



**US Army Corps
of Engineers®**
Albuquerque Districts

FINAL PUBLIC NOTICE

Date: February 27, 2026

PUBLIC NOTICE FOR THE FINAL NEW MEXICO REGIONAL CONDITIONS IN NEW MEXICO APPLICABLE TO THE 57 NATIONWIDE PERMITS PUBLISHED IN THE FEDERAL REGISTER ON JANUARY 8, 2026

On January 8, 2026, the U.S. Army Corps of Engineers (Corps) published a final action in the Federal Register (91 FR 768) announcing the reissuance of 57 existing nationwide permits (NWP) and 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. One NWP was not reissued.

Nationwide Permits (NWP)

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, Establishment, and Enhancement 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 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 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>

In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification (WQC) regulations at 40 Code of Federal Regulations (CFR) Part 121, the Albuquerque District has reviewed Clean Water Act Section (CWA) 401 WQC decisions received from certifying authorities. In New Mexico, Albuquerque District has determined that all accepted granted and denied WQC decisions in New Mexico satisfied the requirements set forth in 40 CFR 121.7. For a list of WQC decisions see the summary spreadsheet found on our website at: <http://www.spa.usace.army.mil/reg/wqc>. If a permittee engages in activities within the scope of a NWP, the permittee must also comply with any applicable regional conditions. In New Mexico, the regional conditions that apply to the 57 NWPs, as described above, are as follows:

1. All Activities Conducted Under Nationwide Permits (NWPs): In accordance with 33 Code of Federal Regulations (CFR) § 330.4(c), the Corps hereby incorporates the current conditions of Clean Water Act (CWA) Section 401 water quality certifications as conditions of the Section 404 Nationwide Permits in New Mexico. Water quality certifications are available at: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/WaterQualityCertification.aspx>
2. Dredge and Fill Activities in Lakes, Intermittent and Perennial Streams, and Special Aquatic Sites: For all activities subject to regulation under the CWA Section 404 in lakes, intermittent and perennial streams, and special aquatic sites (including wetlands, riffle and pool complexes, and sanctuaries and refuges), Pre-Construction Notification to the District Engineer is required in accordance with general condition (GC) 32.
3. Individual Water Quality Certification and Pre-Construction Notification (PCN): For all activities subject to regulation under the CWA Section 404 where Section 401 individual water quality certification is required, the applicant must provide a PCN to the District Engineer in accordance with GC 32 at the same time a request for water quality certification is submitted to the water quality certifying authority. A copy of the individual 401 water quality certification must be provided to the District Engineer prior to commencing the regulated activity. The activity may not commence until the Corps has completed post-certification with U.S. Environmental Protection Agency (EPA), Region 6 in accordance with CWA Sec. 401(a)(2). A list of state agencies and tribes with Section 401 authority is on our website available at: <http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Water-Quality-Certification/>
4. Peatlands: The use of the 2026 NWPs for the discharge of dredged or fill material into peatlands is prohibited. The term peatland includes fens and bogs. For the purposes of this regional condition, a peatland is defined as a wetland with organic soil that is classified as a histosol in the Natural Resources Conservation Service (NRCS) guidance document entitled Field Indicators of Hydric Soils in the United States (Version 9.0, 2024). A copy of the document can be obtained from the NRCS at: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/use/hydric/>.
5. Temporary Fills and Impacts: Temporary fills and/or impacts to waters of the U.S. shall be removed in their entirety and the affected areas returned to pre-construction elevations in the shortest time frame practicable, not to exceed six months unless otherwise approved by the District Engineer. Site restoration of temporarily filled or impacted areas shall include returning the area to pre-project ground surface contours. The permittee shall appropriately revegetate temporarily filled or impacted areas with native, noninvasive herbs, shrubs, and/or tree species sufficient in number, spacing, and diversity to

replace affected aquatic functions. Temporary erosion and sediment control measures must be removed as soon as the area has established vegetation sufficient to control erosion and sediment.

6. Suitable Fill: Use of broken concrete as fill or bank stabilization material is prohibited unless the applicant demonstrates that its use is the only practicable material (with respect to cost, existing technology, and logistics). Any applicant who wishes to use broken concrete as bank stabilization must provide notification to the District Engineer in accordance with GC 32 along with justification for such use. Use of broken concrete with rebar, used tires (loose or formed into bales), or car bodies is prohibited in all waters of the United States.
7. Timing and Dewatering: Unless determined to be not practicable by the Corps, no dredged and/or fill material shall be discharged within standing or flowing waters. For perennial or intermittent drainages (e.g., natural or relocated streams, creeks, rivers), this may be accomplished through construction during periods of low flow (winter months) or during the dry season.

When work is required to occur in flowing water, a dewatering plan is required to constitute a complete PCN. All dewatering structures and/or fills shall be removed within 30 days following completion of construction activities in waters of the United States.

- a. For all dewatering activities that propose structures or fill in waters of the United States a dewatering plan must contain the following:
 - i. Information on why it is not practicable to conduct construction activities during periods of low flow or during the dry season; and
 - ii. The proposed methods for dewatering; and
 - iii. The equipment that would be used to conduct the dewatering; and
 - iv. The length of time the area is proposed to be dewatered; and
 - v. The area (in acres) and length (in linear feet) and locations of all structure(s) and/or fill in waters of the United States; and
 - vi. The expected extent of temporary impacts to downstream waters; and
 - vii. The method for removal of the structures and/or fill; and
 - viii. The method for how the proposed work shall be conducted to allow safe fish and wildlife passage during construction; and
 - ix. The method for restoration of the waters of the United States affected by the structure or fill following construction.
8. NWP 13 – Bank Stabilization: For bank stabilization activities in intermittent or perennial streams that average less than 20 feet in width (measured between the ordinary high water marks on each bank), the placement of fill is limited to no more than one cubic yard of suitable fill material per running foot below the plane of the ordinary high water mark, unless the District Engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects.
9. NWP 23 – Approved Categorical Exclusions: PCN to the District Engineer in accordance with GC 32 is required for all proposed activities under NWP 23.
10. NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities: For all proposed activities under NWP 27 that require PCN, a monitoring plan commensurate with the scale of the

proposed restoration project and the potential for risk to the aquatic environment must be submitted to the Corps. (See “NWP 27 Guidelines” at <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/NWP.aspx>).

Felix Chaves
Governor

Angelo K. Paisano
Lt. Governor



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www.sandiapueblo.nsn.us

May 12, 2025

Tucker Feyder
Sr. Regulatory Project Manager
Southern Colorado Branch
U.S. Army Corps of Engineers
1970 East 3rd Avenue, Suite 109
Durango, Colorado 81301

RE: Request for Clean Water Act Section 401 Certification on the Reissued 2026 Nationwide Permits (NWP)

Dear Mr. Feyder,

The United States Army Corps of Engineers (USACE) has requested the Pueblo of Sandia (Pueblo) to provide a 401 Certification for the proposed 2026 USACE Nationwide Permits. The Pueblo is authorized to certify the proposed 2026 Nationwide Permits (NWP) under CWA Section 401.

The Pueblo certifies all proposed NWP with the following conditions:

- 1) Applicants for authorization to discharge under any of the proposed NWP on or within 0.5 miles upstream of the Pueblo boundary shall, at the time of application to the U.S. Army Corps of Engineers, supply the Pueblo with a copy of the application materials including the completed Pre-Construction Notification (PCN) form, all drawings, data, and any other attachments. If, after an inspection of the submitted materials, the Pueblo determines that the discharge from the project will violate the Pueblo's water quality standards, the Pueblo shall notify the project proponent and the USACE in writing to recommend modifications necessary to bring the project into compliance with the water quality standards. The Pueblo will provide an "Authorization to Proceed" notice after review and approval of the final application materials.

Application materials will be sent electronically to the Pueblo at the following addresses:

Electronic Addresses:

Cynthia King (Water Quality Manager): cking@sandiapueblo.nsn.us

Greg Kaufman (Environment Director): gkaufman@sandiapueblo.nsn.us

- a) This condition is necessary to ensure the Pueblo Environment Department has an opportunity to evaluate the activity prior to the initial construction for the purpose of determining whether the discharge from the certified project will violate the Pueblo's Water Quality Standards.
 - b) Citations that authorize this condition: 40 CFR 121.11(a), 40 CFR 121.11(b), and the Pueblo's Water Quality Standards (2023)*.
- 2) Any correspondence between the applicant and the USACE related to corrective action, enforcement, monitoring, or adverse incident written reports should likewise be routed to the Pueblo Environment Department at the aforementioned electronic addresses.
- a) This condition is necessary to ensure that the Pueblo's Water Quality Standards are not being violated.
 - b) Citations that authorizes this condition: Pueblo Water Quality Standards (2023)*.
- 3) The permittee could be required to perform water quality monitoring, sampling, or analysis during the active permit dates for appropriate constituents determined by the Pueblo. The Pueblo will make this determination in the Authorization to Proceed.
- a) This condition is necessary to ensure that the Pueblo's Water Quality Standards are not being violated.
 - b) Citations that authorizes this condition: Pueblo Water Quality Standards (2023)*.

* Please be advised that the Pueblo passed and adopted the *Pueblo of Sandia Water Quality Standards* in 1993 with revisions in 2009 and 2023. The standards have been accepted by the EPA and are enforceable in the same manner that state water quality standards are enforceable.

Thank you for your attention regarding this matter. If you have any question or concerns, please feel free to contact Greg Kaufman, Environment Director, at (505) 771-7080 or Cynthia King, Water Quality Manager, at (505) 771-5090.

Sincerely,



Felix L. Chaves,
Governor

cc: Jeremy Decker, Tribal Liaison, U.S. Army Corps of Engineers Albuquerque District
Greg Kaufman, Pueblo of Sandia Environment Department (via e-mail)
Cynthia King, Pueblo of Sandia Environment Department (via e-mail)
Brianna Wadley, USEPA Region 6 Environmental Scientist
File



REGION 6

DALLAS, TX 75270

December 5, 2025

TRANSMITTED VIA EMAIL

Ms. Christina L. Schroeder
Acting Chief, Regulatory Division
Albuquerque District, U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Christina.L.Schroeder@usace.army.mil

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

Dear Ms. Schroeder:

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, the Pueblos of Cochiti, Jemez, Santo Domingo, San Ildefonso, Zia, Zuni, The Mescalero Apache Tribe, and Jicarilla Apache Nation 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 New Mexico.

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 Albuquerque 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 no public comments 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 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 NWP 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

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

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.

- 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:

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

- 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



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

December 15, 2025

Christina Schroeder
Chief, Regulatory Division
U.S. Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, New Mexico 87109-3434
Christina.L.Schroeder@usace.army.mil

Re: Clean Water Act Section 401 Water Quality Certification for the State of New Mexico and the United States Army Corps of Engineers 2026 Nationwide Permits

Dear Christina Schroeder,

The Cabinet Secretary of the New Mexico Environment Department (NMED) delegated signatory authority, in the June 23, 2025, Delegation Order, for state certifications of federal Clean Water Act (CWA) permits to the Surface Water Quality Bureau (SWQB) Chief. Under Section 401 of the CWA, a federal agency may not issue a permit that may result in the discharge into waters of the United States unless a CWA Section 401 Water Quality Certification (Certification) is issued or waived by the certifying authority. NMED received the United States Army Corps of Engineers (USACE) Albuquerque District's pre-filing meeting request on May 2, 2025, and certification request on June 18, 2025, pursuant to 40 CFR §§ 121.4 & 121.5. NMED met with the USACE on June 12, 2025, and examined the USACE June 18, 2025 proposal to reissue and modify the proposed Nationwide Permits (NWP) under Section 404 of the CWA and Section 10 of the Harbors and Rivers Act to authorize only activities with no more than minimal individual or cumulative adverse environmental effects (*see* 90 FR 26100).

Pursuant to State of New Mexico (State) regulations for permit Certification at 20.6.2.2002 New Mexico Administrative Code (NMAC), NMED issued a public notice of this activity and announced a public comment period, published in the *Albuquerque Journal* and posted on NMED's website (<https://www.env.nm.gov/public-notices/>) on October 17, 2025. The public comment period ended on November 17, 2025. NMED did not receive any comments.

Applicable Water Quality Regulations:

New Mexico's water quality regulations and standards, codified under 20.6.2 NMAC and 20.6.4 NMAC, were adopted by the New Mexico Water Quality Control Commission pursuant to the authority provided in the New Mexico Water Quality Act, NMSA 1978, Section 74-6-4, and promulgated in accordance with the New Mexico State Rules Act, NMSA 1978, Sections 14-4-1 through -11. For projects that discharge dredged or fill material into waters of the United States (WOTUS), which by definition are also surface waters of the state (20.6.4.7(S)(5)(b) NMAC), NMED relies on conditions included in the Certification to ensure compliance with State water quality regulations and standards at 20.6.2 NMAC and 20.6.4 NMAC, the State Water Quality Management Plan and Continuing Planning Process (WQMP/CPP), Total Maximum Daily Loads (TMDLs), and the State's Antidegradation Policy. Certification is also required to comply with General Condition 25 (Water Quality) and General Condition 27 (Regional and Case-By- Case Conditions) of the NWP.

Upon inclusion of NMED's Certification conditions and denials in the final NWP, NMED hereby certifies that the permitted activities will comply with applicable provisions of the CWA Sections 301, 302, 303, 306, and 307, and with appropriate requirements of State law, including the New Mexico Water Quality

Act (NMSA 1978, Sections 74-6-1 through -17), Ground and Surface Water Protection regulations under 20.6.2 NMAC, and the Standards for Interstate and Intrastate Surface Waters under 20.6.4 NMAC. Projects that are unable to comply with this Certification are denied Certification without prejudice and the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC. The conditional Certification and denials for the Nationwide Permits are attached.

Sincerely,

Shelly Lemon, Chief
Surface Water Quality Bureau

cc: Troy Hill, Director, Water Division, USEPA Region 6 (Hill.Troy@epa.gov)
Daniel Landeros, Water Division, USEPA Region 6 (Landeros.Daniel@epa.gov)
Debra Hill, Large River Restoration Branch Supervisor, NM Ecological Services Field Office, U.S. Fish and Wildlife Service (Debra_Hill@fws.gov)
Virginia "Ginny" Seamster, Assistant Chief for Technical Guidance, New Mexico Department of Game and Fish (Virginia.Seamster@dgf.nm.gov)
Jonas Armstrong, Water Protection Division Director, NMED (Jonas.Armstrong2@env.nm.gov)
Kate Lacey-Younger, Watershed Protection Program Manager, SWQB-NMED (Kathryn.Lacey@env.nm.gov)
Alan Klatt, Implementation & Restoration Team Supervisor, SWQB-NMED (Alan.Klatt@env.nm.gov)

State of New Mexico
CWA Section 401 Certification Conditions on the
2026 Nationwide Permits (NWP)

General Conditions of Certification:

The following conditions apply to all uses of the Nationwide Permits (NWP) within the State of New Mexico Clean Water Act (CWA) Section 401 area or region of certification authority.

General Condition 1. Pre-Construction Notification

When the USACE requires a Pre-Construction Notification (PCN), submitted by itself or through the Regulatory Request System (RRS) application¹, the Project Proponent shall submit a copy of the PCN to NMED as follows:

wpsprogram.manager@state.nm.us

Watershed Protection Program Manager, Surface Water Quality Bureau, NMED

Or mailed to (**email is preferred**):

Program Manager, Watershed Protection Section

Surface Water Quality Bureau

PO BOX 5469

Santa Fe, NM 87502

This condition is necessary to assure that the activity will comply with water quality requirements, because it supports compliance with the water quality requirements included in this Certification.

General Condition 2. Inspection

The Project Proponent must notify NMED at least 10 business days before starting construction to allow time to schedule monitoring or an inspection. Notification must include a list of Best Management Practices (BMPs) selected for the project as required by the following conditions 3, 4, and 5.

This condition is necessary to assure that the activity will comply with water quality requirements, because it supports compliance with the water quality requirements included in this Certification.

General Condition 3. Impaired Water Bodies

If the proposed activity is located at a water body that is listed as impaired under Section 303(d) of the CWA, the Project Proponent shall select and implement specific measures or BMPs to prevent further degradation to water quality. The current U.S. Environmental Protection Agency (EPA)-approved New Mexico list of impaired waters is available at <https://www.env.nm.gov/surface-water-quality/303d-305b/>. See the most current summary spreadsheet "All Impairments (Category 4 or 5)" or a Project Proponent can contact NMED's Surface Water Quality Bureau if they have any questions or need assistance. NMED's online mapper (<https://gis.web.env.nm.gov/oem/?map=swqb>) can be used to assist in identifying if a project is located at an impaired water body by turning on the most current and final "Impaired Waters" layer. For any discrepancies, the "All Impairments (Category 4 or 5)" spreadsheet is part of the official record.

This condition is necessary to assure that the activity will comply with water quality requirements, because impaired water bodies are protected as Tier 1 waters under New Mexico's Antidegradation Policy and Implementation Procedure for which "no further degradation is permitted."

¹ The Project Proponent can access, view, and download a copy of their PCN using the RRS Dashboard and "PDF" button.

General Condition 4. Construction Best Management Practices (BMPs)

Project Proponents shall select and implement all practicable and reasonable BMPs that are appropriate for their project. Practicable and reasonable BMPs for New Mexico surface waters include, but are not limited to:

Scheduling – Project activities must avoid times of predictable flooding to avoid working in high water (seasonal monsoons, snowmelt, or releases from dams).

Crossings – Limit stream and wetland crossings to a single, narrow location that is perpendicular to the stream (or along a contour of a wetland).

Diversions – Flowing water that is diverted around the work area must remain within the existing channel and provide for aquatic life movement. Diversions must be non-erodible, such as sandbags, water bladders, concrete barriers, channel bypass pipe, or conveyance lined with geotextile or durable plastic sheeting. Unlined dirt cofferdams and trenches are not acceptable diversion structures.

Heavy equipment –

- Pressure wash and/or steam clean before the start of the project and inspect daily for leaks (to remove contaminants and to avoid introducing invasive species).
- Complete a written log of inspections and maintenance throughout the project period.
- Do not use leaking equipment in or near surface water(s).
- Do not park or leave equipment stored within the stream channel, floodplain or wetland.
- Operate heavy equipment from the streambank or work platforms to avoid operating heavy equipment in flowing water whenever possible. Use biodegradable hydraulic fluid if heavy equipment must be operated in flowing water.

Fuel –

- Store fuel, oil, hydraulic fluid, lubricants, and other petrochemicals outside of the 100-year floodplain within a secondary containment system capable of containing twice the volume of the product.
- Refuel equipment at least 100 feet from surface water.

Construction materials –

- Use appropriate fill material – broken concrete, tires, tire bales, treated lumber, and other refuse material shall not be used as fill material.
- Properly handle and contain all asphalt, concrete, drilling fluids, and other construction materials to prevent releases to surface water. Fully contain poured concrete in mortar-tight forms and/or placed behind non-erodible cofferdams to prevent contact with surface or groundwaters. Use appropriate containment measures to prevent wastewater from concrete batching, vehicle and equipment wash-down, or aggregate processing from impacting surface waters and aquatic resources.
- Remove construction materials from the channel at the end of each workday.

Demolition, repair, and cleaning activities – Keep materials associated with demolition, repair, and cleaning activities of bridges or associated structures out of the channel. Generally, secure impermeable containment material (e.g., durable plastic sheet, canvas, tarpaulins or other catchment devices) under the structure to capture falling debris. Include vacuum systems in sandblasting operations or completely bag the structures to collect all paint and concrete debris. Properly dispose of any debris that falls onto the containment area or channel in accordance with the New Mexico Solid Waste Regulations (20.9.1 NMAC). Maintain applicable Safety Data Sheets of water repellants and surface finish treatments at the project area and follow safety procedures for use of such products near open water.

Trenching –

- Backfill and compact excavated trenches to match the adjacent undisturbed soil and topography.
- Excavated trenches shall not be used or result in the draining any surface water including wetlands.

- Excavated trenches shall include escape ramps for wildlife.
- Use planning and construction practices to minimize the length and duration of open trenches.

Dewatering discharges – Dewatering discharges shall not contain contaminants, including excessive turbidity and other contaminants associated with the discharge, in concentrations that exceed surface water or groundwater standards at 20.6.4 NMAC and 20.6.2 NMAC. Appropriate dewatering BMPs include discharging to a sediment basin within an uplands area behind a vegetative buffer, using fabric, biobag, or hay-bale corrals, or using geotextile filter bags.

Dust control – Water used in dust suppression shall not contain contaminants in concentrations that exceed surface water or groundwater standards at 20.6.4 NMAC and 20.6.2 NMAC.

Erosion control (during construction) –

- Avoid disturbance to vegetation, minimize bare ground, and minimize disturbance to bare ground.
- Establish and maintain upland buffers between upland construction and all surface waters, including streams, arroyos and wetlands.
- Employ silt fences, seed-free straw mulch, hydro-mulch, biodegradable straw wattles, erosion control fabrics and other techniques, as appropriate, to protect waters from sedimentation and other pollutants.
- Avoid using jute netting or placing woven wire in contact with the stream. These materials have been known to trap and kill fish and wildlife.

Wetlands –

- Avoid working in wetlands whenever possible.
- Flag or otherwise mark wetland boundaries so construction crews can avoid them.
- Avoid working in wetlands when soils are too saturated to support heavy machinery.
- Use wide tires, tracks, geotextile, swamp mats, or wooden mats to disperse weight and minimize soil compaction when heavy machinery is required.
- Use the smallest machinery that can handle the job – preferably non-mechanized equipment.
- Avoid turning wheels when the vehicle is stationary to prevent digging and damage to vegetation.
- Avoid permanent impacts to wetlands such as draining, filling, or other hydro-modifications.
- Install permeable fills to allow natural seepage flows.
- Minimize wetland impacts by stockpiling vegetation and hydric soils to be reused during post-construction stabilization.

Post-construction stabilization –

- The Project Proponent and their contractors shall take necessary steps to minimize channel and bank erosion during and after construction. Where applicable, banks must be reseeded or replanted with native vegetation.
- Reseed or plant with native vegetation any disturbed areas outside stream channels that are not otherwise physically protected from erosion so that species regrowth is functionally equivalent to the pre-disturbed site or a reference site. Stabilization measures, including revegetation, are required at the earliest practicable date. Use native woody riparian and/or wetland species in areas that support such vegetation. Maintain temporary stabilization measures, such as silt fences and straw wattles, until permanent stabilization is achieved.

This condition is necessary to assure that the activity will comply with water quality requirements, because New Mexico's Antidegradation Policy and Implementation Procedure describes the primary tool for limiting the discharge of pollutants from dredge and fill activities authorized under CWA Section 404 is through certification conditions mandating the installation and operation of BMPs that prevent pollutant transport to a watercourse and thereby, degradation. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; toxic pollutants; and biological integrity (20.6.4 NMAC).

General Condition 5. Low Impact Development

If the proposed dredge and fill activity increases the area of impervious surfaces, the Project Proponent shall select and implement low impact development practices (e.g. native landscaping, green stormwater infrastructure, and constructed green spaces) to the extent practicable to minimize and mitigate water quality impacts. More information about low impact development is available at:

<https://www.epa.gov/nps/urban-runoff-low-impact-development>.

This condition is necessary to assure that the activity will comply with water quality requirements, because New Mexico's Total Maximum Daily Loads identify urban runoff, land development, residences/buildings, and pavement/impervious surfaces as probable sources of water quality impairments. Low impact development plays an important role in minimizing and mitigating individual and cumulative adverse environmental effects. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; toxic pollutants; and biological integrity (20.6.4 NMAC).

General Condition 6. Spills

Appropriate spill clean-up materials such as absorbent pads and spill booms must be available on-site at all times during construction. The Project Proponent shall report all spills immediately to NMED as required by the New Mexico Water Quality Control Commission Regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call 505-428-2500. For non-emergencies after hours, call 866-428-6535. For emergencies only, call 505-827-9329 twenty-four hours a day (New Mexico Department of Public Safety).

For spills that reach a surface water of the state, including ephemeral streams, also report via email at SWQ.reporting@env.nm.gov.

This condition is necessary to assure that the activity will comply with water quality requirements, because spill clean-up materials and timely spill reporting ensures compliance with all water quality requirements in the event of a spill of toxic pollutants or other water contaminants.

General Condition 7. Posting

The Project Proponent shall provide all contractors and subcontractors a copy of this Certification and make all contractors and subcontractors aware of the Certification conditions prior to initial operation. A copy of this Certification must be kept at the project site during all phases of construction.

This condition is necessary to assure that the activity will comply with water quality requirements, because providing all contractors and subcontractors with the terms and conditions of this Certification will help prevent noncompliance with the State water quality regulations by supporting adequate training and working procedures.

General Condition 8. Certification of Compliance

Upon project completion, the Project Proponent shall provide NMED a copy of the form "Certification of Compliance with Department of the Army Nationwide Permit" when this form is submitted to the USACE.

This condition is necessary to assure that the activity will comply with water quality requirements, because it supports compliance with the water quality requirements included in this Certification.

Specific Conditions for Nationwide Permits:

Subject to inclusion of the General Conditions above, NMED certifies the following NWP's without permit-specific conditions or permit-specific denials: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 16, 17, 18, 19, 20, 22, 23, 25, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 45, 46, 49, 50, 51, 52, 53, 57, 58, 59, and NWP A.

Specific Condition for NWP 14-Linear Transportation Projects –

NMED certifies this NWP subject to inclusion of the General Conditions above and with the following permit-specific conditions: Structures and culverts at stream crossings must allow for the passage of sediment, bedload, woody debris, aquatic life, and prevent erosion problems such as headcuts, incision, bank erosion, and the diversion of the stream from its natural channel during flood events. The Project Proponent shall consider options that minimize disturbance and allow for uninterrupted flow such as low water crossings instead of culverts (for low standard rural roads), bottomless arch culverts, and spans that preserve bankfull geometry, depending on site characteristics and level of service needs.

This condition is necessary to assure that the activity will comply with water quality requirements, because structures that do not support the passage of aquatic life, sediment, and woody debris or accelerate erosion may adversely affect the chemical, physical, and biological integrity of surface waters. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; and biological integrity (20.6.4 NMAC).

Specific Condition for NWP 21-Surface Coal Mining Activities –

NMED certifies this NWP subject to inclusion of the General Conditions above and with the following permit-specific conditions: Projects shall not alter the channel form or function (e.g. channel aggradation, degradation, channel width, sinuosity, etc.). Projects must allow for the passage of sediment, bedload, woody debris, and aquatic life.

This condition is necessary to assure that the activity will comply with water quality requirements, because activities that alter channel form and channel function may adversely affect the chemical, physical, and biological integrity of surface waters. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; and biological integrity (20.6.4 NMAC).

Specific Condition for NWP 44-Mining Activities –

NMED certifies this NWP subject to inclusion of the General Conditions above and with the following permit specific conditions: Projects shall not alter channel form or function (e.g. channel aggradation, degradation, channel width, sinuosity, etc.). Projects must allow for the passage of sediment, bedload, woody debris, and aquatic life.

This condition is necessary to assure that the activity will comply with water quality requirements, because activities that alter channel form and channel function may adversely affect the chemical, physical and biological integrity of surface waters. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; toxic pollutants; and biological integrity (20.6.4 NMAC).

Specific Denials of Specific Nationwide Permits:

Specific Denial for NWP-13 Bank Stabilization –

NMED denies Certification for bank stabilization projects that use concrete, soil cement, or other materials to line channels with impervious surfaces. In these cases, the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC. NMED strongly recommends that all bank stabilization projects involve either the sole use of native vegetation to protect water bodies from solar radiation or other bioengineered design techniques (e.g., willow plantings, root wads, large woody debris, etc.) or, alternatively, a combination of hard-armoring (e.g., rock) and native vegetation or bioengineered design techniques.

There is insufficient information for NMED to preemptively certify bank stabilization projects that line channels with impervious surfaces, because such projects may individually or cumulatively result in more

than minimal adverse environmental effects to the chemical, physical, and biological integrity of surface waters. Missing information includes how such projects will maintain and support surface water quality. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; and biological integrity (20.6.4 NMAC).

Specific Denial for NWP-27 Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities –
NMED denies Certification for sediment releases from reservoirs.

There is insufficient information for NMED to preemptively certify sediment releases from reservoirs. Missing information includes sediment analysis, downstream site assessment, sediment transport rates, water quality monitoring plan, and long-term sediment management strategy. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; and biological integrity (20.6.4 NMAC).

Specific Denial for NWP 43-Stormwater Management Facilities –

NMED denies certification for NWP-43 for stormwater management facilities that are constructed “on-line” (i.e., located directly within a natural watercourse).

There is insufficient information for NMED to preemptively certify stormwater management facilities located within channels, because such projects may individually or cumulatively result in more than minimal adverse environmental effects to the chemical, physical, and biological integrity of surface waters. Missing information includes how such projects will maintain and support surface water quality. Capturing stormwater and stormwater contaminants close to the source and before reaching a natural watercourse is strongly recommended. Specific water quality requirements include, but are not limited to, bottom deposits and suspended or settleable solids; floating solids, oil and grease; temperature; turbidity; total dissolved solids; toxic pollutants; and biological integrity (20.6.4 NMAC).

Specific Denial for Outstanding National Resource Waters –

For proposed activities in Outstanding National Resource Waters (ONRWs) listed under 20.6.4.9(D) NMAC, NMED denies Certification of all NWP's except NWP-27. For all other activities located within ONRWs, the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC. NMED's online mapper (<https://gis.web.env.nm.gov/oem/?map=swqb>) and the “Outstanding National Resource Waters” layer may be used as a preliminary assessment to identify if a project is located in an ONRW. For any discrepancies, the written description under 20.6.4.9(D) NMAC is part of the official record.

There is insufficient information for NMED to preemptively certify projects in ONRWs. ONRWs are protected as Tier 3 waters, which do not allow for long-term degradation and require a determination by the Water Quality Control Commission (20.6.4.8(A)(3) NMAC). Missing information includes the requirements at 20.6.4.8(A)(3) NMAC.

Comments that are not Conditions of Certification:

Other permits that may be required in addition to CWA Section 404 permits –

- Dewatering discharges may be subject to NMED Discharge Permits. Regulations for ground and surface water protection at 20.6.2.1201 NMAC require any person intending to make a new water contaminant discharge to file a Notice of Intent to Discharge with the Ground Water Quality Bureau (<https://www.env.nm.gov/gwqb/>) for discharges that may affect groundwater and/or with the Surface Water Quality Bureau (<https://www.env.nm.gov/surface-water-quality/>) for discharges that may affect surface water. Based on the information provided in the notice of intent, the appropriate Bureau will notify the Project Proponent if a discharge permit is required.

- Activities that disturb one (1) acre or more may require a National Pollutant Discharge Elimination System (NPDES) permit from the EPA under Section 402 of the Clean Water Act. The permittee should submit the appropriate application to EPA 14 days prior to initiating construction. In the case of emergency operations, operators must apply no later than 30 days after the start of construction and are considered provisionally covered under the terms and conditions of the EPA-issued general permit immediately, and fully covered 14 calendar days after EPA has acknowledged receipt of the application (Notice of Intent, or NOI), unless EPA notifies the permittee that the authorization has been delayed or denied. For additional information, contact:

EPA Region 6
1201 Elm St.
Dallas, Texas 75202
Ph: 800-887-6063 or 214-665-2760 if calling from outside Region 6

Or online at: <https://www.epa.gov/npdes-permits/npdes-stormwater-program-region-6>.



Environmental & Natural Resources Department

December 16, 2025

Christina Schroeder, Acting Division Chief
Regulatory Division
Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

RE: U.S. Army Corps of Engineers request for water quality certification under Section 401 of the Clean Waste Act for the proposed re-issuance of Nationwide Permits.

Chief Schroeder:

The Pueblo of Laguna received treatment in a similar manner as a State to administer water quality standards and certification programs under the Clean Water Act sections §303(c) and §401, U.S.C. section 1313(c) and 1341 by the U.S Environmental Protection Agency in December of 2016.

The Pueblo of Laguna received and reviewed the Federal Register notice *Nationwide Permits Reissuance Request for Comments* sent to the Pueblo June 18, 2025.

The Pueblo of Laguna certifies all NWP's with the following condition:

1. To ensure compliance with the Pueblo's Water Quality Standards Sections 11-2-1(A)(3)¹, 11-2-8², and 11-2-22(3)(4)(7)³, the Pueblo shall require Nationwide Permit applicants provide the Pueblo's Environmental & Natural Resources Department with their preconstruction notification form the same day the application is submitted to the Corps to lkie@pol-nsn.gov, enrd@pol-nsn.gov, or by mail at the address below c/o the Environmental & Natural Resources Department.

Accessing Pueblo lands without a permit is considered trespassing as per the Pueblo's General Civil Trespassing Code and all non-tribal entities are required to obtain an access permit through the Pueblo of Laguna's Secretary's Office.

The Pueblo is grateful for the dedication of the Albuquerque District's Army Corps of Engineers staff who have consistently offered thoughtful guidance and patience throughout this process.

If you have any questions, please contact Leon H. Kie, Water Quality Specialist, lkie@pol-nsn.gov, or Greg Jojola, ENRD Environmental Program Manager, gjojola@pol-nsn.gov, or 505-552-7512.

Sincerely,



Greg Jojola, Environmental Program Manager
Pueblo of Laguna Environmental & Natural Resources Department

¹Section 11-2-1(A)(3) – Authority and Purpose – Assure that degradation of Pueblo waters shall be minimized and that economic growth shall occur consistent with preserving the Pueblo's existing clean water resources.

²Section 11-2-8 – Collaboration with Federal and State Agencies – The Pueblo will collaborate with federal and state agencies to prevent, reduce, and eliminate water pollution in coordination with programs for managing water resources.

³Section 11-2-22 – Implementation

(3) Obtain and assess information on the impact of effluents on receiving waters, including the capability of receiving waters to support designated uses and achieve these LWQS (Laguna Water Quality Standards);

(4) Advise prospective dischargers of discharge requirements, and coordinate with the appropriate permitting agencies as to the same;

(7) Require that effluent limitations or other appropriate limitations applicable to activities with the potential to discharge into Pueblo waters be included in any permit as a condition for certification by the Pueblo pursuant to CWA § 401, 33 U.S.C. § 1341, as amended.



PUEBLO OF SANTA ANA

OFFICE OF THE GOVERNOR

02 December 2025

Christina Schroeder
Acting Division Chief, Regulatory Division
4101 Jefferson Plaza NE
Albuquerque, NM 87109

**RE: 401 Water Quality Certification Request for the 2026 Clean Water Act
Nationwide Permits**

Dear Mrs. Schroeder,

The Pueblo of Santa Ana appreciates the opportunity to review the updated U.S. Army Corps of Engineers (USACE) Nationwide Permit on the 2026 401 Water Quality Certification as detailed in the USACE letter dated on May 2nd, 2025.

This water quality certification is issued by the Pueblo of Santa Ana and is required under CWA section 401 to ensure that the action(s) complies with the Pueblo of Santa Ana's Water Quality Standards that have been approved by Environmental Protection Agency on August 31st, 2015.

The Pueblo of Santa Ana grants certification, subject to enclosed conditions. These conditions are necessary to ensure compliance with the Pueblo of Santa Ana's Water Quality Standards.

If you have any questions, please contact Tammy Montoya- Water Resources Division Manager at (505) 771-6739 or tammy.montoya@santaana-nsn.gov.

Sincerely,

Pueblo of Santa Ana
Myron Arimijo, Governor

Cc: Tammy Montoya, DNR Water Resources Division Manager
Doug McKenna, DNR Director

Attachment A: Pueblo of Santa Ana Permit Conditions

02 DOVE ROAD ♦ SANTA ANA ♦ NM 87004

TEL: 505-771-6700 ♦ FAX: 505-771-6745 ♦ EMAIL: GOV@SANTAANA-NSN.GOV

Attachment A: Pueblo of Santa Ana Permit Conditions:

1. The permittee could be required to perform water quality monitoring, sampling or analysis throughout the active permit dates for constituents determined by the Pueblo in accordance with the Pueblo of Santa Ana's Water Quality Standards: November 26th, 2013- Final Adoption by EPA, Revised in December 2020.
2. Any correspondence that is related to corrective action, enforcement, monitoring, or adverse incident written reports shall be provided to the Pueblo of Santa Ana Department of Natural Resources.
3. All required or requested permittee specific information identified above shall be submitted to the following address:

Pueblo of Santa Ana Department of Natural Resources,
Attention: Water Resources Division
2 Dove Road
Santa Ana Pueblo, NM, 87004
tammy.montoya@santaana-nsn.gov

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7330
(505) 753-5375 Fax



INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532
OFFICE OF GOVERNOR

December 16, 2025

Christina Schroeder
U.S. Army Corps of Engineers
Albuquerque Division
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

Re: Santa Clara Pueblo Certification for US Army Corps Request for Clean Water Act Section 401 Certification for the 2026 Nationwide Permits

Dear Ms. Schroeder:

The U.S. Army Corps of Engineers is preparing to reissue its existing Nationwide Permits and associated general conditions and definitions. The proposed categories of activities to be authorized by the NWP for which certification is requested are described in the text of the proposed NWP. Nationwide permits numbered 15, 16, 17, 18, 21, 25, 29, 30, 34, 39, 40, 41, 42, 43, 46, 49, 50, and 59 would authorize activities that may result in discharges and therefore 401 water quality certification is required for those NWP. Nationwide permits numbered 3, 4, 5, 6, 7, 12, 13, 14, 19, 20, 22, 23, 27, 31, 32, 33, 36, 37, 38, 44, 45, 48, 51, 52, 53, 54, 57, 58, and A would authorize various activities, some of which may result in a discharge and require 401 water quality certification, and others which may not.

Section 401(a)(1) of the Clean Water Act (CWA) requires applicants for federal permits and licenses that may result in discharges into waters of the U.S. to obtain certification that potential discharges will comply with applicable provisions of the CWA, including sections 301, 302, 303, 306 and 307, and tribal regulatory requirements for discharges into Waters of the United States. Section 401 Water Quality Certification is required for activity within the jurisdictional boundaries of the Santa Clara Pueblo Reservation and is subject to the Santa Clara Pueblo Law and Order Code Title XV – Health and Environment, Chapter 86 — Water Quality Code, adopted as amended by the Secretary of the Interior effective as of March 4, 2024

This letter serves as the Pueblo's Section 401 Certification of the 2026 Nationwide Permits.

The Pueblo point of contact regarding the Army Corp of Engineers 2026 Nationwide Permits shall be:

Bernardino Chavarria
Santa Clara Pueblo
Office of Environmental Affairs
dinoc@santaclarapueblo.org

The Pueblo appreciates the opportunity and time provided by the Corps to review the Nationwide Permits and its relationship with the Albuquerque District.

If you have any questions, please contact Bernardino Chavarria, Environment Director at (505) 753-7326 x1239 or dinoc@santaclarapueblo.org.

Sincerely,

James Naranjo
James A. Naranjo,
Governor

Cc: Environmental
Forest Luna, USACE
Donna Connolly, Counsel



Office of the Governor
Pueblo of Tesuque

20 TP828
Santa Fe, New Mexico 87506

November 26, 2025

Ms. Christina Schroeder
Acting Chief, Regulatory Division
Department of the Army
Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

RE: Pueblo Certification of Proposed 2026 Nationwide Permits under CWA Section 401

Dear Ms. Schroeder:

The Pueblo of Tesuque, by virtue of its *Treatment as a State* status as conferred by the U.S. EPA, is authorized to certify the proposed 2026 Nationwide Permits under CWA Section 401 (NWP).

The Pueblo certifies all of the proposed NWPs with the following condition:

Applicants for authorization to discharge under any of the proposed NWPs shall, at the time of application to the U.S. Army Corps of Engineers, supply the Pueblo of Tesuque with a copy of the application materials including the completed Pre-Construction Notification (PCN) form, all drawings, data, and any other attachments. The materials will be sent to:

Pueblo of Tesuque
Director, Environment and Natural Resources
20 TP 828 Administration Building
Santa Fe, NM 87506

Materials can be hand delivered to the above address or emailed to the Director, Environment and Natural Resources. Please call 505-983-2667 to make arrangements. This condition applies to both the proposed NWPs and the final version of the proposed NWPs. If the Pueblo of Tesuque itself is applying for authorization to discharge under any of the proposed NWPs, this notification condition is waived.

To satisfy the requirements of 40 CFR 121.7(e)(2), be advised that the Pueblo passed and adopted the *Water Quality Code of the Pueblo of Tesuque* in 2005. The Code has been accepted by EPA and the standards it contains are enforceable in the same manner that state water quality standards are enforceable. The above certification condition is based on the Pueblo's necessity to

evaluate each application for a 404 general permit so that it can determine whether any of its water quality standards would be violated.

Your point of contact for this certification is Sage Mountainflower, Division Director, Division of Administrative and General Services, at 505-303-1566 or sagem@pueblooftesuque.org, Ryan Swazo-Hinds, Department of Environment and Natural Resources Director at 505-709-1294 or rswazohinds@pueblooftesuque.org, Joseph Abeyta, Water Quality Specialists, at 505-709-1281 or jabeyta@pueblooftesuque.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl Samuel". The signature is written in a cursive style with a large initial "E" and "S".

Earl Samuel,
Governor

Eugene Jiron
Governor



Lt. Governor, Charles E. Jojola
Lt. Governor, M. Rodney Jones

PUEBLO OF ISLETA
OFFICE OF THE GOVERNOR
P.O. Box 1270
Isleta, New Mexico 87022
Telephone: 505-869-3111

December 17, 2025

Forrest Luna
Regulatory Specialist
Albuquerque District
U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque NM 87109-343
Forrest.Luna@usace.army.mil

Refer to: 401 Tribal Water Quality Certification request for the proposed 2026 Clean Water Act
Nationwide Permits ("NWP")

Dear Mr Luna

The Pueblo of Isleta hereby submits this letter in accordance with Section 401 of the Clean Water Act, 33 U.S.C. § 1341, and 40 C.F.R. Part 121 (Water Quality Certification by a State or Indian Tribe), pursuant to the certifying authority provided by the Pueblo of Isleta's Treatment as a State designation by EPA.

In order to assure attainment of the Pueblo of Isleta's surface water quality standards and other applicable Tribal law relating to water quality during construction of a project, or the life of a project conducted or completed under the NWP, the Pueblo of Isleta denies water quality certification, without prejudice, for NWP 3, 4, 5, 6, 7, 12, 13, 14, 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, 57, 58, 59, and A. Accordingly, for projects within the exterior boundaries of the Pueblo of Isleta where water quality certification is denied, the prospective permittee must apply for an individual permit where the Pueblo's certification will not impose conditions unrelated to water quality.



The Pueblo of Isleta confirms that the Army Corps of Engineers did not request certification of Nationwide permits numbered 1, 2, 8, 9, 10, 11, 24, 28, 35, and 55. In the opinion of the Corps, these permits could not reasonably be expected to result in a discharge into waters of the United States. Still, the decision of whether certification is needed rests with the certifying authority.

A general condition is that the Pueblo of Isleta requires all non-tribal parties and entities to obtain a Permission Agreement to Enter Pueblo of Isleta Reservation lands.

Please contact Isleta Tribal Administration at 505-869-3111 or Ramona Montoya, Water Quality Control Officer at 505-869-7565 or Ramona.Montoya@isletapueblo.com if you have any questions.

Sincerely

PUEBLO OF ISLETA


Eugene Jiron, Governor

cc by e-mail: Christina Schroeder Christina.L.Schroeder@usace.army.mil
Brad Crosson Steven.B.Crosson@usace.army.mil





Acoma Environment Department

P.O. Box 309
Acoma, NM 87034

Phone: 505-552-5161
Fax: 505-552-9700

Christina Schroeder
Acting Division Chief, Regulatory Division
Albuquerque District
USACE
4101 Jefferson Plaza, NE
Albuquerque, NM 87109-3435

Dear Acting Division Chief Schroeder:

Greetings. I am responding to the email request received from your respective agency regarding the request for the certification of the 2026 Nationwide Permits.

After review of the documentation provided, the Pueblo of Acoma hereby Waives its Certification and there is no need for the Pueblo of Acoma to request for a pre-filing meeting.

Respectfully,


Donna J. Martinez
Program Coordinator

cc: Tucker Feyder, USACE
Forrest Luna, USACE
Steven B. Crosson, USACE
POA Environment File

From: [Duran, Adam](#)
To: [Luna, Forrest D CIV USARMY CESPA \(USA\)](#)
Subject: [Non-DoD Source] Re: 401 WQC Request for the 2026 Nationwide Permits Pueblo of Pojoaque
Date: Thursday, August 21, 2025 9:50:56 PM
Attachments: [image002.png](#)
[image003.png](#)

Mr. Luna, the Pueblo of Pojoaque will waive certification at this time.

Adam L. Duran

Environment Director
Pueblo of Pojoaque
39 Camino Del Rincon
Santa Fe, NM 87506
505-455-5506 (Office)
505-455-2950 (Fax)
505-699-7146 (Mobile)

From: Luna, Forrest D CIV USARMY CESPA (USA) <Forrest.Luna@usace.army.mil>
Sent: Wednesday, August 20, 2025 3:22 PM
To: Duran, Adam <ADuran@pojoaque.org>
Subject: RE: 401 WQC Request for the 2026 Nationwide Permits Pueblo of Pojoaque

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Ms. Archuleta

I'm just following up on our earlier emails—Christina Schroeder reached out on June 18 and June 23, 2025, about the Nationwide Permit (NWP) reissuance and the request for Water Quality Certification (WQC) from your Pueblo. We haven't yet heard back to confirm that you received the information or that the six-month Reasonable Period of Time (RPOT) works for you. If you could please respond to this email or for your convenience, we have included a voting button in this email. Please select "Yes" if you have received the documentation and find the Reasonable Period of Time (RPOT)—six months from the original email date (ending December 18, 2025)—acceptable. If you have not received the information or if the RPOT is not acceptable, please select "No" or reach out directly.

If someone else should be the point of contact for this request, please let us know so we can follow up with the appropriate representative.

If you have any questions or would like to discuss this further, we would be happy to arrange a meeting. We can meet either:

Virtually via Microsoft Teams (accessible through any web browser), or

In-person at our District Office.

You are also welcome to call me directly—my number is listed below.

We appreciate your attention to this matter and look forward to your acknowledgment.

V/r

Forrest Luna
Regulatory Specialist
Albuquerque Division
U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

Phone 505-342-3678

Mobile 505-382-0071

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



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From: Schroeder, Christina L CIV USARMY CESPA (USA) <Christina.L.Schroeder@usace.army.mil>

Sent: Monday, June 23, 2025 1:05 PM

To: aduran@pojoaque.org

Cc: Luna, Forrest D CIV USARMY CESPA (USA) <Forrest.Luna@usace.army.mil>; Crosson, Steven B (Brad) CIV USARMY CESPA (USA) <Steven.B.Crosson@usace.army.mil>

Subject: RE: 401 WQC Request for the 2026 Nationwide Permits Pueblo of Pojoaque

Greetings,

In accordance with 40 CFR 121.6(a), the Albuquerque District is requesting confirmation from you as the certifying agency that the certification request was received for the 2026 NWP Re-Issuance. We are also requesting written confirmation the RPOT end date will be December 18, 2025 or sooner.

Respectfully,

Christina Schroeder
Acting Division Chief, Regulatory Division
Albuquerque District

Office: 505-342-3374
Mobile: 505-377-8799

U.S. Army Corps of Engineers
Albuquerque District - Regulatory Division
4101 Jefferson Plaza, NE
Albuquerque, New Mexico 87109-3435



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

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From: Schroeder, Christina L CIV USARMY CESPA (USA)
Sent: Wednesday, June 18, 2025 5:25 PM
To: aduran@pojoaque.org
Cc: Luna, Forrest D CIV USARMY CESPA (USA) <Forrest.Luna@usace.army.mil>; Crosson, Steven B (Brad) CIV USARMY CESPA (USA) <Steven.B.Crosson@usace.army.mil>
Subject: 401 WQC Request for the 2026 Nationwide Permits Pueblo of Pojoaque

Hello,
Please see our attached Water Quality Certification Request for the proposed NWP 2026 Re-issuance.
Please contact Forrest Luna if you have any questions.
Sincerely,

Christina Schroeder
Acting Division Chief, Regulatory Division

Albuquerque District

Office: 505-342-3374

Mobile: 505-377-8799

U.S. Army Corps of Engineers
Albuquerque District - Regulatory Division
4101 Jefferson Plaza, NE
Albuquerque, New Mexico 87109-3435



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

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From: Feyder, Tucker J CIV USARMY CESP (USA) <Tucker.J.Feyder@usace.army.mil>

Sent: Friday, May 2, 2025 11:34 AM

To: aduran@pojoaque.org

Cc: Allen, Kelly E CIV USARMY CESP (USA) <Kelly.E.Allen@usace.army.mil>; Schroeder, Christina L CIV USARMY CESP (USA) <Christina.L.Schroeder@usace.army.mil>

Subject: 401 WQC Pre-Filing Meeting Request for the 2026 Nationwide Permits

Good Morning,

Please see the attached pre-filing meeting request for the Water Quality Certification of the upcoming 2026 Nationwide Permits (NWP). Because the Corps is planning to propose reissuing most of the NWPs without changes, I have also attached the file named *Combined text of January 2021 and December 2021 Nationwide Permits* which contains information for the existing NWPs for pre-filing meeting consideration. Additional information regarding the NWPs can be found at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>.

The Corps looks forward to working with you throughout the water quality certification process for the proposed NWP. If you have any questions regarding this request, the NWP, or the Corps' Regulatory Program in general, please feel free to shoot me an email or give me a call at one of the phone numbers listed below.

Very Respectfully,

Tucker Feyder
Sr. Regulatory Project Manager
Southern Colorado Branch
U.S. Army Corps of Engineers
1970 East 3rd Avenue, Suite 109
Durango, Colorado 81301
PH: (970) 259-1604 x 2
Cell: (970) 462-8193

For more information on the Corps Regulatory Program, you can visit our website at:

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

Let us know how we're doing. Please complete the survey at:

<https://regulatory.ops.usace.army.mil/customer-service-survey/>



Office of the Governor

December 18, 2025

Forrest Luna Regulatory Specialist
Albuquerque Division
U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435
Sent Via Email to : Forrest.Luna@usace.army.mil

Re: Comments on Proposed Reissuance and Modification of Nationwide Permits

Dear Mr. Luna:

The Pueblo of San Felipe submits these comments in response to the U.S. Army Corps of Engineers' proposal to reissue and modify its Nationwide Permit (NWP) program, as described in the Federal Register notice.

The Pueblo recognizes the Corps' objective of providing regulatory efficiency through the NWP program. However, the Pueblo is concerned that the proposed NWPs rely heavily on streamlined authorizations, applicant self-screening, and discretionary safeguards that may not ensure early and meaningful government-to-government consultation with tribes, particularly where activities may affect tribal trust resources, cultural and historic properties, waters, or hydrologic systems connected to Pueblo lands.

The Pueblo urges the Corps to strengthen its approach to tribal consultation under the NWP program, including consultation prior to verification of NWP coverage where tribal interests may be affected, and to ensure robust compliance with Section 106 of the National Historic Preservation Act. The Pueblo also encourages the Corps to more fully consider cumulative impacts of NWP-authorized activities at the watershed scale and to clearly affirm that NWP authorizations do not impair or prejudice tribal reserved water rights.

Submission of these comments does not constitute consent, concurrence, or waiver of any rights of the Pueblo of San Felipe. The Pueblo reserves all rights to request consultation, raise objections, or seek additional review of any specific activity proposed to be authorized under a Nationwide Permit.

Thank you for the opportunity to comment. The Pueblo looks forward to continued government-to-government coordination with the Corps on matters affecting Pueblo lands, waters, and resources.

Sincerely,
Pueblo of San Felipe



Governor Anthony Ortiz



Lt. Governor James Tenorio

Cc:

Christina Schroeder, Christina.L.Schroeder@usace.army.mil

Steven Crosson, Steven.B.Crosson@usace.army.mil