missions/Regulatory.aspx>. To prevent the spread of non-native and/or invasive plant species, the permittee shall ensure that equipment to be utilized in Waters of the United States is cleaned before arriving on site. Wash water shall not be discharged into any wetland, waterway, or any other surface water conveyances.
- 6) All authorizations requested by applicants other than the Tribal Authority for use within lands under the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa require preconstruction notification to the District Engineer and coordination with the Tribal Authority.
- 7) 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., as defined in the definitions contained in the Nationwide Permits, require a Pre-Construction Notice in accordance with General Condition No. 32 to the District Engineer.



October 12, 2021

Mr. Ward Lenz
Rock Island District Corps of Engineers
Clock Tower Building
PO Box 2004
Rock Island, IL 61204-2004

Dear Mr. Lenz:

The Iowa Department of Natural Resources (DNR) issued a Section 401 Water Quality Certification (certification) for reissued and new Nationwide Permits (NWP) on December 14, 2020. On August 18, 2021, the Rock Island District of the U.S. Army Corps of Engineers (Corps) sent a letter allowing for revised certification of the 41 NWP that were not finalized by the Corps on March 15, 2021.

In accordance with Section 401 of the Federal Water Pollution Control Act (40 C.F.R. Part 121, effective September 11, 2020), the DNR has reviewed the proposed modifications and additions to the NWP and Iowa Regional Conditions and, by this letter, is issuing certification for NWP numbered 3, 4, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 30, 31, 32, 33, 34, 36, 37, 38, 41, 45, 46, 49, 53, 54, and 59 with the following conditions:

- (1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);
- (5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(6) Riprap and temporary crossings shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in riprap material placed in any water of the state or within the high-water table. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2);

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards. This condition will ensure permittees comply with Iowa's narrative water quality standards found at 567 IAC 61.3(2); and

(8) Hydraulically dredged material shall be managed to ensure the return water meets water quality standards found at 567 IAC 61.3(2).

Nationwide permits numbered 1, 2, 8, 9, 10, 11, 24, 28, and 35 do not require certification because they would authorize activities which could not reasonably be expected to result in a discharge into waters of the United States.

The DNR has determined that the discharges from the proposed projects to be authorized using the nationwide permits will comply with water quality requirements. If you have any questions about the certification or any conditions contained therein, please contact me at Christine.schwake@dnr.iowa.gov or call (515) 725-8399.

Sincerely,

**Christine
Schwake**

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Christine Schwake
Environmental Specialist

cc: Mr. John Moeschen, U.S. Army Corps of Engineers, Nebraska Regulatory Field Office, 8901 S. 154th ST, STE 1, Omaha, NE 68138-3635 (email)