



SPECIAL PUBLIC NOTICE

US Army Corps
of Engineers®

Subject: Special Public Notice for the Nationwide Permit Reissuance and Regional Conditions for the State of Oklahoma

Issue Date: March 13, 2026

SUMMARY: On January 8, 2026, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (91 FR 768) announcing the reissuance of 56 existing nationwide permits (NWP) and issuance of one new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. These 57 NWP will go into effect on March 15, 2026, and will expire on March 15, 2031:

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Oil or Natural Gas Pipeline Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions

33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage and Irrigation Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Mariculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
54. Living Shorelines
55. Seaweed Mariculture Activities
56. [Reserved]
57. Electric Utility Line and Telecommunications Activities
58. Utility Line Activities for Water and Other Substances
59. Water Reclamation and Reuse Facilities
60. Activities To Improve Passage of Fish and Other Aquatic Organisms

The 57 NWP's published in the January 8, 2026, final action replace the 2021 versions of these NWP's. 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 2021 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 57 NWP's and has commenced or is under contract to commence, they will remain authorized until March 15, 2027.

With the publication of these NWP's in the *Federal Register*, the Southwestern Division has finalized their review and issued no regional conditions for these 57 NWP's in the State of Oklahoma. However, there are conditions associated with certain NWP's applied by the WQC agencies, refer to the specific WQC documents for specific details.

The Section 401 Water Quality Certifications (WQC) have been issued for Section 404 NWP activities by the Oklahoma Department of Environmental Quality (ODEQ), the Pawnee Nation, the U.S. Environmental Protection Agency (EPA) for Indian County in the State of Oklahoma. The WQC's were accepted by the Southwestern Division Commander and any conditions of the WQC are added to the NWP's as regional conditions.

The January 8, 2026, *Federal Register* notice is available for viewing at:
<https://www.federalregister.gov/documents/2026/01/08/2026-00121/reissuance-and-modification-of-nationwide-permits>

As an alternative, interested parties can access the January 8, 2026, final action and related documents at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-%20Permits/>

All Tulsa District NWP Documents and information will be posted at:
<https://www.swt.usace.army.mil/Missions/Regulatory/Nationwide-Permit-Program/>

CONTACT: If you have questions or need additional information, please contact the Regulatory Office via email at ceswt-ro@usace.army.mil or by phone at (918) 669-7400.

Enclosures:
ODEQ WQC
Pawnee Nation WQC
EPA WQC (Indian Country)

December 18, 2025

Andrew R. Commer
Chief, Regulatory Office
U.S. Army Corps of Engineers, Tulsa District
2488 E 81st Street
Tulsa, OK 74137-4290

Re: Water Quality Certification for the U.S. Army Corps of Engineers (Corps) Nationwide Permits 2026 proposed reissuance

Dear Mr. Commer:

The Oklahoma Department of Environmental Quality (DEQ) has received your request for Water Quality Certification under Section 401 of the Federal Clean Water Act (33 U.S.C. §1341), for the Nationwide Permits (NWP) 2026 proposed reissuance (Proposal) published June 18, 2025, in the Federal Register. DEQ rules governing 401 Water Quality Certification are contained in Oklahoma Administrative Code (O.A.C.) 252:611-3 pursuant to 27A O.S. § 2-6-103(C)(2). DEQ rules and regulations related to the 401 procedures are available at www.deq.state.ok.us/rules/611.pdf.

DEQ has reviewed and examined the Proposal. NWPs are issued to authorize categories of activities that have minimal adverse effects on the aquatic environment and streamline the authorization process for those minor activities.

This Water Quality Certification supersedes all previous Water Quality Certifications for the Nationwide Permits in the State of Oklahoma.

Based on our evaluation of the information contained in the proposal, the discharges from activities authorized under NWPs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 19, 20, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 39, 42, 43, 51, 52, 57, 58, and A as proposed will comply with Oklahoma water quality requirements as required by Section 401 of the Federal Clean Water Act and pursuant to Title 252, Oklahoma Administrative Code (OAC), Chapter 611. These discharges are certified in all Oklahoma waters of the U.S. if the Oklahoma water quality certification conditions are followed.

DEQ requests that all Pre-Construction Notifications (PCN) and information pertaining to any project, regardless of size, located within any waters designated in Oklahoma's Water Quality Standards (WQS) as Outstanding Resource Waters (ORW), High Quality Waters (HQW) (OAC 252:730-5-25), which is proposed to be authorized under NWP 19 23,27, 33, 37, or A be provided to DEQ. Additionally, DEQ requests the opportunity to review and comment on these proposed actions following the time frames specified in the NWP General Condition 32. DEQ will expedite the review and notification process when practicable. This request is not a condition of certification.

DEQ requests that all Pre-Construction Notifications (PCN) and information pertaining to any project, regardless of size, located within any waters designated in WQS as Sensitive Public and Private Water Supplies (SWS) (OAC 252:730-5-25), which is proposed to be authorized under NWP 3, 7, 12, 13, 14, 19, 23, 27, 31, 33, 37, 42, 43, 57, 58, and A. Additionally, DEQ requests the opportunity to review and comment on these proposed actions following the time frames specified in the NWP General Condition 32. DEQ will expedite the review and notification process when practicable. This request is not a condition of certification.

DEQ requests that all PCN and information pertaining to any project which may result in a loss of more than 300 linear feet of stream which is proposed to be authorized under NWP 21, 29, 39, 40, 42, 43, 44, 51, or 52 be provided to the DEQ. Additionally, DEQ requests the opportunity to review and comment on these proposed actions following the time frames specified in the NWP General Condition 32. DEQ will expedite the review and notification process when practicable. This request is not a condition of certification.

Water Quality Certification for the proposed Nationwide Permits 3, 13, 18, 41, 45, 46, 53, and 59 is denied and an individual water quality certification is required for all activities located within any Outstanding Resource Waters (ORW), High Quality Waters (HQW), as identified in WQS (OAC 252:730-5-25).

Water Quality Certification for the proposed Nationwide Permits 17, 18, 21, 35, 40, 41, 44, 45, 46, 53, and 59 is denied and an individual water quality certification is required for all activities located within any Sensitive Public and Private Water Supplies (SWS), as identified in WQS (OAC 252:730-5-25).

Water Quality Certification for the proposed Nationwide Permits 49 and 50 is denied and an individual water quality certification is required for all activities in all watersheds of Oklahoma. We are concerned that use of these permits could lead to more than minimal adverse environmental effects on waters of the U.S. located in Oklahoma and may result in violation of WQS as set in OAC 252: 730-3-2.

For the proposed Nationwide Permit 16, *Return Water from Upland Contained Disposal Areas*, the certification is conditioned as follows to comply with OAC 785: 45-5-9(b) and OAC 785: 45-5-12(f)(7) and (8). A plan describing best management practices for sediment control in return water shall be submitted to and approved by DEQ before any discharge can be commenced.

DEQ acknowledges that the potential to use NWP 34, 48, 54, and 55 in Oklahoma is not likely. However, for administrative clarity the Water Quality Certification is denied for the proposed NWP 34, 48, 54, and 55.

This certification does not authorize the discharge of industrial stormwater discharges, stormwater runoff from construction sites, or municipal/domestic wastewater discharges. These discharges may require permits from DEQ.

This Certification may be modified upon subsequent amendments or revisions to Oklahoma's WQS requirements or upon expiration of the federal permit for the described activity.

This conditioned Water Quality Certification does not supersede the requirements of a Section 404 permit from the U.S. Army Corps of Engineers, a permit required by the local floodplain board, or any other permit required for this project.

Subject to the exceptions noted above, the DEQ grants Clean Water Act 401 Water Quality Certification for the U.S. Army Corps of Engineers Nationwide Permits 2026 proposed reissuance subject to the following conditions:

1. All fueling and servicing of vehicles and equipment shall be done above the Ordinary High Water Mark (OHWM).
2. Material and fuels storage and stockpile areas shall not be located in waters of the United States or adjacent wetland and shall be removed from a likely flood zone prior to any predicted flood. The Permittee shall incorporate erosion control measures along the entire perimeter of the stockpile area to prevent excavated materials or imported construction materials from eroding into adjacent wetlands or waters. Stockpile locations shall be placed outside of the 25-year floodplain.
3. All construction shall be done in a manner that will minimize increased turbidity and prevent downstream deposition of bank material during or after construction.
4. Appropriate procedures shall be utilized during the construction of this project to prevent the release of construction debris, trash, fuels and lubricants, or other deleterious materials into aquatic resources.
5. All excess fill material, waste materials, construction debris, etc., must be removed from the site upon completion of the project to avoid the introduction of pollutants into the aquatic resources. No demolition debris shall be used as riprap material or embankment or abutment stabilization.
6. Work in the waters of the United States shall be limited to periods of low flow, when practicable, and with the minimum amount of equipment to prevent the release (discharge) of pollutants into the aquatic resources.
7. No discharges of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts. The use of asphaltic rubble is prohibited and may not be used for bank stabilization. Suitable material shall consist of rock, stone, vegetative erosion control measures, broken concrete (without exposed rebar) and when applicable, clean soil.
8. Project proponents for potential projects authorized under the NWP's should conduct all work in such a manner as to comply with all Corps Section 404 permit conditions.

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December 18, 2025

If you have any questions concerning this matter, please contact Elena Jigoulina at 405-702-8200.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Long', written in a cursive style.

Joe Long, Environmental Programs Manager
Watershed Planning Section
Water Quality Division

cc: Bryan Noblitt, Regulatory Project Manager, Regulatory Branch, Corps, Tulsa
Kenneth Cunningham, Fisheries Chief, Oklahoma Department of
Wildlife Conservation
Brooks Tramell, Monitoring, Assessment and Wetlands Programs, Oklahoma
Conservation Commission
Daniel Landeros, EPA Region 6 (6WQ-EM)
Jennifer Lewis, Assistant Attorney General, Conservation Unit, OK Office of the
Attorney General



Pawnee Nation of Oklahoma

Division of Natural Resources and Safety

P.O. Box 470, 301 Agency Road, Pawnee OK 74058 Phone: 918.762.3655
E-mail: dhrs@pawneenation.org

June 25, 2025

Mr. Bryan Noblitt
Regulatory Project Manager
U.S. Army Corp. of Engineers
2488 E. 81st Street
Tulsa, OK 74137-4290

Re: Request for Pre-Filling Meeting and Clean Water Act Section 401 Certification for reauthorization of the NWP (2026) in accordance with sections 401 (Water Quality Certification).

Mr. Noblitt,

The Pawnee Nation confirms the review period on December 18, 2025 is reasonable and conditionally certifies the proposed Nation-Wide Permit (NWP-2025) in accordance to Section 401 of the CWA with the following conditions pursuant to Section 401(d) which are necessary to assure compliance with both applicable provisions of the U.S. Clean Water Act and Pawnee Nation Laws and Regulations.

The following conditions apply only to discharges occurring with-in Pawnee Indian Country:

- 1) Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pawnee Nation at the same time it is submitted to the Environmental Protection Agency to the following address:
Pawnee Nation Department of Environmental Conservation and Safety
P.O. Box 470
Pawnee, OK 74058
Or email to dhrs@pawneenation.org
- 2) An electronic copy of the Storm Water Management Plan must be submitted to the Pawnee Nation Department of Environmental Conservation and Safety at the same time the NOI is submitted (as required under Part 5.0 of the PGP),
- 3) The Pawnee Nation Department of Environmental Conservation and Safety must be notified at 918.762.3655 immediately upon discovery of any noncompliance with any provision of the permit conditions.

These conditions are authorized under Pawnee Nation Code Title XII (Natural Resource Protection Act), specifically Chapter Four (Water Resource Protection), Chapter Five (Water Quality Standards), and Chapter Nine (Pollution Discharges).

If you have any questions or wish to discuss these conditions or other Section 401 and/or program issues please contact me, Mr. Monty Matlock, Director, Pawnee Nation Division of Natural Resources and Safety at 918.762.3655 and/or email at mmatlock@pawneenation.org.

Cordially,


Monty Matlock, Director, Chief Ranger
Division of Natural Resources and Safety
Pawnee Nation of Oklahoma



REGION 6

DALLAS, TX 75270

December 5, 2025

TRANSMITTED VIA EMAIL

Mr. Andrew Commer
Chief, Regulatory Office
Tulsa District, U.S. Army Corps of Engineers
2488 E 81st Street
Tulsa, OK 74137
Andrew.Commer@usace.army.mil

RE: Clean Water Act Section 401 Water Quality Certification for the 2026 U.S. Army Corps of Engineers Nationwide Permits.

Dear Mr. Commer:

CWA Section 401 requires applicants for Federal licenses or permits to conduct any activity which may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no State or Tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. 33 U.S.C. 1341(a)(1). In this case, thirty-seven Federally recognized Tribes in Oklahoma do not have the authority to provide CWA Section 401 certification for projects within their respective Tribal land. Therefore, the EPA is making the CWA Section 401 certification decision for the 2026 Nationwide Permit reissuance in Indian Country in Oklahoma.

Tribes without TAS for CWA Section 401 in Oklahoma

1. Absentee-Shawnee Tribe of Indians of Oklahoma
2. Alabama-Quassarte Tribal Town
3. Apache Tribe of Oklahoma
4. Caddo Nation of Oklahoma
5. Cherokee Nation
6. Cheyenne and Arapaho Tribes
7. The Chickasaw Nation
8. The Choctaw Nation of Oklahoma
9. Citizen Potawatomi Nation
10. Comanche Nation
11. Delaware Nation
12. Delaware Tribe of Indians
13. Eastern Shawnee Tribe of Oklahoma
14. Fort Sill Apache Tribe of Oklahoma

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15. Iowa Tribe of Oklahoma
16. Kaw Nation
17. Kialegee Tribal Town
18. Kickapoo Tribe of Oklahoma
19. Kiowa Indian Tribe of Oklahoma
20. Miami Tribe of Oklahoma
21. The Modoc Nation of Oklahoma
22. The Muscogee (Creek) Nation
23. The Osage Nation
24. Otoe-Missouria Tribe of Indians
25. Ottawa Tribe of Oklahoma
26. Peoria Tribe of Indians of Oklahoma
27. Ponca Tribe of Indians of Oklahoma
28. The Quapaw Tribe of Indians
29. Sac & Fox Nation
30. The Seminole Nation of Oklahoma
31. Seneca-Cayuga Nation
32. Shawnee Tribe
33. Thlopthlocco Tribal Town
34. Tonkawa Tribe of Indians of Oklahoma
35. United Keetoowah Band of Cherokee Indians of Oklahoma
36. Wichita and Affiliated Tribes
37. Wyandotte Nation

NWPs Description

On June 18, 2025, the Corps proposed to reissue 57 NWPs and 1 new NWP that would expire in March 2026. 90 FR 26100 (June 18, 2025). The purpose of the NWPs is to authorize categories of activities under CWA Section 404 and Section 10 of the Rivers and Harbors Act of 1899 that have no more than minimal individual and cumulative adverse environmental impacts. For more details see:

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

The EPA's Public Notice Process

On June 18, 2025, the EPA received a request for certification from Corps Tulsa District. On June 26, 2025, the EPA issued a public notice regarding the proposed project and provided the opportunity for the public to submit comments until September 1, 2025. EPA received one comment letter during the public notice period.

General Information

The general information provided does not constitute a certification condition(s).

General Applicability

- The Corps did not request for certification for NWP 1, 2, 8, 9, 10, 11, 24, 28, 35, and 55, and as such, the certification process did not begin and EPA neither certified nor waived certification. Consequently, if any activity authorized by this NWP may result in a discharge into a water of the

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United States, on lands that EPA acts as the certifying authority, the Corps must seek CWA 401 certification from EPA.

- If a project proposal does not meet either the general or NWP-specific certification conditions, or if certification is denied for a specific NWP, the project proponent must request an individual certification from EPA Region 6.

Documentation Recommendations

- Project proponents for potential projects authorized under the NWPs should retain this certification in their files with the applicable NWPs as documentation of EPA's certification decisions for the above-referenced proposed NWPs. This certification is specifically associated with the proposed NWPs described above and expires when those NWPs expire, five years from Corps issuance date, or are otherwise superseded by subsequent reissuance if less than five years.
- Copies of this certification should be kept on the job site and made readily available for reference.

Contact Information

- The project proponents for potential projects authorized under an NWP are encouraged to contact EPA Region 6 during the project planning phase if there are any questions about relevant best management practices (e.g., bioengineering techniques, biodegradable erosion control measures, revegetation using native plant species, suitable fill materials, and disposal of debris/construction materials preventing runoff) and resources that can assist with compliance.
- Prior to work commencing, EPA recommends that project proponents notify the appropriate Tribal Environmental Office, if applicable.
- In the case of a spill, EPA recommends that the project proponent notify EPA Region 6 within 8 hours from discovery. For emergency spills, EPA recommends that the project proponent contact the EPA's National Response Center at 1-800-424-8802 as well as the appropriate personnel identified in the project's Spill Prevention Control and Countermeasures, or similar plan, if applicable.
- If you have any questions regarding this certification, please contact Mr. Daniel Landeros, 214-665-8077, Landeros.Daniel@epa.gov

Certification Decisions

Grants of Certification without Conditions

EPA is granting certification without conditions for NWPs 4, 5, 6, 7, 13, 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, 48, 49, 50, 51, 52, 53, 54 and A. For NWPs that EPA grants without conditions, EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and state or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of state or Tribal law.

Grants of Certification with Conditions

EPA is granting certification with conditions for NWPs 3, 12, 14, 57, and 58. For NWPs that EPA grants certification with conditions, EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and State or Tribal laws or regulations

implementing those sections; and any other water quality-related requirement of State or Tribal law, subject to the conditions listed under the NWP below, pursuant to CWA Section 401(d).

Condition 1: Plan Development and Implementation for Projects that require Pre-Construction Notification (PCN) for NWPs 3, 12, 14, 57, 58

Prior to construction for projects that require a PCN, the project proponent shall develop a plan that includes a copy of the PCN and the following information (if not already included in the PCN):

- Time stamped photo-documentation of the baseline conditions (*i.e.*, 50 feet upstream of the project area, within the project area, and 100 feet downstream of the project area).
- Identifies on a site map, as applicable:
 - Project site with all waters of the U.S. demarcated. Identify all locations where the project will cross jurisdictional waterbodies.
 - Staging areas and stockpiling of materials and equipment, including locations for containment booms and/or absorbent materials, and/or hazardous materials. Stockpiles (*e.g.*, sediment, soil, or other construction materials) shall be stored at least 50 feet from where it may enter waters of the U.S.
 - Construction access points.
 - Disturbance limits.
 - Locations where site dredging and placement of dredged material activities will occur.
 - Locations where dewatering activities will occur including as applicable locations of cofferdams, temporary berms, piling, and/or dikes.
 - Locations of undergrounding or directional drilling (including bore pits).
 - Hazardous materials shall be stored in leak-proof containers with appropriate secondary containment measures (*e.g.*, spill berms, dikes, spill containment pallets, absorbent materials).
 - Any silt/sediment fencing.
 - Photo-reference sites. The project proponent shall indicate the directional view and location where photos were taken on the site map.
- Non-native and invasive species shall not be used for restoration activities.
- Includes the following, as applicable:
 - Cofferdams, temporary berms, pilings, and/or dikes: Describe installation and maintenance practices for any cofferdams, temporary berms, pilings, and/or dikes.
 - Dredging: Describe how contaminated materials will be managed (*e.g.*, sediment testing data and information to identify whether sediments are clean or contaminated), if included in the project dredged area. Describe methods for minimizing dredging impacts (*i.e.*, sedimentation resuspension) in the water column.
 - Erosion and sediment control: Identify the types and locations of sediment and erosion control features that shall be used onsite, including sediment control fences, haybales, heavy mud mats, and/or other structures. The project proponent shall ensure all erosion and sediment control measures are in place prior to the onset of construction.
 - Dewatering: Describe methods for dewatering, including the equipment that would be used to conduct the dewatering activities. Identify the locations and timing, including length of time the area is to be dewatered. Explain removal method of the temporary structures and/or fill and what measures will be taken to minimize downstream turbidity and adaptive management measures that will be taken and employed to prevent the draining of waters of U.S., including wetlands.

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- Ditching and trenching: Explain ditching/trenching and material placement techniques and stabilization methods to be employed, as well as timing. In wetlands, the top 6 to 12 inches of the ditch/trench shall be backfilled with topsoil from the trench, unless other techniques are approved. Include activity timing needs for ditching and stabilization.
- Undergrounding or directional drilling: Describe measures taken to prevent, contain and cleanup any inadvertent return of drilling fluid to the surface (i.e., “frac-outs”).
- Submit the plan to EPA Region 6 at least 30 days prior to commencing construction activities.

During construction for projects that require a PCN, the project proponent shall:

- Visually inspect construction activities daily.
- Prevent sediment, debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes from entering waters of the U.S. The discharge of unset cement, concrete, grout, or water that has contacted uncured concrete or cement, or related washout to waters of the U.S. is prohibited.
- Maintain documentation onsite that all equipment was cleaned of dirt, mud, and other materials prior to arriving on the project site.
- Inspect all equipment daily and prior to entering any waters of the U.S. for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, repair the equipment in a staging area or move it offsite.
- Limit vegetation clearing and disturbance to waters. Limit restoration of the channel bed to pre-existing contours and conditions. Any proposed deviations must be specified in advance. For example, if any improvements will be made using natural channel design.
- Photo-document any failures or increased turbidity due to construction activities.
 - Within 24 hours of observing a failure or marked increase in turbidity associated with construction, the project proponent shall remedy and implement any additional adaptive management measures to stabilize the activity and prevent further unauthorized discharges into waters of the U.S. The project proponent shall photo-document the failure (i.e., 50 feet upstream of failure, at the incident site, and at least 100 feet downstream of the failure) and the adaptive management measures taken immediately following implementation. The project proponent shall take remediation condition photos at the same location(s) and direction(s) as in the failure condition photos.
 - Within 48 hours of observing any failure, the project proponent shall provide EPA Region 6 with the required photo-documentation, and descriptions of all observed failures and implemented remedies.
 - Within three weeks of observing a failure, the project proponent shall provide EPA Region 6 with a description of the impacts and effectiveness of the employed adaptive management measures.
- Carry out as applicable:
 - Erosion control: Inspect sediment and erosion control measures daily during project implementation and within 12 hours of precipitation events. After construction is complete, remove sediment and erosion control structures once vegetation is established to the same percent cover as pre-construction conditions, unless they are needed for long term stabilization purposes.
 - Dewatering: Assess all dewatering measures within 24 hours after a severe storm event.

Why this condition is necessary: This condition is necessary to minimize suspended particulates /turbidity caused by construction activities and is necessary to ensure water quality is not degraded by toxic pollutants in toxic amounts, including construction materials, oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project, or discharges from dust abatement activities as well as contaminants in dredged material. This condition also appropriately minimizes impacts from access roads, staging areas, and stockpiling to further ensure that construction activities will result in no more than minimal individual and cumulative adverse environmental effects. This condition will protect water quality because it ensures that the project proponent is using planning and construction practices that will maintain the integrity of the site hydrology and maintain the aquatic resource functions and values and ensures that appropriate revegetation measures are used to re-establish riparian/wetland vegetation to minimize the adverse impacts of discharges of sediment and pollutants that enter waterways. Limiting the amount of vegetation that is disturbed will minimize the adverse environmental impacts of any potential discharges. The general conditions in the Corps' NWP package do not address concerns about resuspension and turbidity caused by construction and dredging activities, thereby justifying the inclusion of this condition. GC 32 only requires agency coordination in certain circumstances. Additionally, GC 11 (equipment), GC 12 (soil erosion and sediment controls), and GC 13 (removal of temporary structures and fills) provide some aquatic resource protections, but greater specificity is needed to determine what measures are suitable to comply with applicable water quality requirements.

Citation: 33 U.S.C. 1341(a)(4); 40 CFR 230.10(c)-(d); 40 CFR 230.10(d); 40 CFR 230.21(a); 40 CFR 230.70; 40 CFR 230.71; 40 CFR 230.72; 40 CFR 230.74; 40 CFR 230.75.

Thank you for your ongoing partnership in implementing the regulatory programs of the CWA. Should your office have any questions, please feel free to contact our staff: Mr. Daniel Landeros, 214-665-8077, Landeros.Daniel@epa.gov.

Sincerely,

for Troy C. Hill, P.E.
Director
Water Division