



US Army Corps
of Engineers®
Rock Island District

PUBLIC NOTICE

Sponsor: US Army Corps of Engineers

Issue Date: March 8, 2021

Special Public Notice for the Nationwide Permit Reissuance and Regional Conditions for the State of Iowa – Issuance of Regional Conditions

1. On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of 12 existing nationwide permits (NWP) and four new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. **These 16 NWP will go into effect on March 15, 2021, and will expire on March 14, 2026:**

- NWP 12 – Oil or Natural Gas Pipeline Activities
- NWP 21 – Surface Coal Mining Activities
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater Management Facilities
- NWP 44 – Mining Activities
- NWP 48 – Commercial Shellfish Mariculture Activities
- NWP 50 – Underground Coal Mining Activities
- NWP 51 – Land-Based Renewable Energy Generation Facilities
- NWP 52 – Water-Based Renewable Energy Generation Pilot Projects
- NWP 55 – Seaweed Mariculture Activities
- NWP 56 – Finfish Mariculture Activities
- NWP 57 – Electric Utility Line and Telecommunications Activities
- NWP 58 – Utility Line Activities for Water and Other Substances

2. The 12 existing NWP published in the January 13, 2021 final rule replace the 2017 versions of these NWP. The 2017 versions of NWP 12, 21, 29, 39, 40, 42, 43, 44, 48, 50, 51, and 52 expire on March 14, 2021. According to 33 CFR § 330.6(b), activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP that was verified under the 2017 NWP, will remain authorized provided the activity is completed within twelve months of the date of a NWP's expiration, modification, or revocation. If an activity that was verified under these 12 existing NWP and has commenced or is under contract to commence, they will remain authorized until March 14, 2022.

3. REGIONAL CONDITIONS: With the publication of these NWP in the Federal Register, the Mississippi Valley Division has finalized regional conditions for these 16 NWP in Iowa. Regional conditions provide additional protection for the aquatic environment and help ensure that the NWP 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 are listed below. The Regional Conditions can also be accessed at the Rock Island District Regulatory web page at:

<https://www.mvr.usace.army.mil/Portals/48/docs/regulatory/2021%20NWPs/Iowa%20Regional%20Conditions%202021%20Nationwide%20Permits.pdf?ver=r1525zvlqDJAjgNEaJv-tg%3d%3d>

4. WATER QUALITY CERTIFICATION: The Section 401 Water Quality Certifications (WQC) have been issued for Section 404 NWP activities by the Iowa Department of Natural Resources (IDNR). The WQC were reviewed and approved by the Mississippi Valley (MVD) Commander, and are added as regional conditions. The Iowa Department of Natural Resources has issued Section 401 Water Quality Certification for NWP numbered 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, C (now numbered as 57), D (now numbered as 58), and E, with conditions as listed below. The WQC can also be accessed at the Rock Island District Regulatory web page at:

<https://www.mvr.usace.army.mil/Portals/48/docs/regulatory/2021%20NWPs/Iowa%20DNR%20401%20WQC%20for%202021%20NWPs.pdf?ver=kSWFIQj7hEF2sqxsv6nTMQ%3d%3d>

The Mississippi Valley Division Commander has reviewed the Section 401 Water Quality Certifications issued for Section 404 NWP activities by the Sac and Fox Tribe of the Mississippi in Iowa, and they have been waived.

5. 2017 NATIONWIDE PERMITS: There are 40 existing NWP that were not reissued or modified by the January 13, 2021 final rule. Those 40 NWP were published in the January 6, 2017, issue of the Federal Register (82 FR 1860) and those NWP remain in effect until the Corps issues a final rule reissuing those NWP, or March 18, 2022, whichever comes first. **The 40 2017 NWP that remain in effect are:**

- 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

6. The regional conditions for these 40 NWPs that were approved by division engineers in 2017 remain in effect while these 2017 NWPs remain in effect.

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

8. As an alternative, interested parties can access the January 13, 2021, final rule and related documents at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

9. Point of Contact: If you have questions or need additional information please contact Samantha Chavez via email at Samantha.j.chavez@usace.army.mil, or by phone at (309) 794-5104.

Enclosures:

Iowa Regional Conditions for the 2021 Nationwide Permits (Encl 1)

Iowa Section 401 Water Quality Certification for the 2021 Nationwide Permits (Encl 2)



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Iowa 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, with the exception of any species that hold particular cultural or traditional significance to the Meskwaki Nation (the Sac and Fox Tribe of the Mississippi in Iowa). 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.



December 14, 2020

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

Dear Mr. Lenz:

On September 15, 2020, the U.S. Army Corps of Engineers (Corps) announced in the Federal Register the proposed reissuance of 52 existing nationwide permits (NWP) and issuance of five new NWP. On September 30, 2020, the Rock Island District Corps issued a public notice with proposed Regional Conditions for the State of Iowa.

In accordance with Section 401 of the Federal Water Pollution Control Act (40 C.F.R. Part 121, effective September 11, 2020), the Iowa Department of Natural Resources (DNR) has reviewed the proposed modifications and additions to the NWP and Iowa Regional Conditions and, by this letter, is issuing Section 401 Water Quality Certification for NWP numbered 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, C, D, and E 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, 35, A, and B 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
Environmental Specialist

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