



PUBLIC NOTICE

US Army Corps
of Engineers
Chicago District

Sponsor: US Army Corps of Engineers

Issue Date: March 4, 2021

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

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

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 have been revised to 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 an NWP that was verified under the 2017 NWP, will remain authorized provided the activity is completed within twelve months of the date of an 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.

REGIONAL CONDITIONS: With the publication of these NWP's in the Federal Register, the Great Lakes and Ohio River Division has finalized the regional conditions for these 16 NWP's in Illinois. Regional conditions provide additional protection for the aquatic environment and help ensure that the NWP's 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 below are applicable to the 16 NWP's listed on page 1:

- 1) For NWP 12, 57, and 58, a 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 32.

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). The WQCs were approved by the Mississippi Valley Division (MVD) Commander and are added as regional conditions to the NWP's. Section 401 Water Quality Certification with conditions (General Conditions and/or Special Conditions) has been issued for NWP's: 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 51, 52, 53, 54, C (now numbered as 57), D (now numbered as 58). Section 401 Water Quality Certification has been denied for NWP's: 21, 34, 44, 48, 49, 50, and E. The WQCs are included as an attachment to this Public Notice (Attachment 1).

2017 NATIONWIDE PERMITS: On March 17, 2017, the U.S Army Corps of Engineers' Great Lakes and Ohio River Division Commander revoked 24 Nationwide Permits from use within the Illinois portion of the Chicago District boundary. Once the final 2021 Nationwide Permit rule goes into effect on March 15, 2021, the list of revoked and active Nationwide Permits within the Illinois portion of the Chicago District boundary will change. The following is a list of the Nationwide Permits that will be active for use in the Illinois portion of the Chicago District, effective March 15, 2021:

- NWP 2 – Structures in Artificial Canals
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleeting and Anchorage Areas
- *NWP 12 – Oil or Natural Gas Pipeline Activities*
- NWP 15 – U.S. Coast Guard Approved Bridges

- NWP 16 – Return Water from Upland Contained Disposal Areas
- NWP 17 – Hydropower Projects
- *NWP 21 – Surface Coal Mining Activities*
- NWP 23 – Approved Categorical Exclusions
- NWP 24 – Indian Tribe or State Administered Section 404 Programs
- NWP 28 – Modifications of Existing Marinas
- *NWP 29 – Residential Developments*
- NWP 30 – Moist Soil Management for Wildlife
- NWP 34 – Cranberry Production Activities
- NWP 35 – Maintenance Dredging of Existing Basins
- NWP 37 – Emergency Watershed Protection and Rehabilitation
- *NWP 39 – Commercial and Institutional Developments*
- *NWP 40 – Agricultural Activities*
- *NWP 42 – Recreational Facilities*
- *NWP 43 – Stormwater Management Facilities*
- *NWP 44 – Mining Activities*
- NWP 45 – Repair of Uplands Damaged by Discrete Events
- NWP 46 – Discharges in Ditches
- *NWP 48 – Commercial Shellfish Mariculture Activities*
- NWP 49 – Coal Remining 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 53 – Removal of Low-Head Dams
- NWP 54 – Living Shorelines
- *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*

The above *Italicized Permits* are the 16 new 2021 NWP's, which are now active within the Chicago District. Please also see the attached, "Summary of the 2021 and 2017 Nationwide Permits for Chicago District (Attachment 2)" chart for a list of which NWP's are active within Chicago District.

The regional conditions for the existing 2017 NWP's that were approved by division engineers in 2017 remain in effect until they expire on March 18, 2022 or are reissued, whichever is first. As noted above, the regional conditions for the 16 new 2021 NWP's mentioned on Page 1 (reissuance of 12 existing nationwide permits (NWP's) and four new NWP's) are found at the top of page 2.

The following permits remain revoked within the Illinois portion of the Chicago District boundary, until the Corps issues a final rule reissuing those NWP's or March 18, 2022, whichever comes first:

- NWP 1– Aids to Navigation
- NWP 3 – Maintenance
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 10 – Mooring Buoys

- NWP 11 – Temporary Recreational Structures
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- 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 27– Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- NWP 31– Maintenance of Existing Flood Control Facilities
- NWP 32 – Completed Enforcement Actions
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 36 – Boat Ramps
- NWP 38 – Cleanup of Hazardous and Toxic Waste
- NWP 41 – Reshaping Existing Drainage Ditches

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>

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/>

Attachments:

- 1 – Illinois EPA Section 401 Water Quality Certification for the 2021 Nationwide Permits
- 2 – Illinois NWP Summary Chart



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

December 11, 2020

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 October 13, 2020 your office officially requested CWA §401 certification for those nationwide permits applicable in Illinois and further described in the Federal Register. By this final determination document the Illinois EPA grants §401 water quality certification for forty (40) nationwide permits with the special and/or general conditions specified below. This document also provides notice of the Agency determination to deny six (6) 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
NWP 46 – Discharges into Ditches

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.

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

- 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 C – Electric Utility Line and Telecommunications Activities. Refer to Special Conditions for NWP 12 in Attachment.
- NWP D – 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 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 E – 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 E.

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 Section 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 Section 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

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,

ORIGINAL SIGNED

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, C, and D.**

Utility Line Activities, Electric, Water, and Others.

1. Pursuant to 35 Ill. Adm. Code Sections 302.105(c)(2)(B), 302.208, 395.401, 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.

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- 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 Ill. 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 Section 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 Section 395.401(a) and 302.105(c)(2)(B), 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 Section 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 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 Section 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 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 Section 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 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 Section 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 that include the temporary or permanent placement of steel or other painted structures within the waterbody as result of demolition work of previous structures.
2. Pursuant to 35 Ill. Admin. Code Section 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 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 the Illinois Environmental Protection Act Section 12(a) [415 ILCS 5/12(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), applicants shall obtain a pollution control facility permit subject to 35 Ill. Admin. Code Subtitle C Part 309 Subpart B for construction and operation of the upland contained disposal area.

**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 Section 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.
2. Pursuant to 35 Ill. Admin. Code Section 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.

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

Residential Developments

1. Pursuant to 35 Ill. Admin. Code Section 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 Section 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 Section 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 Section 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 Section 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 Section 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 Section 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 Section 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 Section 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 Section 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.

Summary of the 2021 and 2017 Nationwide Permits for Chicago District¹ – Strikethrough permits are revoked within Illinois

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 1 – Aids to Navigation	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	
NWP 2 – Structures in Artificial Canals	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	
NWP 3 – Maintenance	2017	10/404				Issued with Special Conditions		
(a) Repair, rehabilitation, or replacements of previously authorized, currently serviceable structures or fills			Authorizes only minor deviations for maintenance	PCN not required	No		All waters of the U.S.	Does not authorize: maintenance dredging for the primary purpose of navigation; beach restoration; or new stream channelization or stream relocation projects. Limits stream channel modification to the minimum necessary for the maintenance activity.
(b) Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals			200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal	All activities	Yes		All waters of the U.S.	
(c) Temporary structures, fills, and work necessary to conduct maintenance activity				PCN not required	No		All waters of the U.S.	Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	2017	10/404	None	PCN not required	No	Issued	All waters of the U.S.	Does not authorize impoundments or artificial reefs. Does not authorize covered oyster trays or clam racks.
NWP 5 – Scientific Measurement Devices	2017	10/404		PCN not required	no	Issued	All waters of the U.S.	Devices and any associated structures or fills be removed upon completion of the use and restored to pre-construction elevations to maximum extent practicable.

¹ This table is intended to provide **general** information on the 2021 and 2017 nationwide permits. The 2021 nationwide permits, in which 12 existing nationwide permits have been reissued and 4 new nationwide permits have been issued along with changes to the general conditions and definitions, have been submitted to the Federal Register for publication. The final rule for the 2021 nationwide permits includes revised general conditions and definitions. The 12 finalized 2021 NWP's were published in the Federal Register on January 13, 2021 and replace 12 of the existing 2017 NWP's. Those NWP's are indicated by "2021" in the "Published Year" Column. Forty of the 2017 nationwide permits continue to be in effect until they are replaced by reissued NWP's. The text of the 2017 nationwide permits and their general conditions were published in the January 6, 2017, issue of the Federal Register (82 FR 1860).

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 6 – Survey Activities	2017	10/404		PCN not required	No	Issued with Special Conditions	All waters of the U.S.	Does not authorize fills for roads. Does not authorize permanent structures. Does not authorize fill associated with recovery of historic properties. Backfilling of exploratory trenches must not drain a water of the U.S.
NWP 7 – Outfall Structures and Associated Intake Structures	2017	10/404	None	All activities	Yes	Issued	All waters of the U.S.	Activity must comply with National Pollutant Discharge Elimination System Program.
NWP 8 – Oil and Gas Structure on the Outer continental Shelf	2017	10	None	All activities	No	N/A	Navigable waters of the U.S.	Limited to facilities in areas leased by the Bureau of Ocean Energy Management of the Department of the Interior.
NWP 9 – Structures in Fleeting and Anchorage Areas	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	Applies to structures, buoys, and other devices placed in anchorage or fleeting areas established for those purposes
NWP 10 – Mooring Buoys	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	Non-commercial, single boat mooring buoys
NWP 11 – Temporary Recreational Structures	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	Structures must be removed within 30 days after use discontinued.
NWP 12 – Oil or Natural Gas Pipeline Activities	2021	10/404	½ Acre	<ul style="list-style-type: none"> • A section 10 permit is required • Discharges that result in the loss of >1/10-acre • New oil or natural gas pipeline greater than 250 miles in length 	Yes, if PCN required	Issued with Special Conditions	See text of NWP	Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations.
Oil or natural gas pipelines							All waters of the U.S., including navigable waters	Must restore area to pre-construction contours.
Oil or natural gas pipeline substations							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	
Foundations for above-ground oil or natural gas pipelines							All waters of the U.S.	

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
Access roads (NWP 12 Cont.)							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 13 – Bank Stabilization	2017	10/404		<ul style="list-style-type: none"> • >500 linear feet in length • >1 cubic yard per running foot, as measured along the treated bank, below OHWM or HTE • Discharges into special aquatic sites 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Activity cannot impair surface water flow into or out of waters of the U.S. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Native plant species appropriate for site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization.
NWP 14 – Linear Transportation Projects	2017	10/404		<ul style="list-style-type: none"> • Discharges that result in the loss of >1/10 acre • Discharges into special aquatic sites 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. Does not authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features.
NWP 15 – U.S. Coast Guard Approved Bridges	2017	404	None	PCN not required	No	Issued with Special Conditions	Navigable waters of the U.S.	Causeways and approach fills for bridges are not authorized by this NWP; those activities require separate section 404 authorization. Bridge structures can be authorized by Section 9 of the Rivers and Harbors Act or other applicable laws.
NWP 16 – Return Water from Upland Contained Disposal Areas	2017	404	None	PCN not required	No	Issued with Special Conditions	All waters of the U.S.	Water quality issues addressed through Clean Water Act section 401 certification process
NWP 17 – Hydropower Projects	2017	404	None	All activities	Yes	Issued with Special Conditions	All waters of the U.S., except navigable (i.e., section 10) waters	Applies to activities licensed by the Federal Energy Regulatory Commission or activities exempt from licensing requirements.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 18 — Minor Discharges	2017	10/404		<ul style="list-style-type: none"> • >10 cubic yards discharged below plane of OHWM/HTL • Discharges into special aquatic sites 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Does not authorize discharges for stream diversions.
NWP 19 — Minor Dredging	2017	10/404		PCN not required	No	Issued with Special Conditions	Navigable waters of the U.S.	Does not authorize dredging or degradation through siltation of coral reefs, submerged aquatic vegetation beds, anadromous fish spawning areas, or wetlands. Does not authorize the connection of canals to navigable waters.
NWP 20 — Response Operation for Oil or Hazardous Substances	2017	10/404	None	PCN not required	No	Issued	All waters of the U.S.	Authorizes activities subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Authorizes activities required for cleanup of oil releases in waters of the U.S. Authorizes use of temporary structures and fills for spill response training exercises.
NWP 21 – Surface Coal Mining Activities	2021	10/404		All activities	Yes	Denied	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Activities must be authorized, or currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.
NWP 22 — Removal of Vessels	2017	10/404	None	<ul style="list-style-type: none"> • If vessel listed or eligible for National Register of Historic Places • Activities in special aquatic sites 	Yes, if PCN required	Issued	All waters of the U.S.	Does not authorize maintenance dredging, shoal removal, or riverbank snagging. Disposal of removed vessel in waters of the U.S. may require separate authorizations from EPA and Corps.
NWP 23 – Approved Categorical Exclusions	2017	10/404	None	PCN not required, except for certain activities identified in RGL 05-07	Yes, if PCN required	Denied	All waters of the U.S.	Categorical exclusions must be approved by the Office of the Chief of Engineers. See RGL 05-07 for list of agencies and their activities that are currently eligible for NWP 23.
NWP 24 – Indian Tribe or State Administered Section 404 Program	2017	10	None	PCN not required	No	N/A	Navigable waters of the U.S.	Does not authorize activities in navigable waters that require only a section 10 permit.
NWP 25 — Structural Discharges	2017	404	None	PCN not required	No	Issued with Special Conditions		Structure may require a section 10 permit if located in navigable waters of the U.S. Does not authorize structures that support buildings or similar structures.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 27—Aquatic Habitat Restoration, Enhancement, and Establishment Activities	2017	10/404	None	All activities, except for those that require reporting (e.g., activities under a binding agreement between the landowner and an agency)	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Does not authorize stream channelization. Does not authorize relocation or conversion of tidal waters. Does not authorize conversion of natural wetlands or streams, except for relocation activities. Compensatory mitigation is not required for NWP 27 activities.
NWP 28 – Modifications to Existing Marinas	2017	10		PCN not required	No	N/A	Navigable waters of the U.S.	Does not authorize dredging, additional slips, dock spaces, or expansion in waters of the U.S.
NWP 29 – Residential Developments	2021	10/404		All activities	Yes	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	For residential subdivisions, the aggregate total loss of waters of the U.S. cannot exceed 1/2-acre.
NWP 30 – Moist Soil Management for Wildlife	2017	404	None	PCN not required	No	Issued	Non-tidal waters of the U.S.	Authorizes only on-going activities. Does not authorize construction of new dikes, roads, water control structures, etc. Does not authorize conversion of wetlands to uplands. Does not authorize impoundments. Does not authorize activities that result in net loss of aquatic functions and services.
NWP 31—Maintenance of Existing Flood Control Structures	2017	10/404		All activities	Yes	Denied	All waters of the U.S.	PCN must indicate location of sites for disposal of dredged or excavated material and baseline information. Authorizes the removal of vegetation from levees associated with a flood control project, if Corps permits are required for those activities.
NWP 32—Completed Enforcement Actions	2017	10/404		PCN not required	No	Issued with Special Conditions	All waters of the U.S.	
NWP 33—Temporary Construction, Access, and Dewatering	2017	10/404	None	All activities in navigable (i.e., section 10) waters	Yes	Issued with Special Conditions	All waters of the U.S.	Associated primary activity must be authorized by Corps or U.S. Coast Guard or be exempt from permit requirements. PCN must include restoration plan.
NWP 34 – Cranberry Production Activities	2017	404		All activities	Yes	Denied	Section 404 waters only	Does not authorize discharges in waters of the U.S. for attendant features, such as warehouses, processing facilities, or parking areas.
NWP 35 – Maintenance Dredging of Existing Basins	2017	10		PCN not required	No	N/A	Navigable waters of the U.S.	
NWP 36—Boat Ramps	2017	10/404		<ul style="list-style-type: none"> ● >50 cubic yards ● >20 feet wide 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S., except special aquatic sites	Section 10 permit required if dredging navigable water is necessary for access to boat ramp. No placement of material in special aquatic sites.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 37 – Emergency Watershed Protection and Rehabilitation	2017	10/404	None	All activities	Yes	Denied	All waters of the U.S.	Prospective permittee should wait 45 calendar days before proceeding with the activity if the DE has not yet issued a verification letter, but may proceed immediately if there is an unacceptable hazard to life or significant loss of property or economic hardship will occur.
NWP 38 – Cleanup of Hazardous and Toxic Waste	2017	10/404	None	All activities	Yes	Issued with Special Conditions	All waters of the U.S.	Does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
NWP 39 – Commercial and Institutional Developments	2021	10/404	½ Acre	All activities	Yes	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Does not authorize construction of new golf courses or new ski areas. Authorizes the construction of oil or gas wells. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 40 – Agricultural Activities	2021	404	½ Acre	All activities	Yes	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	NWP can be used for agricultural activities, regardless of whether applicant is USDA participant. Does not authorize aquaculture ponds.
NWP 41 – Reshaping Existing Drainage and Irrigation Ditches	2017	404	None	PCN not required	No	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Reshaping drainage ditch cannot increase capacity of ditch or drain additional waters of the U.S. Does not authorize relocation of drainage ditches constructed in waters of the U.S.
NWP 42 – Recreational Facilities	2021	404	½ Acre	All activities	Yes	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Authorizes variety of recreational facilities, except for hotels, restaurants, racetracks, stadiums, arenas, or similar facilities (these may be authorized by NWP 39).
NWP 43 – Stormwater Management Facilities	2021	404	½ Acre	All activities involving expansion or construction of SWM facilities	Yes, if PCN required	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Does not authorize construction of new stormwater management facilities in perennial streams. Maintenance does not require PCN if limited to restoring original design capacities. Also authorizes low impact development integrated management features and pollutant reduction green infrastructure features.
NWP 44 – Mining Activities	2021	10/404	½ Acre	All activities	Yes	Denied	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	PCN must include final reclamation plan if reclamation is required by other statutes.
NWP 45 – Repair of Uplands Damaged by Discrete Events	2017	10/404		All activities	Yes	Issued	All waters of the U.S.	PCN must be submitted to district engineer within one year of date of damage; work must start or be under contract within two years of date of damage.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 46 – Discharges in Ditched	2017	404	1 Acre	All activities	Yes	Issued with Special Conditions	Certain types of non-tidal ditches constructed in uplands and determined to be waters of the U.S.	NWP does not authorize discharges into ditches constructed in streams or other waters of the U.S., or in streams that have been relocated in uplands.
NWP 48 – Commercial Shellfish Mariculture Activities	2021	10/404	None	New and existing activities that directly affect greater than ½-acres of submerged aquatic vegetation	No	Denied	Navigable waters of the U.S.	Does not authorize nonindigenous species not previously cultivated in the waterbody, aquatic nuisance species, or attendant features such as docks or staging areas. Does not authorize the deposition of shell material back into waters of the U.S. as waste. Project area is the area in which the operator is authorized to conduct commercial shellfish mariculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.
NWP 49 – Coal Remining Activities	2017	10/404		All activities	Yes	Denied	Non-tidal waters of the U.S.	Permittee must demonstrate net increase in aquatic resource functions through reclamation. Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title IV and V of the Surface Mining Control and Reclamation Act of 1977. Corps will review the SMCRA determination regarding the amount of previously unmined area necessary for the reclamation and make an independent determination of the amount needed.
NWP 50 – Underground Coal Mining Activities	2021	10/404		All activities	Yes	Denied	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977. If reclamation required, a copy of the plan must be submitted with PCN. Does not authorize coal preparation and processing activities outside of the mine site.
NWP 51 – Land-Based Renewable Energy Generation Facilities	2021	10/404		Discharges that result in the loss of >1/10 acre	Yes	Issued with Special Conditions	Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Authorizes construction, expansion or modification of land-based renewable energy production facilities, including attendant features. If only activity requiring DA authorization is utility line, then NWP C shall be used. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate single and complete linear projects. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 52 – Water Based Renewable Energy Generation Pilot Projects	2021	10/404		All activities	Yes	Issued with Special Conditions	All waters of the U.S., except in coral reefs	Authorizes construction, expansion, modification, or removal of water based renewable energy generation pilot projects and their attendant features. Limited to “pilot projects.” Placement of a transmission line on bed of a navigable water of U.S. from generation unit to land based collection facility is considered a structure under section 10 and is not considered a loss of waters of the U.S. Prohibits activities in coral reefs. Structures in anchorage areas must comply with U.S. Coast Guard requirements. Does not authorize structures in established danger zones, restricted areas, etc. Upon completion of pilot project, associated structures and/or fills must be removed unless authorized by separate DA permit. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate and complete linear projects. An activity located on an existing, maintained Corps project requires separate approval under 33 USC 408. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 53 – Removal of Low-Head Dams	2017	10/404	None	All activities	Yes	Issued with Special Conditions	All waters of the U.S.	Authorizes the removal of low-head dams for stream restoration and public safety. “Low-head dam” defined as a dam built to pass upstream flows over the entire width of the dam crest on a continual and uncontrolled basis. As a general rule, compensatory mitigation is not required for these activities because they result in net increases in stream ecological functions and services. NWP does not authorize regulated activities for restoration of stream in vicinity of former impoundment (these activities may be authorized by NWP 27), or bank stabilization activities (these activities may be authorized by NWP 13).
NWP 54 – Living Shorelines	2017	10/404		All new activities; PCN not required for repair and maintenance of existing living shorelines	Yes	Issued with Special Conditions	All waters of the U.S.	Authorizes construction and maintenance of living shorelines for shore erosion control. Living shorelines consist of natural and man-made materials. May include stone or reef structures to protect the shoreline from low to moderate energy waves. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures. Does not authorize beach nourishment or land reclamation activities. Discharges of dredged or fill material into waters of the United States, including the construction of fill structures such as sills or breakwaters, must be the minimum necessary for the establishment and maintenance of the living shoreline.

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
NWP 55 (A) – Seaweed Mariculture Activities	2021	10	None	All activities	Yes	N/A	Navigable waters of the U.S.	Prohibits the cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody. Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(1)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP 56 (B) – Finfish Mariculture Activities	2021	10	None	All activities	Yes	N/A	Navigable waters of the U.S.	Prohibits the cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody. Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(1)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP 57 (C) – Electric Utility Line and Telecommunications Activities	2021	10/404	½ Acre	<ul style="list-style-type: none"> • A section 10 permit is required • Discharges that result in the loss of >1/10-acre 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations.
Electric utility lines and telecommunication lines							All waters of the U.S., including navigable waters	Must restore area to pre-construction contours.
Electric utility line and telecommunication substations							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	
Foundations for overhead electric utility line or telecommunication line towers, poles, and anchors							All waters of the U.S.	

Nationwide Permit	Published Year	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	401 Water Quality Certification	Applicable Waters	Other Information
Access roads (NWP 57 (C) Cont.)							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 58 (D) – Utility Line Activities for Water and Other Substances	2021	10/404	½ Acre	<ul style="list-style-type: none"> • A section 10 permit is required • Discharges that result in the loss of >1/10-acre 	Yes, if PCN required	Issued with Special Conditions	All waters of the U.S.	Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations.
Utility lines							All waters of the U.S., including navigable waters	Must restore area to pre-construction contours.
Utility line substations							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	
Foundations for above-ground utility lines							All waters of the U.S.	
Access roads							Non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Access roads must be constructed to minimize adverse effects to waters of the U.S.