



STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

March 7, 2012

Michael S. Jewell
 Chief, Regulatory Branch
 U.S. Army Corps of Engineers, Sacramento District
 1325 J Street
 Sacramento, CA 95814-2922

Dear Mr. Jewell,

On February 21, 2012 the U.S. Army Corps of Engineers (Corps) published the Final Notice to reissue 48 of the 49 existing Nationwide Permits (NWP) in the Federal Register (Volume 77, Number 34, 10184 -10290). The Corps will issue two new NWPs (51 and 52), three new general conditions and three new definitions. Draft Regional Conditions for Nevada were proposed for comment in November 2011 and found to be acceptable controls to help protect Waters of the State.

In Nevada, the Division of Environmental Protection, Bureau of Water Quality Planning (BWQP) is responsible for issuing or denying 401 Water Quality Certification (WQC) for the NWPs.

In deciding to issue a WQC, there needs to be reasonable assurance that the proposed discharge will comply with all applicable State and Federal laws, policies and regulations governing the protection of the beneficial uses of the State's Waters. In determining WQC the State must make the determination that the NWPs will adequately protect the Waters of the State for those activities with only minimal adverse effects on the aquatic environment.

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

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

GROUP A Nationwide Permits for which 401 Certification is Waived

No.	Description	Special Conditions
8	Oil and Gas Structures on the Outer Continental Shelf	None
21	Surface Coal Mining Operations	None
24	Indian Tribe or State Administered Section 404 Programs	None
34	Cranberry Production Activities	None
48	Existing Commercial Shellfish Aquaculture Activities	None
49	Coal Re-mining Activities	None
50	Underground Coal Mining Activities	None

For the NWPs listed below in **Group B**, the activity is **certified for water quality**. *However, notification must still be provided to NDEP by filling out and submitting a 401 application to BWQP. To avoid project delays, an application should be submitted as early as possible prior to the start of the project. If the applicant is not contacted via email by BWQP within 30 days of the date the application is received, the applicant may assume that the project meets the conditions of certification and may proceed with the project. This time frame is consistent with 33 CFR 330.1(e) (1). **An email will be sent to the project proponents acknowledging that the activity meets the condition for certification. No formal certification letter will be issued.***

GROUP B Nationwide Permits for which Water Quality is Certified

No.	Description	Special Conditions
1	Aids to Navigation	Notification Required
4	Fish & Wildlife Harvesting, Enhancement, Attraction Devices & Activities	Notification Required
5	Scientific Measurement Devices	Notification Required
6	Survey Activities	Notification Required
9	Structures in Fleeting and Anchorage Areas	Notification Required
10	Mooring Buoys	Notification Required
11	Temporary Recreational Structures	Notification Required
20	Response Operations for Oil and Hazardous Substances	Notification Required
22	Removal of Vessels	Notification Required
28	Modifications of Existing Marinas	Notification Required
30	Moist Soil Management for Wildlife	Notification Required
32	Completed Enforcement Actions	Notification Required
38	Cleanup of Hazardous and Toxic Waste	Notification Required

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

GROUP C Nationwide Permits for which 401 Certification is Denied Without Prejudice

No.	Description	Special Conditions
2	Structures in Artificial Canals	None
3	Maintenance	None
7	Outfall Structures and Associated Intake Structures	None
12	Utility Line Activities	None
13	Bank Stabilization	None
14	Linear Transportation Projects	None
15	U.S. Coast Guard Approved Bridges	None
16	Return Water From Upland Contained Disposal Areas	None
17	Hydropower Projects	None
18	Minor Discharges	None
19	Minor Dredging	None
23	Approved Categorical Exclusions	None
25	Structural Discharges	None
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities	None
29	Residential Developments	None
31	Maintenance of Existing Flood Control Facilities	None
33	Temporary Construction, Access, and Dewatering	None
35	Maintenance Dredging of Existing Basins	None
36	Boat Ramps	None
37	Emergency Watershed Protection and Rehabilitation	None
39	Commercial and Institutional Developments	None
40	Agricultural Activities	None
41	Reshaping Existing Drainage Ditches	None
42	Recreational Facilities	None
43	Stormwater Management Facilities	None
44	Mining Activities	None
45	Repair of Uplands Damaged by Discrete Events	None
46	Discharges in Ditches	None
51	Land Based Renewable Energy Generation Facilities	None
52	Water Based Renewable Energy Generation Pilot Projects	None

A signed 401 application for the above activities is required and must be submitted to NDEP-BWQP as soon as possible prior to the start of the project. Project site photos and a map clearly delineating the project location and waterbodies affected must also be provided. **A formal letter or email will be issued either certifying the project, waiving the 401 or denying the certification.** If circumstances (e.g. incomplete application and obtaining additional information) require a period of time longer than 60 days for review, NDEP will contact the project proponents to discuss a new time frame. This is consistent with 33 CFR 330.4 (c) (6). Applications are available online at <http://ndep.nv.gov/bwqp/401cert.htm>.

All 401 Water Quality Certifications will be valid for the time period of the 404 permit issued by the Corps for each project. If you have any questions about the certification of these Nationwide Permits, please contact me at (775) 687-9456 or via email at jstone@ndep.nv.gov.

Sincerely,



Jeanmarie Stone
Environmental Scientist III
Bureau of Water Quality Planning

Cc: Kristine Hansen, Senior Project Manager, Reno Army Corps Field Office
Patricia McQueary, Senior Project Manager, St. George Army Corps Field Office
Dave Gaskin, P.E., Deputy Administrator, NDEP
Kathy Sertic, Chief, NDEP Bureau of Water Quality Planning
Al Tinney, P.E., Chief, NDEP Bureau of Water Pollution Control,