



Missouri Department of Natural Resources

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION 2012 GENERAL AND SPECIFIC CONDITIONS

Water Protection Program

Division of Environmental Quality Director: Leanne Tippet Mosby

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Consistent with Section 401 of the Clean Water Act these pre-certified conditions are designed to ensure that activities carried out under Nationwide Permits issued by the U.S. Army Corps of Engineers do not violate Missouri Water Quality Standards at 10 CSR 20-7.031, resulting in permanent damage to habitat, increased turbidity, reduced bank and channel stability or impacts to the biological and chemical integrity of the waters. Where applicable, these conditions are in addition to, not a replacement for, any federal requirements or conditions.

These conditions apply to projects authorized by Nationwide Permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 33, 36, 39, 40, 41, 42, 43, 45 and 46 where the applicant has chosen to accept these conditions instead of pursuing an individual water quality certification. Alternatively, an applicant may apply for individual Clean Water Act Section 401 Water Quality Certification. Project authorized by Nationwide Permits 17, 32, 34, 37, 38, 44, 48, 49, 50, 51 and 52 require individual certification by the Missouri Department of Natural Resources.

GENERAL CONDITIONS

1. Nationwide Permits shall not allow the filling of jurisdictional springs.
2. Acquisition of a Nationwide Permit(s) and the attendant certification(s) shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded, including Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) Permits for land disturbance or return water from material deposition. Permits or any other requirements shall remain in effect. Applicants with questions are encouraged to contact a Missouri Department of Natural Resources' regional office in the project area. A regional office map with contact information can be located at www.dnr.mo.gov/regions/regions.htm.
3. Care shall be taken to keep machinery out of the waterway as much as possible. Fuel, oil and other petroleum products, equipment, construction materials and any solid waste shall not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent waters as a result of this operation.
4. Petroleum products spilled into any water or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible, but no later than 24 hours after discovery to the [Missouri Department of Natural Resources' Environmental Emergency Response](http://www.dnr.mo.gov/env/emergency/emergency.htm) number at 573-634-2436.
5. Only clean, nonpolluting fill shall be used. The following materials are not suitable for bank stabilization and shall not be used due to their potential to cause violations of the general criteria of the Water Quality Standards (10 CSR 20-7.031 (3)(A)-(H)):
 - a. Earthen fill, gravel, broken concrete where the material does not meet the specifications stated in the Missouri Nationwide Permit Regional Conditions (www.nwk.usace.army.mil/Portals/29/docs/regulatory/MORegCon.pdf) and fragmented asphalt, since these materials are usually not substantial enough to withstand erosive flows.
 - b. Concrete with exposed rebar.
 - c. Tires, vehicles or vehicle bodies, construction or demolition debris are solid waste and are excluded from placement in the waters of the state.
 - d. Liquid concrete, including grouted riprap, if not placed as part of an engineered structure.
 - e. Any material containing chemical pollutants (including but not limited to creosote or pentachlorophenol).
6. Clearing of vegetation and trees shall be the minimum necessary to accomplish the activity. A vegetated corridor shall be maintained from the high bank on either side of the jurisdictional channel to protect water quality and to provide for long-term stability of the stream channel, unless physical barriers prevent such a corridor. For purposes of this Nationwide Permit, lack of ownership or control of any portion of this corridor may be considered a legitimate and discretionary cause to waive this requirement on that portion.
7. This certification is not valid for any Section 404 Permit issued on a water that is:
 - a. Listed as impaired by inorganic sediment, aquatic habitat alteration or unknown impairment as listed in the most current water quality report (Section 305(b) Report) at <http://www.dnr.mo.gov/env/wpp/waterquality/305b>. For convenience, a table of these

impaired waters is provided at the following website:

www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MOWQC_Con7.pdf;

- b. Located in or occur within two miles upstream of a designated outstanding state or national resource water as found in 10 CSR 20-7.031, Tables D and E at www.sos.mo.gov/adrules/csr/current/10csr/10c20-7a.pdf; or
- c. Located in a designated metropolitan no-discharge stream as found in 10 CSR 20-7.031, Table F at www.sos.mo.gov/adrules/csr/current/10csr/10c20-7a.pdf.

The department's geospatial data is available upon request, and all published data is available on the Missouri Spatial Data Information Services website at msdis.missouri.edu/. Additional information to identify the project location may be obtained from the program at 573-751-1300.

- 8. Streambed gradient shall not be permanently altered during project construction.
- 9. Nationwide Permits issued by the U.S. Army Corps of Engineers for which the 300 linear foot threshold for stream impacts is waived by the district engineer shall require individual certification by the state. This is applicable to all Nationwide Permits where the permit has a 300 linear foot threshold including Nationwide Permits 21, 29, 39, 40, 42, 43, 44, 50, 51 and 52.
- 10. No project under a Nationwide Permit shall accelerate bed or bank erosion.
- 11. Representatives from the department shall be allowed on the project property to inspect the authorized activity at any time deemed necessary to ensure compliance with conditions.
- 12. You must submit a copy of the signed "Compliance Certification" referenced in Nationwide Permit general condition No. 30 as proof of project completion when the original is submitted to the Corps. This document is to be sent to the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176 or electronically to wpssc401cert@dnr.mo.gov.
- 13. After avoidance and minimization for the project, unavoidable stream impacts shall be mitigated appropriately. Mitigation for loss of aquatic resources shall be in conformance with the currently approved "Missouri Stream Mitigation Method" and the "State of Missouri Wetland Assessment Method" as well as other mitigation guidance located online at www.nwk.usace.army.mil/Missions/RegulatoryBranch/StateofMissouri.
- 14. Best management practices shall be used during all phases of the project to limit the amount of discharge of water contaminants to waters of the state. The project shall not involve more than normal stormwater or incidental loading of sediment caused by construction disturbances.
- 15. Pursuant to Chapter 644.038, RSMo, the department certifies all Nationwide Permits for impacts in all waters of the state without the above-stated or any other conditions for the construction of highways and bridges approved by the Missouri Highway and Transportation Commission. The memorandum of understanding of 2009 and any subsequent modifications between the two agencies outline the requirements by which the Missouri Department of Transportation will design and construct projects in order to protect the water quality of waters of the state.

SPECIFIC CONDITIONS

- 16. Nationwide Permit 3 Maintenance
 - a. Silt, sediment and debris removal shall be limited to a maximum of 100 linear feet upstream and 100 linear feet downstream of structures.
 - b. During dewatering, water shall not be returned directly to the waterway but shall be pumped upland and filtered through an appropriate treatment device as prescribed in any existing separate permit authorizing the discharge of return water. If, however, instream flow is 1 cubic foot per second (cfs) or greater and the return rate is set at 1 cfs or less, return may be made directly to the stream.
- 17. Nationwide Permit 4 Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities

Any inorganic or extraneous debris such as may be found on Christmas trees shall be removed to qualify as clean, nonpolluting fill.
- 18. Nationwide Permit 6 Survey Activities

Water, fines and excavated materials displaced by activities such as borings, shall not be returned directly to the waterway, but shall be pumped upland and filtered through an appropriate treatment device as prescribed in any existing separate permit authorizing the discharge of return water.
- 19. Nationwide Permit 7 Outfall Structures and Associated Intake Structures

Water quality certification does not replace or negate the need to obtain any required state permits under the Missouri Clean Water Law (Chapter 644, RSMo) for construction of wastewater treatment facility components including outfall structures; permits to release wastewater effluents; or for the construction of components related to public water supplies including intake structures as may be required by the Missouri Safe Drinking Water Law (Chapter 640, RSMo).
- 20. Nationwide Permit 12 Utility Line Activities
 - a. Material resulting from activity may not be temporarily sidecast into waters of the state for more than one month.
 - b. Directional boring under the streambed to avoid impacts to waters of the state is recommended.

- c. For utility crossings that must disturb the streambed, work shall be conducted in such a manner as to seal off the work area from flow and minimize sediment transport.
- d. Utility line crossings shall be placed as close to perpendicular as possible, and be limited to a maximum crossing length of no more than one and one-half times the width of the stream.

21. Nationwide Permit 13 Bank Stabilization

- a. Channelization of streams is not allowed under this Nationwide Permit. Bank stabilization activities along one bank of a stream are permitted, including bank sloping and riprapping.
- b. The redirection of flow by excavation of the opposite bank of a stabilization project or a stream channel bed is considered a channel modification and is prohibited.
- c. Nationwide Permits issued by the Corps for which the 500 linear feet threshold for stream impacts is waived by the district engineer shall require individual certification.
- d. Invite the Corps and the department as well as the other state and federal resource agencies to examine innovative approaches.

22. Nationwide Permit 14 Linear Transportation Projects

- a. The permittee must propose and employ measures to mitigate the removal of impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.
- b. Where this Nationwide Permit is used to authorize bridge and culvert structures, stream channel work is limited to a maximum of 100 feet upstream and a maximum of 100 feet downstream of the bridge or culvert. For purposes of this condition, a channel modification is any activity that alters the width, depth, length and/or sinuosity of a waterway.

23. Nationwide Permit 16 Return Water from Upland Contained Disposal Areas

These activities could have specific tasks or processes involved which may require the acquisition of separate general or site specific permits. All applicants shall contact the Water Protection Program at 573-751-1300 to determine any specific requirements which may or may not require an individual certification.

24. Nationwide Permit 17 Hydropower Projects

This Nationwide Permit requires an individual certification by the department. In addition to applying for an individual certification the applicant must confer with the department, the Missouri Department of Conservation and the U.S. Fish and Wildlife Service regarding potential impacts to mussel beds and other critical habitats and species.

25. Nationwide Permit 19 Minor Dredging

These activities could have specific tasks or processes involved which may require the acquisition of separate general or site specific permits. All applicants shall contact the Water Protection Program at 573-751-1300 to determine any specific requirements which may or may not require an individual certification.

26. Nationwide Permit 20 Response Operations for Oil and Hazardous Substances

- a. These activities could have specific tasks or processes involved which may require the acquisition of separate general or site specific permits. All applicants shall contact the Water Protection Program at 573-751-1300 to determine any specific requirements which may or may not require an individual certification.
- b. Oil and hazardous substance releases are to be reported to the Missouri Department of Natural Resources' Environmental Emergency Response number at 573-634-2436. Continue to report updates with regard to the containment and clean-up of releases.

27. Nationwide Permit 22 Removal of Vessels

Use of this Nationwide Permit in Missouri is limited to removal actions only and shall not be used for any disposal of vessel.

28. Nationwide Permit 33 Temporary Construction, Access and Dewatering

- a. The use of this Nationwide Permit shall be limited to impacts of six months or less in duration.
- b. Any removal of accumulated gravel upstream of a bridge or crossing shall be limited to the quantity necessary to relieve any obstruction or to protect downstream habitat.

29. Nationwide Permit 36 Boat Ramps

- a. No project shall be constructed in, or immediately upstream of, any known mussel beds. The Missouri Department of Conservation shall be consulted at 573-882-9880 to determine if any known beds are present.
- b. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional waterways.

30. Nationwide Permit 41 Reshaping Existing Drainage Ditches

Material from the reshaping activities shall not be sidecast into any jurisdictional waters for more than one month.

31. Nationwide Permit 42 Recreational Facilities

The vegetated corridor to be maintained from the high bank on either side of the jurisdictional channel may be used in part for the construction of public recreational trails, including those constructed to standards set by the Americans with Disabilities Act (ADA).

32. Nationwide Permit 43 Stormwater Management Facilities

No new or expanded stormwater management facilities may be constructed under this Nationwide Permit unless the water storage facilities are located off-channel.

Applications for certification should be sent to the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176, or electronically to wpsc401cert@dnr.mo.gov. A complete application consists of the application submitted to the U.S. Army Corps of Engineers as well as additional information necessary for a complete review of the project. This may include but is not limited to topographical maps, locational maps, engineering plans, project diagrams and where applicable mitigation plans (10 CSR 20-6.060(5)).

An issued certification becomes part of the 404 Permit and; therefore, expires with the 404 Permit unless explicitly stated in the certification. Not all permit modifications require the certification to be modified or reissued. An example would be when a permit expiration date is extended or the permit is reissued and there are no changes to the original project, the certification may remain valid for that project.

The department encourages, but does not require, the permittee to consider environmentally-friendly design techniques to include stormwater management strategies that maintain or restore the original site hydrology through infiltration, evaporation or reuse of stormwater. Designs might include creating vegetated swales or rain gardens, or using porous pavement. More information can be found at these websites: www.epa.gov/owow/NPS/lid/ and www.lid-stormwater.net/lid_techniques.htm.

For more information

Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-1300
<http://www.dnr.mo.gov/env/wpp>
