



Nationwide Permit Certification Guidance

This document is Nevada Division of Environmental Protection’s (NDEP) certification status for all current Nationwide Permits (NWP). There are currently two sets of NWPs, general conditions, and descriptions in effect, including 40 permits (re)issued in 2017 and 16 permits (re)issued 2021.

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) published the Final Notice to reissue 50 existing NWPs in the Federal Register (Volume 82, Number 4, pages 1860 - 2008). The Corps also issued two new NWPs (53 and 54) and one new general condition associated with structures or works built by the United States. Regional Conditions for Nevada were also proposed for comment and found to be acceptable controls to help protect Waters of the State.

In Nevada, the Division of Environmental Protection, Bureau of Water Quality Planning (BWQP) is responsible for issuing or denying 401 Water Quality Certification (WQC) for the NWPs. In deciding to issue a WQC, there needs to be reasonable assurance that the proposed discharge will comply with all applicable State and Federal laws, policies and regulations governing the protection of the beneficial uses of the State’s Waters. In determining WQC, the State must make the determination that the NWPs will adequately protect the Waters of the State for those activities with only minimal individual or cumulative adverse effects on the aquatic environment.

Based on the review of available information on the potential impacts of discharges authorized by the Corps, the NWPs are certified as follows:

For the NWPs listed below in **Group A**, water quality certification is not required.

Group A 2017 Nationwide Permits for which 401 Certification is Waived

No.	Description	Conditions
8	Oil and Gas Structures on the Outer Continental Shelf	None
10	Mooring Buoys	None
24	Indian Tribe or State Administered Section 404 Programs	None
34	Cranberry Production Activities	None
49	Coal Re-mining Activities	None

For the NWPs listed below in **Group B**, the activity is certified for water quality. However, notification must still be provided to NDEP by filling out and submitting a 401 application to BWQP. To avoid project delays, a Pre-Filing Meeting (PFM; details listed below) request and a draft 401 Certification application should be submitted as early as possible prior to the start of the project to initiate the 401 Certification process.

Group B 2017 Nationwide Permits for which Water Quality is Certified

No.	Description	Conditions
1	Aids to Navigation	Notification Required
4	Fish & Wildlife Harvesting, Enhancement, Attraction Devices & Activities	Notification Required
5	Scientific Measurement Devices	Notification Required
6	Survey Activities	Notification Required
9	Structures in Fleeting and Anchorage Areas	Notification Required
11	Temporary Recreational Structures	Notification Required
20	Response Operations for Oil and Hazardous Substances	Notification Required

22	Removal of Vessels	Notification Required
28	Modifications of Existing Marinas	Notification Required
30	Moist Soil Management for Wildlife	Notification Required
32	Completed Enforcement Actions	Notification Required
38	Cleanup of Hazardous and Toxic Waste	Notification Required

For the NWP's listed below in **Group C**, blanket Certification has been denied and each project seeking 401 Certification must be evaluated individually.

Group C 2017 Nationwide Permits for which 401 Certification is Denied Without Prejudice

No.	Description	Conditions
2	Structures in Artificial Canals	As Determined
3	Maintenance	As Determined
7	Outfall Structures and Associated Intake Structures	As Determined
13	Bank Stabilization	As Determined
14	Linear Transportation Projects	As Determined
15	U.S. Coast Guard Approved Bridges	As Determined
16	Return Water From Upland Contained Disposal Areas	As Determined
17	Hydropower Projects	As Determined
18	Minor Discharges	As Determined
19	Minor Dredging	As Determined
23	Approved Categorical Exclusions	As Determined
25	Structural Discharges	As Determined
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities	As Determined
31	Maintenance of Existing Flood Control Facilities	As Determined
33	Temporary Construction, Access, and Dewatering	As Determined
35	Maintenance Dredging of Existing Basins	As Determined
36	Boat Ramps	As Determined
37	Emergency Watershed Protection and Rehabilitation	As Determined
41	Reshaping Existing Drainage Ditches	As Determined
45	Repair of Uplands Damaged by Discrete Events	As Determined
46	Discharges in Ditches	As Determined
53	Removal of Low-Head Dams	As Determined
54	Living Shorelines	As Determined

On January 13, 2021, the Corps announced the reissuance of 12 existing NWP's, general conditions, and modified definitions in the Federal Register (Volume 86, Number 8, pages 2744 - 2877). The Corps also issued four new NWP's, one new general condition, and five new definitions. These (re)issued NWP's, general conditions, and definitions will go into effect on March 15, 2021 and will expire March 15, 2026.

Nevada Division of Environmental Protection's certification of the 40 remaining NWP's (Groups A, B, and C) issued in 2017, and their associated general conditions and definitions will remain in effect until March 18, 2022.

Individual 401 Certification, or waiver thereof, is required for the NWP's listed in **Group D**. In accordance with 33 CFR 330.4(c), the Corps will not authorize any of the NWP's listed in Group D until NDEP grants or waives certification of projects seeking these NWP's on an individual basis.

Group D 2021 Nationwide Permits for which Individual 401 Certification is Required

No.	Description	Conditions
12	Oil or Natural Gas Pipeline Activities	As Determined
21	Surface Coal Mining Activities	As Determined
29	Residential Developments	As Determined
39	Commercial and Institutional Developments	As Determined
40	Agricultural Activities	As Determined
42	Recreational Facilities	As Determined
43	Stormwater Management Facilities	As Determined
44	Mining Activities	As Determined
48	Commercial Shellfish Mariculture Activities	As Determined
50	Underground Coal Mining Activities	As Determined
51	Land-Based Renewable Energy Generation Facilities	As Determined
52	Water-Based Renewable Energy Generation Pilot Projects	As Determined
55	Seaweed Mariculture Activities	As Determined
56	Finfish Mariculture Activities	As Determined
57	Electric Utility Line and Telecommunications Activities	As Determined
58	Utility Line Activities for Water and Other Substances	As Determined

A PFM request is required to initiate the 401 Water Quality Certification process, and NDEP recommends that any available project details be submitted with the PFM request. The PFM request initiates the mandatory 30-day period which applicants must wait before submitting a formal 401 Certification request. Certification requests must be submitted to both the Corps and NDEP concurrently to begin the project review period. The duration of the project review period in which NDEP must issue a Certification determination (Certification, Certification with Conditions, Waiver, or Denial) is determined by the Corps.

Please submit PFM requests, Certification Applications, project documentation, designs, maps, site photographs, and inquiries via email to NDEP BWQP at NDEP401@ndep.nv.gov. Project site photos and maps must clearly delineate the project location and waterbodies affected. Application materials and updated 401 guidance can be found on the BWQP website (<https://ndep.nv.gov/water/rivers-streams-lakes/401-certification/>).

All 401 WQCs will be valid for the duration of the 404 permit issued by the Corps for each project. Certification is subject to the acquisition of all other necessary local, regional, state, and federal permits and approvals as required by law. If you have any questions about the certification of these Nationwide Permits, please contact Zack Carter via email at zcarter@ndep.nv.gov (preferred) or via phone at (775) 687-9456.

Acronyms and Abbreviations Defined

BWQP – Bureau of Water Quality Planning

CFR – Code of Federal Regulations

Corps – United States Army Corps of Engineers

NDEP – Nevada Division of Environmental Protection

NWP – Nationwide Permit

PFM – Pre-Filing Meeting

WQC – Water Quality Certification