

PUBLIC NOTICE

State Water Quality Certification, as required by Section 401 of the Clean Water Act (CWA), is being revised by the West Virginia Department of Environmental Protection (WVDEP) for:

U.S. Army Corps of Engineers, Federal Register Vol. 82 No. 4, pg 1860-2008,  
announcing new Section 404 Nationwide Permits for West Virginia

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(Name of Project)

Department of the Army, Huntington District, Corps of Engineers  
502 Eighth Street; Huntington, WV 25701-2070

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(Name and address of Applicant)

**SCOPE OF CERTIFICATION:** Pursuant to Section 401 of the CWA, the State may either certify, certify with conditions, deny, or waive certification that the proposed activity will comply with State law. When issuing certification, the WVDEP may consider the proposed activity's impact on water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources under its jurisdiction. Rules regarding West Virginia's 401 Water Quality Certification are contained within 47 CSR 5A.

**DESCRIPTION OF THE ACTIVITY:** On April 13, 2017 WVDEP issued a 401 Water Quality Certification for the U.S. Army Corps of Engineers' (USACE) Nationwide Permits (NWP), which specified certain standard and special conditions to allow the NWP to be consistent with the State's water quality standards to authorize the discharge of dredged or fill materials into waters of the State. With this notice, WVDEP is modifying this certification and requesting public comment. The proposed modifications subject to this notice replace the proposed modifications to this certification that were previously noticed for public comment on August 9, 2018. The modifications being made are as follows: Standard Condition 22 is being added to allow the waiver of any Standard or Special Conditions of 401 Water Quality Certifications applicable to Nationwide Permits. Nationwide Permit 12 Special Condition A is being amended to reserve WVDEP's right to require an individual water quality certification for facilities or impacts applicable under Special Condition A. Nationwide Permit 12 Special Condition C is being amended to clarify that wet or open-cut stream crossing methods must be completed within 72 hours, and that stream crossings using dry ditch methods are exempt from the 72-hour requirement. Construction and access bridges and crossings on Section 10 rivers are also exempt from the 72-hour requirement. Finally, Nationwide Permit 12 Special Condition L is being amended to clarify that only permanent structures are prohibited from preventing fish movements upstream or downstream.

**PROJECT LOCATION:** Nationwide permits are available for use statewide.

**INFORMATION AVAILABLE:** To view the proposed WQC special and standard conditions, please visit:  
<https://dep.wv.gov/WWE/Programs/Pages/401Certification.aspx>

**COMMENTS:** Any interested person may submit written comments on the Nationwide Permits WQC special and standard conditions by addressing such to Nancy Dickson of the 401 Water Quality Certification Program during the comment period, which begins with this notice and ends on March 4, 2019. Comments or requests should be emailed to: [WQSComments@wv.gov](mailto:WQSComments@wv.gov) or by mail addressed to:

401 Water Quality Certification Program  
ATTN: Nancy Dickson  
601 57th Street SE  
Charleston, WV 25304-2345