

**Special Conditions of State 401 Water Quality Certification
Applicable to Nationwide Permits**

Nationwide Permits 1, 2, 3, 4, 8, 10, 11, 16, 22, 24, 25, 26, 27, 28, 30, 34, 35, 41, 42, 44, 46, 47, 54, 55, and 56 have no West Virginia §401 Water Quality Certification Special Conditions.

The following Special Conditions are set in accordance with the Water Pollution Control Act W. Va. Code §22-11 (2014), Requirements Governing Water Quality Standards §47-2 (2025), Rules for Individual State Certification of Activities Requiring a Federal Permit §47-5A (2014), Antidegradation Implementation Procedures §60-5 (2008), Wildlife Resources Declaration of Policy, W. Va. Code §20-2-1 (2017), Water Pollution Control Act, W. Va. Code §22-11-7A (2014), and/or Natural Streams Preservation Act, W. Va. Code §22-13-1 (2011).

5. Scientific Measurement Devices.

Nationwide Permit 5 West Virginia 401 Water Quality Certification Special Conditions:

To protect the biological integrity of the aquatic ecosystem permanent measurement devices shall not restrict stream flow. No permanent structure authorized by this permit shall entrain or impinge fish or any other aquatic life; or impede or prevent fish movement upstream or downstream; or cause more than minimal impact without specific written authorization from West Virginia Department of Environmental Protection (WVDEP).

6. Survey Activities.

Nationwide Permit 6 West Virginia 401 Water Quality Certification Special Conditions:

To ensure avoidance and minimization considerations are made prior to impacting aquatic resources, the project proponent must provide written notification to the WVDEP, Division of Water and Waste Management (DWWM) prior to initiation of activities proposing exploratory trenching under this permit.

7. Outfall Structures and Associated Intake Structures.

Nationwide Permit 7 West Virginia 401 Water Quality Certification Special Conditions:

- A. To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.
- B. To prevent cumulative adverse impact to the integrity of aquatic resources associated with the structure and to remain consistent with other nationwide permit bank

stabilization thresholds, the permanent bank disturbance shall be limited to 500 linear feet.

- C. To prevent scour and erosion, the structure will be properly designed and utilize outlet protection in accordance with the WVDEP Erosion and Sediment Control Manual, Best Management Practices.
- D. To ensure water availability in perennial streams and to protect the integrity of aquatic resources, an Individual Section 401 Water Quality Certification or waiver is required when this permit is being used for water withdrawal.
- E. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream.

9. Structures in Fleeting and Anchorage Areas.

Nationwide Permit 9 West Virginia 401 Water Quality Certification Special Conditions:

To address the loss of public access to aquatic resources, when utilized for fleeting or anchorage, compensatory mitigation is required in accordance with Rules for Individual State Certification of Activities Requiring a Federal Permit, Impacts to Recreational Resources Associated with Section 10 Permits §47-5A-6.2.k (2014) for barge fleeting areas resulting in a discharge to waters.

12. Oil or Natural Gas Pipeline Activities

Nationwide Permit 12 West Virginia 401 Water Quality Certification Special Conditions:

- A. An Individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when:
 - i. Pipeline crossings on a Section 10 river (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters).
 - ii. Pipeline activities within wetlands that would use or consider the use of herbicides for right-of-way maintenance.
 - iii. Projects proposing permanent impacts to any stream identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C .
 - iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre.
 - v. Pipelines carrying separated natural gas liquids, unless installed with an automated system which will indicate a sudden loss of pressure.
 - vi. Any project proposing horizontal directional drilling beneath Section 10 waters that do not comply with West Virginia 401 Water Quality Certification Standard Condition 20.
 - vii. When this permit is being used for water withdrawal.
- B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required.

- C. To protect the integrity of aquatic resources dredging for backfill material is not allowed.
- D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three feet below the stream bottom.
- E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request.
- F. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure."
- G. To ensure water contact recreation (Category C) uses are protected, where it is apparent that small boats, inner tubes, swimmers, etc. could be using the stream in the work area, easily seen warning signs must be placed a minimum of 50 feet upstream and downstream of the stream crossings construction site to advise stream users of the potential danger.

13. Bank Stabilization.

Nationwide Permit 13 West Virginia 401 Water Quality Certification Special Conditions:

- A. To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.
- B. Bank protection measures may not be extended into the bed of the stream except as necessary to provide proper footing of the bank stabilization measure.
- C. To reduce erosion and sedimentation of aquatic resources stabilized streambanks, where possible and practicable, shall be sloped and revegetated for erosion control purposes.

- D. To reduce erosion and sedimentation the use of unconsolidated river gravel (river jack) for streambank stabilization is not allowed. Unconsolidated river material may be used to reconstruct streambanks or form bankfull benches provided they are stabilized by material and/or methods which prevent further erosion under normal or expected high flows. Acceptable material and/or methods are; quarried or shot rock, clean concrete rubble, gabions, cribbing, woody vegetation, and flow diversion structures such as rock vanes. All of the foregoing are to be used in combination with appropriate sloping and engineering specifications.

14. Linear Transportation Projects.

Nationwide Permit 14 West Virginia 401 Water Quality Certification Special Conditions:

- A. To reduce potential erosion and sedimentation associated with temporary access fills; all temporary cofferdams or other discharges related to accessing the stream for maintenance activities require the use of clean and coarse non-erodible materials with 15% or less of like fines that are properly sized to withstand expected high flows.
- B. Pipe, box, and arched culvert crossings are required to adhere to the following:
 - 1. The volume of fill for culverted structures is limited to the amount required to achieve transportation purpose.
 - 2. The inlet/outlets must be designed in such a manner as to maintain substrate in the bottom of the culvert (culverts installed in bedrock or with a stream gradient of 4% or greater do not need to be countersunk). Countersinking the culvert to the sub-pavement of the streambed, backwatering or the use of a bottomless culvert will generally fulfill this requirement.
 - 3. If fills associated with the crossing extend onto the floodplain, the use of floodplain culverts is strongly encouraged.
- C. To maintain the hydrologic and physical integrity of aquatic resources, the volume of fill for a bridge abutment or piers below the ordinary high-water mark is not to exceed 200 cubic yards for a single bridge project.
- D. To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.

15. U.S. Coast Guard Approved Bridges.

Nationwide Permit 15 West Virginia 401 Water Quality Certification Special Condition:

An Individual Section 401 Water Quality Certification is required for the use of this permit and to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems.

17. Hydropower Projects.

Nationwide Permit 17 West Virginia 401 Water Quality Certification Special Condition:

An Individual Section 401 Water Quality Certification is required for use of this permit.

18. Minor Discharges.

Nationwide Permit 18 West Virginia 401 Water Quality Certification Special Condition:

To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.

19. Minor Dredging.

Nationwide Permit 19 West Virginia 401 Water Quality Certification Special Condition:

To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.

20. Response Operations for Oil and Hazardous Substances.

Nationwide Permit 20 West Virginia 401 Water Quality Certification Special Condition:

To protect the chemical, physical, and biological components of the State's aquatic resources, all substances contained during cleanup or other contaminated dredged or spill material cannot be discharged or disposed of in islands, embayments, wetlands, or any water course, but only in disposal areas approved by WVDEP DWWM.

21. Surface Coal Mining Activities.

Nationwide Permit 21 West Virginia 401 Water Quality Certification Special Conditions:

- A. Individual Section 401 Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15.
- B. Individual Section 401 Water Quality Certification is required for mining related activities cumulatively impacting greater than $\frac{1}{2}$ acre of intermittent or perennial stream(s).

- C. Individual Section 401 Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than $\frac{1}{2}$ acre cumulative or 300 linear feet per individual crossing.
- D. Individual Section 401 Water Quality Certification is required for cumulative permanent wetland impacts greater than $\frac{1}{2}$ acre.

23. Approved Categorical Exclusions.

Nationwide Permit 23 West Virginia 401 Water Quality Certification Special Conditions:

An Individual Section 401 Water Quality Certification is required for use of this permit.

29. Residential Developments.

Nationwide Permit 29 West Virginia 401 Water Quality Certification Special Conditions:

- A. Projects affecting Section 10 waters and adjacent wetlands require individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.
- B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.

31. Maintenance of Existing Flood Control Facilities.

Nationwide Permit 31 West Virginia 401 Water Quality Certification Special Conditions:

In non-emergency situations, written notification 60-days in advance of project construction is required to WVDEP DWWM. This is required to ensure both the minimization of impacts to fisheries and wildlife habitat and the consideration of habitat enhancements.

32. Completed Enforcement Actions.

Nationwide Permit 32 West Virginia 401 Water Quality Certification Special Condition:

To ensure compliance with applicable state water quality requirements, notification to the WVDEP DWWM is required for use of this permit.

33. Temporary Construction, Access, and Dewatering.

Nationwide Permit 33 West Virginia 401 Water Quality Certification Special Condition:

Individual Section 401 Water Quality Certification is required for use of this permit to construct temporary causeways in Section 10 waters, or for fills in any water anticipated to exceed one year.

36. Boat Ramps.

Nationwide Permit 36 West Virginia 401 Water Quality Certification Special Condition:

To ensure compliance with applicable state water quality requirements, notification to the WVDEP DWWM is required for use of this permit.

37. Emergency Watershed Protection and Rehabilitation.

Nationwide Permit 37 West Virginia 401 Water Quality Certification Special Condition:

Projects that have been coordinated with and obtained concurrence from WVDEP DWWM in the early project planning phase are certified. This certification applies only to those emergency situations that involve threats to life, threat of loss of primary residence, and loss or threat of loss to the areas' infrastructure and/or other community services.

38. Cleanup of Hazardous and Toxic Waste.

Nationwide Permit 38 West Virginia 401 Water Quality Certification Special Condition:

To protect the public health and safety and the environment from the effects of the improper, inadequate or unsound management of hazardous wastes, notification must be provided to WVDEP DWWM and notice of the proposed activity must be provided to the WVDEP, Division of Land Restoration, Office of Environmental Remediation, 601 57th Street, Charleston, West Virginia 25304, as early as possible. The WVDEP will review the activity and make a determination if Individual Section 401 Water Quality Certification is required within 15-days of receipt of a complete notification. This condition is required in accordance with the Hazardous Waste Management Act, W. Va. Code §22-18-8 (1994).

39. Commercial and Institutional Developments.

Nationwide Permit 39 West Virginia 401 Water Quality Certification Special Conditions

A. Individual Section 401 Water Quality Certification is required for projects impacting Section 10 waters and adjacent wetlands.

- B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.

40. Agricultural Activities.

Nationwide Permit 40 West Virginia 401 Water Quality Certification Special Condition:

Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.

43. Stormwater Management Facilities.

Nationwide Permit 43 West Virginia 401 Water Quality Certification Special Condition:

Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.

45. Repair of Uplands Damaged by Discrete Events.

Nationwide Permit 45 West Virginia 401 Water Quality Certification Special Condition:

To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein that exceed 300 linear feet.

49. Coal Remining Activities

Nationwide Permit 49 West Virginia 401 Water Quality Certification Special Conditions:

- A. Individual Section 401 Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15 A, B and C herein.
- B. Individual Section 401 Water Quality Certification is required for mining related activities cumulatively impacting greater than 1/2 acre of intermittent or perennial stream(s).

- C. Individual Section 401 Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than 1/2 acre cumulative or 300 linear feet per individual crossing.
- D. Individual Section 401 Water Quality Certification is required for cumulative permanent wetland impacts greater than 1/2 acre.

50. Underground Coal Mining Activities

Nationwide Permit 50 West Virginia 401 Water Quality Certification Special Conditions

- A. Individual Section 401 Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15 A, B and C herein.
- B. Individual Section 401 Water Quality Certification is required for mining related activities cumulatively impacting greater than 1/2 acre of intermittent or perennial stream(s).
- C. Individual Section 401 Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than 1/2 acre cumulative or 300 linear feet per individual crossing.
- D. Individual Section 401 Water Quality Certification is required for cumulative permanent wetland impacts greater than 1/2 acre.

51. Land-Based Renewable Energy Generation Facilities.

Nationwide Permit 51 West Virginia 401 Water Quality Certification Special Condition:

An Individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when this permit is being used for the discharge of material to Section 10 waters and streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.

52. Water-Based Renewable Energy Generation Pilot Projects

Nationwide Permit 52 West Virginia 401 Water Quality Certification Special Condition:

An Individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when this permit is being used for the discharge of material to Section 10 waters and streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.

53. Removal of Low - Head Dams

Nationwide Permit 53 West Virginia 401 Water Quality Certification Special Condition:

To maintain and protect Tier 3 waters, and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to Section 10 waters and streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein.

57. Electric Utility Line and Telecommunications Activities

Nationwide Permit 57 West Virginia 401 Water Quality Certification Special Conditions:

- A. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when:
 - i. Pipeline crossings on a Section 10 river require notification and review (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters), in order to ensure that project does not result in significant impact to the integrity, or the chemical, physical, hydrologic, or biological components of the aquatic ecosystem.
 - ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance require notification and review, in order to protect downstream aquatic resources from exposure to herbicide.
 - iii. To maintain and protect Tier 3 waters and protect the integrity of special aquatic resources of the state, Individual Section 401 Water Quality Certification is required when this permit is being used for the discharge of material to an embayment, island back channel, or stream mouth on a Section 10 water and/or impacts to streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein.
 - iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre require notification and review, to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams.
 - v. Any project proposing horizontal directional drilling beneath Section 10 waters that do not comply with West Virginia 401 Water Quality Certification Standard Condition 20.
 - vi. Projects proposing surface water withdrawals from Section 10 waters that do not comply with West Virginia 401 Water Quality Certification Standard Condition 22.
- B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required.
- C. To protect the integrity of aquatic resources dredging for backfill material is not allowed.

- D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three feet below the stream bottom.
- E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request.
- F. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream.
- G. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure."

58. Utility Line Activities for Water and Other Substances

Nationwide Permit 58 West Virginia 401 Water Quality Certification Special Conditions:

- A. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when:
 - i. Pipeline crossings on a Section 10 river (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters).
 - ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance.
 - iii. Projects proposing permanent impacts to any stream identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C herein.
 - iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre.
 - v. Pipelines transporting hazardous substances consistent with the definition found in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9601(14) and Toxic Substances Control Act, 15 U.S.C. §53(2601–2629).
 - vi. Any project proposing horizontal directional drilling beneath Section 10 waters that do not comply with West Virginia 401 Water Quality Certification Standard Condition 20.

- vii. Projects proposing surface water withdrawals from Section 10 waters that do not comply with West Virginia 401 Water Quality Certification Standard Condition 22.
- B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required.
- C. To protect the integrity of aquatic resources dredging for backfill material is not allowed.
- D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom.
- E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request.
- F. General Water Quality Certification is declined when this permit is being used for water withdrawal. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.
- G. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream.
- H. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure."

59. Water Reclamation and Reuse Facilities.

Nationwide Permit 59 West Virginia 401 Water Quality Certification Special Conditions:

An Individual Section 401 Water Quality Certification is required for use of this permit. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources.

The following addresses the new nationwide permit proposed for 2026 reissuance: NWP A - Activities to Improve Passage of Fish and Other Aquatic Organisms

A. Activities to Improve Passage of Fish and Other Aquatic Organisms

Nationwide Permit A West Virginia 401 Water Quality Certification Special Condition:

An Individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP when this permit is used for discharges into Section 10 waters or into streams identified in West Virginia 401 Water Quality Certification Standard Condition 15 A, B, and C. An individual Section 401 Water Quality Certification or waiver must be obtained from WVDEP.

Note: The U.S. Army Corps of Engineers designated this new nationwide permit as “NWP A” in the June 18, 2025 Federal Register proposal. Upon final issuance, this permit may be assigned a numeric designation. WVDEP certification of “NWP A” applies to this nationwide permit regardless of its final number.