US Army Corps of Engineers®

PUBLIC NOTICE

Published: March 10, 2026

Louisville, Detroit, and Chicago Districts

Announcing Reissuance of the Nationwide Permits (NWPs), Regional Conditions and Water Quality Certifications for the State of Indiana

REISSUANCE OF NWPs: 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 56 existing nationwide permits (NWPs) and one new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. These 57 NWPs will go into effect on March 15, 2026, and will expire on March 15, 2031. One NWP was not reissued.

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

Pursuant to 33 CFR 330.6(b), activities which have commenced (i.e, are under construction) or are under contract to commence in reliance upon an NWP will remain authorized provided the activity is completed within twelve months of the date of an NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d).

REGIONAL CONDITIONS: The Great Lakes and Ohio River Division (LRD) approved the Indiana Regional Conditions for the 2026 NWPs in the State of Indiana on March 06, 2026. The Indiana Regional Conditions for the 2026 NWPs for the State of Indiana become effective on March 15, 2026, and are attached to this public notice. Additionally, the Louisville District has posted the Regional Conditions for the State of Indiana for the 2026 NWPs at: https://www.lrd.usace.army.mil/wetlands-permits/

401 WATER QUALITY CERTIFICATION: The Indiana Department of Environmental Management (IDEM) denied the 401 WQC for NWPs 8, 16, 17, 20, 23, 24, 31, 32, 34, 35, 38, 41, 43, 48, 53, 54, 55, and 59, therefore an individual 401 WQC will be required for a project authorized by NWPs 8, 16, 17, 20, 23, 24, 31, 32, 34, 35, 38, 41, 43, 48, 53, 54, 55, and 59. The IDEM issued general WQCs for NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 18, 19, 21, 22, 25, 27, 28, 29, 30, 33, 36, 37, 39, 40, 42, 44, 45, 46, 49, 50, 51, 57, 58, and 60. An individual 401 WQC will be required by the IDEM if the proposed activities do not meet the conditions of the general WQC. The 401 WQC for

the 2026 NWPs becomes effective on March 15, 2026, and is attached to this public notice.

The United States Environmental Protection Agency (USEPA), Region 5, granted certification without conditions for NWPs 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 60 for projects in Indian Country within Indiana on December 11, 2025. The certification process did not begin for NWP 1, 2, 8, 9, 10, 11, 24, 28, 35, and 55, because these NWPs could not reasonably be expected to result in the need for a Certification and the USEPA neither certified nor waived certification for these NWPs. The 401 WQC for the 2026 NWPs becomes effective on March 15, 2026, and is attached to this public notice.

The Louisville District has posted the Section 401 WQC's on the website referenced in the link noted above. The Louisville**,** Detroit, and Chicago Districts are not accepting comments on this announcement.

FOR ADDITIONAL INFORMATION:

Interested parties can access the January 8, 2026, final action and related documents at: *https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/*

You may submit a request through https://rrs.usace.army.mil/rrs. If additional information is needed about permit requirements, please contact the Regulatory Division of the Louisville District, as provided at the following link: https://www.lrd.usace.army.mil/wetlands-permits/.

Enclosures: 2026 Indiana Regional Conditions, the Section 401 WQC for the State of Indiana and the U.S. Environmental Protection Agency Region 5's Clean Water Act Section 401 WQC of the 2026 Nationwide Permits.

2026 NATIONWIDE PERMIT REGIONAL CONDITIONS FOR THE STATE OF INDIANA

These Regional Conditions are in addition to but do not supersede the requirements in the Federal Register, Volume 91 No. 768, January 8, 2026. Information on pre-construction notification (PCN) procedures can be found in General Condition 32 *Pre-Construction Notification* (pp 881), while *loss of waters of the United States* is defined in the Nationwide Permit Definitions (pp 884).

Regional Conditions Applicable to Specific NWPs within Indiana:

1. Notification in accordance with General Condition 32 is required to the Corps for impacts to waters of the United States exceeding 0.1 acre for the NWP listed below.

   NWP 33 (Temporary Construction, Access, and Dewatering)

2. For utility lines placed across the channel of an authorized Federal navigation project, the following conditions apply: 1) the line must be embedded at least 6 feet below the authorized Federal channel depth; 2) existing and proposed elevation information on precise plan and section scale drawings are required; and 3) within 60 days after construction, an as-built survey must be provided indicating the points of entry and exit of the installation.

   NWP 12 (Oil or Natural Gas Pipeline Activities)
   NWP 57 (Electric Utility Line and Telecommunications Activities)
   NWP 58 (Utility Line Activities for Water and Other Substations

Regional Conditions Applicable to all NWPs within Indiana:

3. Notification in accordance with General Condition 32 is required to the Corps for all activities affecting Designated Salmonid Waters, Outstanding State Resource Waters, Exceptional Use Streams, and Critical Wetlands and Critical Special Aquatic Sites (See Attachments 1 and 2).

4. Notification in accordance with General Condition 32 is required to the Corps for all activities which would cause, alter, or affect diversion of water from the Great Lakes basin.

5. Notification in accordance with General Condition 32 is required to the Corps for all activities to jurisdictional wetlands associated with >0.1 acre of permanent conversion of wetland habitat type when the project involves a regulated discharge of fill to Waters of the U.S.

6. Notification in accordance with General Condition 32 is required to the Corps for all activities located in the following Section 10 waterways:

Louisville District:
Ohio River

Detroit District:
All Section 10 waterways
(https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll9/id/2602)

Chicago District:
All Section 10 waterways
(https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll9/id/2875)

7. Applications and requests should be submitted electronically utilizing the Regulatory Request System (RRS) or via email.

   a. To submit applications via the RRS, visit https://rrs.usace.army.mil/rrs. Click on the "Apply for a Permit" box and follow the prompted instructions to enter project information and submit electronic project files.

      The RRS is the preferred method for the public to submit requests for pre-application meetings, jurisdictional determinations, and individual and general permits.

   b. Alternately, the PCN can be submitted to the appropriate Corps District via email, or in extenuating circumstances, via regular mail (see Attachment 3 for mailing addresses). Electronic submittals via email should include the following:

      a) Subject Line with the name of the applicant, type of request, and location (County and State). Example: RE: Doe, John, DA Permit Application, Marion County, IN
      b) Brief description of the request and contact information (phone number, mailing address, and email address) for the applicant and/or their agent.
      c) Project Location: Address and Latitude/Longitude in decimal degrees (e.g. 39.7687, -86.1628).

      All forms that require signature must be digitally signed or signed manually, scanned and then sent electronically.

      Electronic documents must have sufficient resolution to show project details. In order to have the highest quality documents, the original digital documents should be converted to PDF rather than providing scanned copies of original documents.

      The electronic application and attached documents must not exceed 10 megabytes (10MB).

Attachment 1: Indiana Waters Designated for Special Protection

Salmonid Waters [327 IAC 2-1.5-5(a)(3)]

(1) LaPorte County
  (a) Trail Creek and its tributaries downstream to Lake Michigan
  (b) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch
  (c) Galena River and its tributaries

(2) Porter County
  (a) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch
  (b) Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan

(3) St. Joseph County
  (a) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line

(4) Open waters of Lake Michigan (Indiana)

(5) IDNR-designated waters for put-and-take trout fishing
http://www.in.gov/dnr/fishwild/5457.htm

Outstanding State Resource Waters [327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), 327 IAC 2-1.5-19(b)]

(1) Fountain County
  (a) Bear Creek from the bridge on CR 450 N to its confluence with the Wabash River
  (b) Unnamed Tributary to Bear Creek within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch
  (c) Rattlesnake Creek from the bridge on CR 450 N to its confluence with Bear Creek

(2) Montgomery County
  (a) Indian Creek from the bridge on CR 650 W downstream to its confluence with Sugar Creek
  (b) Clifty Creek within the boundaries of Pine Hills Nature Preserve

(3) Orange County
  (a) Lost River and all surface and underground tributaries upstream from the Orangeville Rise and the Rise of Lost River
  (b) Lost River mainstem from Orangeville Rise downstream to its confluence with East Fork White River

(4) Washington County
    (a) Blue River from the confluence of the West and Middle Forks of the Blue River downstream to its confluence with the Ohio River
    (b) South Fork Blue River from the bridge on Horner's Chapel Road downstream to its confluence with the Blue River

(5) Warren County
    (a) Big Pine Creek downstream of the bridge on SR 55 near the town of Pine Village to its confluence with the Wabash River
    (b) Mud Pine Creek from the bridge on the County Road between Brisco and Rainsville to its confluence with Big Pine Creek
    (c) Fall Creek from the bridge on Old CR 119 in the NW quarter of Section 21, Township 22N, Range 8W downstream to its confluence with Big Pine Creek

(6) Washington / Crawford / Harrison County
    (a) Blue River from river mile 57.0 to river mile 11.5

(7) Carroll / Tippecanoe County
    (a) North Fork Wildcat Creek from river mile 43.11 to river mile 4.82

Attachment 2: Critical Wetlands and Special Aquatic Sites

IDEM defines Critical Wetlands and Critical Special Aquatic Sites to be synonymous with Rare and Ecologically Important Wetland Types under 327 IAC 17-1-3(3)(B)

Acid Bog
An acidic wetland of kettle holes in glacial terrain. Acid bogs can be graminoid (*Carex spp.* and *Sphagnum spp*.) or low shrub (*Chamaedaphne calyculata* and *Betula pumila*). The graminoid bog can be a floating, quaking mat. The soils in acid bogs are saturated and acidic peat. Bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. When a sphagnum mat floats, it rises and falls with the water table. Acid bogs can be found in northern Indiana.

Acid Seep
A bog-like wetland typically found in unglaciated hill regions. This community is a small groundwater-fed wetland located primarily in upland terrain. A thin layer of muck may lie over a mineral substrate. The soil reaction is acid. This seep community is characterized by flowing water during at least part of the year. Acid seeps are located primarily in southern Indiana.

Circumneutral Bog
A bog-like wetland that receives groundwater. Circumneutral bogs can be a mosaic of tall shrub bog, graminoid bog, and other communities. The graminoid bog often occurs on a quaking or floating mat. Although a few bogs occur in unglaciated regions, most are found in glacial ice-block depressions. The soils in circumneutral bogs are usually peat, or other low nutrient organic substrates, which are saturated and circumneutral to slightly acid. Circumneutral bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. Circumneutral bogs are usually found in northern Indiana.

Circumneutral Seep (Seep-Spring)
A groundwater-fed wetland on organic soil. It is primarily herbaceous. Species typically include marsh marigold (*Caltha palustris*) and skunk cabbage (*Symplocarpus foetidus*) with a scattered tree canopy. Circumneutral seep is typically situated on or near the base of a slope. The soil is typically circumneutral muck. This seep community is characterized by slowly flowing water during at least part of the year. Circumneutral seeps can be found scattered throughout Indiana.

Cypress Swamp
Seasonally to permanently inundated wetlands found in depressions and sloughs of large bottomlands associated with the Wabash/Ohio River system. Poorly to very poorly drained soils characterize this environment. Bald cypress (*Taxodium distichum*) is present, and green ash (*Fraxinus pennsylvanica*), silver maple (*Acer saccharinum*), and overcup oak (*Quercus lyrata*) are also usually present. This community is restricted to extreme southwest Indiana.

Dune and Swale
An ecological system consisting of a mixture of upland (black oak sand savanna, dry to mesic sand prairie) and wetland (pond, panne, sedge meadow, marsh, wet prairie) natural communities. These communities occur in long, narrow, linear complexes, with the dry communities occupying sand ridges, and the wet communities occurring in the intervening swales. Black oak (*Quercus velutina*), paper birch (*Betula papyrifera*), jack pine (*Pinus banksiana*), and prairie vegetation typically occur on the ridges, and sedges, reeds, and marsh/aquatic vegetation line are found in the swales. Water levels are directly influenced by ground water, with the interdunal swales controlled largely by lateral flow through porous beach ridges. Dune and swale is restricted to extreme northwest Indiana, near Lake Michigan.

Fen
A calcareous, groundwater-fed wetland. Fens are often a mosaic of grassy areas, sedgy areas, graminoid-shrubby cinquefoil, and tall shrub areas. The extent of the tall shrub component of fens may be determined by fire frequency and/or soil moisture. Drying of the soil increases the growth of shrubs. Fens typically occur in the vicinity of glacial moraines. Fens typically have a muck or peat substrate. The water level fluctuates seasonally and is fed by groundwater. Fens can be found in central and northern Indiana.

Forested Fen
A tree-dominated wetland on organic soil which receives groundwater. Forested fens are often a mosaic of treed areas, tall shrub areas, and herbaceous areas. A tall shrub layer is often well developed in forested fens. Indicative species typically include tamarack (*Larix laricina*), black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), poison sumac (*Toxicodendron vernix*), and red maple (*Acer rubrum*). Forested fens occur in wet lowlands, where moraines meet outwash features or depressions. Forested fens have saturated, poorly to very poorly drained soils that are often muck, but some seasonal flooding can occur in forested fens that are especially level. This community is a late successional stage of fen or circumneutral bog. Forested fens occur in northern Indiana.

Forested Swamp
A seasonally inundated to intermittently exposed wetland of large river bottoms. Forested swamps do not receive direct flow from river flooding except under exceptional circumstances. Forested swamps occur in depressions, sloughs and large bottomlands, typically dominated by tree species such as swamp cottonwood (*Populus heterophylla*), green ash (*Fraxinus pennsylvanica*), and swamp white oak (*Quercus bicolor*). In northern Indiana important tree species include black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), and red maple (*Acer rubrum*). Poorly to very poorly drained and aerated soils characterize the swamp environment. Soils usually are mineral not muck or peat. This community type is found throughout Indiana.

Marl Beach
A fen-like community located on the marly muck shorelines of lakes. Marl precipitate is evident. A thin layer of water is present in spring but dries down in summer. Draw-down of a lake creates additional area for this community to develop on. Marl beaches can be found in extreme northern Indiana, primarily in the northeast.

Muck Flat
A shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a peat substrate. The muck flats can float on the water surface, but during high water periods are usually inundated. The water level of a basin fluctuates seasonally or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Muck flats are found in northern Indiana.

Panne
A groundwater-fed herbaceous wetland occupying interdunal swales near Lake Michigan. Pannes are located on the lee side of the first or second line of dunes from the lakeshore. The soil is wet, calcareous sand. Pannes are located in counties bordering Lake Michigan.

Sand Flat
A shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a sand substrate. During high water periods sand flats at the margins of lakes or ponds are inundated. The water level of a basin fluctuates seasonally or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Sand flats occur in northern Indiana, and in the Plainville Sand Section of southwest Indiana.

Sedge Meadow
An herbaceous wetland typically dominated by graminoid species such as flat sedge (*Cyperus spp*.), spike rush (*Eleocharis spp*.), rushes (*Juncus spp*.) and sedges (*Carex spp*.). Sedge meadow is an herbaceous wetland of stream margins and river floodplains, and lake margins or upland depressions. Streamside sedge meadows are frequently flooded in the spring and early summer. Sedge meadows of lake margins and depressions often contain standing water during wet months and after heavy rains; during dry periods, the water level is at or just below the substrate. Sedge meadow usually occupies the ground between a marsh and the uplands, or a shrub swamp or wet forest. Periodic high water can kill trees and shrubs invading sedge meadows. Sedge meadows can be found in the northern half of the state.

Shrub Swamp
A shrub-dominated wetland that is seasonally inundated to intermittently exposed. This community occurs in depressions and the substrate in either mineral soils or muck, as

opposed to peat which is characteristic of bogs. Shrub swamp is characterized by non-flowing or very slowly flowing water with levels that fluctuate seasonally. Shrub swamps are persistent, though considered successional. Two opportunistic native shrubs, sandbar willow (*Salix exigua*) and gray dogwood (*Cornus racemosa*), by themselves, are not indicative of shrub swamps. This community type is found throughout Indiana.

Sinkhole Pond
Water-containing depressions in karst topography. Sinkhole ponds are found in the Mitchell Karst Plain in south-central Indiana.

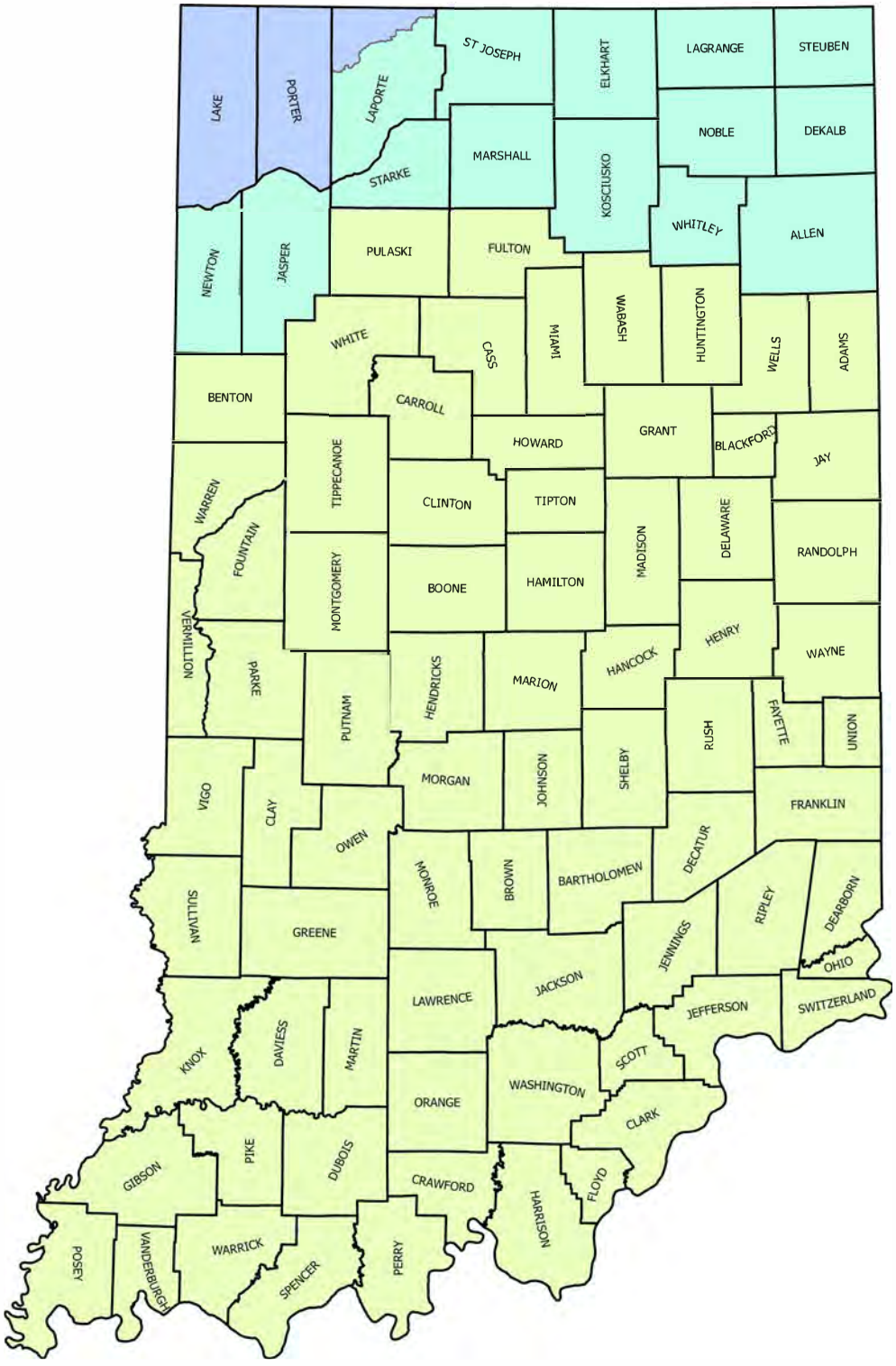
Sinkhole Swamp
Depressions in karst topography dominated by tree or shrub species. Sinkhole swamps are found in the Mitchell Karst Plain in south-central Indiana.

Wet Floodplain Forest
A broadleaf deciduous forest of river floodplains. Wet floodplain forests occur in depressions and flats on narrow to wide floodplains and also on recently exposed substrates that are frequently flooded. Wet floodplain forests are frequently flooded and may have standing water seasonally to permanently present. Wet floodplain forests occur statewide.

Wet Prairie
An herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp*.). Vegetation height is often 2-3 m. The species diversity of wet prairies is lower than that of mesic prairies. Wet prairies occur in deep swales and the substrate ranges from very deep black mineral soils (which are high in organic matter) to muck. Ponding in spring lasts for several weeks prior to drainage. Wet prairies commonly occur in the Grand Prairie Natural Region, the Tipton Till Plain and the Bluffton Till Plain, with a few examples found in the Northern Lakes Natural Region.

Wet Sand Prairie
An herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp*.). Vegetation height is often 2-3 m. The species diversity of wet prairies is lower than that of mesic prairies. Wet lowland prairies occur in deep swales and the substrate is sand, sometimes mixed with muck. Flooding is a regular springtime occurrence in wet sand prairie and may last several weeks. This community occurs in a mosaic with marsh and other wetlands, and with upland prairies and sand savannas. Fire was frequent occurrence, but more common in the fall when waters had receded. This community occurs in northwest Indiana and in the Plainsville Sands area.

ATTACHMENT 3



Louisville District

U.S. Army Corps of Engineers
Louisville District
ATTN CELRL-RD
See Website for Mailing Addresses
https://regulatory.ops.usace.army.mil/offices/
Phone (502) 315-6733
Email:
CELRL.Door.To.The.Corps@usace.army.mil

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US Army Corps of Engineers®

Indiana Regulatory District Boundaries

Date: 5/28/2024

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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(800) 451-6027 • (317) 232-8603 • Fax (317) 233-6647 • www.idem.IN.gov

Mike Braun
Governor

Clint Woods
Commissioner

Section 401 Water Quality Certification for the 2026 Reissuance of the Nationwide Permits

IDEM Authorization Number:	2025-494-00-NWP-WQC
Authority:	327 IAC 2; CWA Sections 301, 302, 303, 306, 307, & 401
Issuance Date	December 16, 2025
Effective Date:	Date of issuance of the 2026 Nationwide Permits
Expiration Date:	This certification shall expire with the expiration of the federal permits it certifies.
Approved:	Martha Clark Mettler Assistant Commissioner Office of Water Quality
Applicant / Permittee:	U.S. Army Corps of Engineers

The Office of Water Quality has reviewed the Federal Register Notice dated June 18, 2025, announcing the proposed reissuance of the Clean Water Act Section 404 Nationwide Permits (NWPs). The Federal Register Notice will be used by the U.S. Army Corps of Engineers (USACE) as an application for a Clean Water Act Section 401 Water Quality Certification (CWA Section 401 WQC).

Under Section 401 of the Clean Water Act, a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a CWA Section 401 WQC is issued, verifying compliance with water quality requirements. In Indiana, the Indiana Department of Environmental Management (IDEM) is the certifying authority and certification decisions are based on Indiana's water quality standards (WQS) found at 327 IAC 2 http://iac.iga.in.gov/iac//iac_title?iact=327

Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical, and biological integrity of the state's waters. Mitigation

of dredge and fill impacts to Indiana's water resources is required to maintain water quality. To ensure water quality standards are met, IDEM conditions the NWPs as outlined in this CWA Section 401 WQC. Additional information about the conditions can be found in Attachment 3.

Based on available information, it is the judgment of this office 39 of the 59 NWPs will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act subject to the conditions set forth in this Certification. Therefore, subject to the following conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 Water Quality Certification for the 39 NWPs. Any changes in language or scope of the NWPs not detailed in the aforementioned Federal Register Notice, or as modified by the conditions below, are not authorized by this Clean Water Act Section 401 Certification.

It is the judgement of this office that NWPs 8, 48, and 55 are activities that do not occur in Indiana. NWPs 16, 17, 20, 23, 24, 31, 32, 34, 35, 38, 41, 43, 53, 54, and 59 authorize activities that will require a site-specific Individual CWA Section 401 WQC. Further, these NWPs are denied in the state of Indiana, as the agency cannot determine if these activities will comply with Indiana's water quality standards found at 327 IAC 2. Any activities that qualify under these NWPs will require an Individual 401 WQC.

Table 1. Section 401 Water Quality Certification decisions for NWPs in effect for the State of Indiana, 2026.

NWP	Activity	Decision	Conditions
A	Activities to Improve Passage of Fish and Other Aquatic Organisms	Approve	General & Specific
1	Aids to Navigation	Approve	General
2	Structures in Artificial Channels	Approve	General
3	Maintenance	Approve	General & Specific
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices	Approve	General
5	Scientific Measurement Devices	Approve	General
6	Survey Activities	Approve	General
7	Outfall Structures and Associated Intake Structures	Approve	General & Specific
8	Oil and Gas Structures on the Outer Continental Shelf	N/A	N/A
9	Structures in Fleeting and Anchorage Areas	Approve	General
10	Mooring Buoys	Approve	General
11	Temporary Recreational Structures	Approve	General
12	Oil or Natural Gas Pipeline Activities	Approve	General & Specific

13	Bank Stabilization	Approve	General & Specific
14	Linear Transportation Projects	Approve	General
15	U.S. Coast Guard Approved Bridges	Approve	General
16	Return Water from Upland Contained Disposal Areas	Deny	N/A
17	Hydropower Projects	Deny	N/A
18	Minor Discharges	Approve	General
19	Minor Dredging	Approve	General
20	Response Operations for Oil and Hazardous Substances	Deny	N/A
21	Surface Coal Mining Activities	Approve	General
22	Removal of Vessels	Approve	General
23	Approved Categorical Exclusions	Deny	N/A
24	Indian Tribe or State Administered Section 404 Programs	Deny	N/A
25	Structural Discharges	Approve	General & Specific
26	Reserved	N/A	N/A
27	Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities	Approve	General & Specific
28	Modifications to Existing Marina	Approve	General
29	Residential Developments	Approve	General & Specific
30	Moist Soil Management for Wildlife	Approve	General
31	Maintenance of Existing Flood Control Facilities	Deny	N/A
32	Completed Enforcement Actions	Deny	N/A
33	Temporary Construction, Access, and Dewatering	Approve	General
34	Cranberry Production Activities	Deny	N/A
35	Maintenance Dredging of Existing Basins	Deny	N/A
36	Boat Ramps	Approve	General & Specific
37	Emergency Watershed Protection and Rehabilitation	Approve	General & Specific
38	Cleanup of Hazardous and Toxic Waste	Deny	N/A
39	Commercial and Institutional Developments	Approve	General & Specific
40	Agricultural Activities	Approve	General & Specific
41	Reshaping Existing Drainage Ditches	Deny	N/A

42	Recreational Facilities	Approve	General & Specific
43	Stormwater Management Facilities	Deny	N/A
44	Mining Activities	Approve	General & Specific
45	Repair of Uplands Damaged by Discrete Events	Approve	General
46	Discharges to Ditches	Approve	General
47	Reserved	Deny	N/A
48	Commercial Shellfish Mariculture Activities	Deny	N/A
49	Coal Remining Activities	Approve	General
50	Underground Coal Mining Activities	Approve	General
51	Land-Based Renewable Energy Generation Facilities	Approve	General
52	Water-Based Renewable Energy Generation Pilot Projects	Approve	General
53	Removal of Low-Head Dams	Deny	N/A
54	Living Shorelines	Deny	N/A
55	Seaweed Mariculture Activities	Deny	N/A
56	Reserved	N/A	N/A
57	Electric Utility Line and Telecommunication Activities	Approve	General & Specific
58	Utility Line Activities for Water and Other Substances	Approve	General & Specific
59	Water Reclamation and Reuse Facilities	Deny	N/A

Terms of this CWA Section 401 WQC

(1) Failure to comply with the terms and conditions of this CWA Section 401 WQC may result in enforcement action. If an enforcement action is pursued, you could be assessed for up to $25,000 per day in civil penalties. Criminal liability may apply if it is determined that this CWA Section 401 WQC was violated willfully or negligently.

(2) Obtain any other permits or authorizations required for this project or related activities from IDEM or any other local, state, or federal agency or person.

(a) Land-disturbing activities of one (1) acre or more or disturbances of less than an acre that are part of a larger common plan will require permit coverage for discharges associated with construction site run-off. Additional information should be obtained through the IDEM Stormwater Program at

www.in.gov/idem/stormwater or by phone at 317-233-1864 or via email at Stormwat@idem.IN.gov.

(b) The Indiana Department of Natural Resources should be contacted concerning the possible requirement of natural freshwater lake or floodway permits at https://www.in.gov/dnr/water/regulatory-permit-programs/ or by phone at 317-232-4160 or toll free at 877-928-3755.

Applicant Responsibilities

An applicant seeking coverage under this CWA Section 401 WQC must:

(1) Demonstrate, via letter from the Indiana Department of Natural Resources (IDNR), Division of Nature Preserves, Indiana Heritage Data Center (IDHC) that no state endangered, threatened, or rare (ETR) species are documented on a permanent or seasonal basis within ½-mile radius of the proposed project site.

(a) Information on obtaining an ETR letter from the IDNR can be found at the following website (current as of August 2024): https://indhcdatarequest.dnr.in.gov/

(b) If any species are listed in the ETR letter, the applicant must provide further documentation from the IDNR that states the project will not impact the listed species. Information on obtaining further documentation from the IDNR regarding species impacts will be provided in the ETR letter.

(2) Submit a notice of intent using the most current version of the Section 401 WQC Regional General Permit notification form as provided by IDEM (referred to hereinafter as the "notification") at least 30 days prior to the activity.

Note: Upon adoption of an online system, IDEM will only accept applications and other documents through the online portal.

(a) Notification is required for any activities that qualify under the Clean Water Act Section 404 NWPs. Directional boring does not require notification to IDEM, provided the activity does not involve a discharge of dredge or fill material into WOTUS and the project follows best management practices.

(b) The notification submitted to the IDEM Office of Water Quality must, at a minimum, provide the following information:
1. Applicant information
2. Project location, including maps
3. Description and photos of existing project site conditions
4. Description of all temporary and permanent impacts to all aquatic resources onsite

5. Illustrations of the proposed project plans including, but not limited to, cross sections depicting the bankfull width or ordinary high water mark and extent of fill within streams, cross sections depicting extent of fill within wetlands or open water, engineering plans, etc.
6. Restoration plan for returning all temporary impact areas to pre-construction grades, contours, and vegetative conditions. The restoration plan should include plans for the removal of temporary fill, grading/compaction, seeding, planting, success criteria, and any necessary maintenance/monitoring
7. Copies of all correspondence from USACE, if applicable
8. ETR letter mentioned in Applicant Responsibility (1)
    i. Documentation of federally listed species cannot be used as a substitute for ETR letter.

(c) Failure to submit all required information will result in the project being considered as not meeting the conditions of this Section 401 WQC.

(3) Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials, to enter upon the applicant's property to inspect the project site during the review of a proposed project.

(4) Submit an application for an Individual Section 401 WQC if the project does not meet any single condition of this Section 401 WQC.

(a) Submittal of an application for an Individual Section 401 WQC does not guarantee the issuance of a Section 401 Water Quality Certification, as IDEM may determine the proposed activities do not meet State WQS.

Permittee Responsibilities

Permittees qualifying for impacts under this CWA Section 401 WQC must:

(1) Execute the project per the information contained in the notification submitted to IDEM.

(2) Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials to:

(a) Enter upon the permittee's property.
(b) Access and copy at reasonable times, any records that must be kept under the conditions of this certification.
(c) Inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facility or device; practices required by this certification; and any mitigation wetland site.

(d) Sample or monitor any discharge of pollutants or any mitigation site.

(3) Deposit any dredged material in a contained disposal area outside of any water of the state and implement appropriate measures to prevent sediment run-off to any waterbody.

(a) An upland disposal area is defined as an area of dry land that does not contain any water of the state as defined by IC 13-11-2-265 which includes all waters of the United States.

(4) Clearly mark wetlands and streams that are to remain undisturbed on the project site.

(5) Restrict channel work and vegetation clearing to the minimum necessary for the installation of any structures. Where possible, work from only one side of the channel and, from the side with no adjacent wetlands. If no wetlands are present, work from the side with the least amount of woody vegetation.

(6) Stabilize and re-vegetate disturbed soils as final grades are achieved. Initiation of stabilization must occur immediately or, at minimum, within the requirements of a construction site run-off permit after work is completed. Use a mixture of native herbaceous species beneficial for wildlife or an emergent wetland seed mix wherever possible and appropriate. Tall fescue may only be planted in ditch bottoms and ditch side slopes and must be a low endophyte seed mix. Stabilize the channel before releasing stream flows into the channel.

(7) Install run-off and sediment control measures prior to any land disturbance to manage stormwater and to minimize sediment from leaving the project site or entering a waterbody.

(a) All operations must phase project activities to minimize the impact of sediment to the receiving waterbody(ies). Erosion and sediment control measures must be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities. Wetlands and/or waterbodies adjacent to land-disturbing activities must be protected with appropriate sediment control measures.

(b) As work progresses, if the area is to be left temporarily undisturbed for 15 days or more, all areas void of protective cover must be re-vegetated or stabilized. Areas that are to be re-vegetated must utilize mulch that is anchored or, under more severe conditions, erosion control blankets.

(c) Erosion control blankets must be biodegradable, with loose-woven/leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes, frogs, and turtles.

(d) Additional standards and specifications for stormwater management, including erosion and sediment control can be obtained in the Indiana Stormwater Quality Manual (https://www.in.gov/idem/stormwater/resources/indiana-storm-water-quality-manual/) or similar guidance documents.

General Conditions of this CWA Section 401 WQC

The following conditions apply to any project which qualifies under any NWP approved by this certification. All activities that do not meet these conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC. In addition to the General Conditions below, some NWPs have specific conditions which are summarized in Table 1 above. Notwithstanding the following, in no event may impacts exceed the federal limits applicable to the subject NWP.

(1) This CWA Section 401 WQC does not:

(a) Convey any property rights of any sort, or any exclusive privileges.

(b) Preempt any duty to obtain federal, state, or local permits or authorizations required by law for the execution of the project or related activities.

(2) This CWA Section 401 WQC does not authorize:

(a) Impacts or activities that do not meet the terms and conditions of this Section 401 WQC. Such activities require an individual Section 401 WQC from IDEM.

(b) Any injury to permittees or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations.

(c) Changes to the original plan design detailed in the notification. Any modifications will require additional notification and a new verification.

(d) Discharges associated with the construction of stormwater management facilities.

(e) The discharge of pollutants, principally sediment, associated with stormwater run-off without construction stormwater permit coverage.

(f) The discharge of material other than clean fill and uncontaminated dredged material.

1. Clean fill, for purposes of this WQC, means uncontaminated rocks, bricks, concrete without rebar, road demolition waste materials other

than asphalt, or earthen material. It does not include any material that would cause water pollution.

(g) Activities on or in any of the State's waters that have been designated as salmonid waters (cold water streams) or tributaries of salmonid waters within a two river mile reach upstream from the confluence with the salmonid water (see Attachment 1) unless the activity is conducted outside the salmonid fish spawning dates of March 15 through June 15 and from July 15 through November 30 and meets the following applicable conditions:

1. Bank stabilization activities must:
   i. Be completed using bioengineered methods, riprap, and/or glacial stone, that conforms to the existing shoreline and does not project out into the channel.
   ii. Not create a wall.
   iii. Not include the installation of cofferdams, causeways, temporary access roads, or dewatering activities.

2. Encapsulations must:
   i. Be installed to span the width of the ordinary high water mark (OHWM) and be embedded in accordance with Condition 3(g)7 below.
   ii. Not include the installation of cofferdams, causeways, temporary access roads, or dewatering activities.

(h) Activities on or in any Outstanding State and/or National Resource waters (see Attachment 1), or in any critical wetland or critical special aquatic sites (see Attachment 2).

(i) Activities associated with the establishment of a mitigation bank.

(j) The installation of encapsulations for purposes other than road, driveway, and pedestrian crossings.

(k) The placement of devices meant to retain sediment within waters of the U.S.

(l) Activities that permanently change the sinuosity, flow path, velocity, cross-sectional area under the Ordinary High Water Mark (OHWM), or the slope of a stream except those that may be authorized through compliance with Conditions (3)(c), and (3)(f).

(m) Activities that result in a permanent secondary effect to waters of the U.S. Potential secondary effects include, but are not limited to damming, loss of hydrology, and creation of in-channel ponds.

(n) Activities with cumulative permanent impacts exceeding one or both of the following thresholds:

1. Twenty-five hundredths (0.25) acre of waters of the U.S.
2. 500 linear feet of waters of the U.S.

Note:

Permanent impacts include any placement of fill below the ordinary high water mark of a stream or within wetlands, including but not limited to maintenance of existing fill and structures, replacement of encapsulations, and placement of riprap

Conversion of forested and scrub shrub wetlands to any lower vegetative Cowardin class without an appropriate restoration plan or with planned maintenance of said lower Cowardin class qualifies as a permanent impact and should be quantified in overall impact calculations.

Activities with a cumulative permanent impact exceeding one-tenth (0.10) acre or 300 linear feet of waters of the U.S. must comply with the mitigation requirements listed in Condition (3)(b) below.

(o) Activities with cumulative temporary impacts combined with cumulative permanent impacts exceeding one or both of the following thresholds:

1. One half (0.50) acre of waters of the U.S.
2. 500 linear feet of waters of the U.S.

Note:

Impacts that lack a restoration plan are considered permanent fill. An appropriate restoration plan includes at minimum the complete removal of temporary fill, return to pre-construction contours and elevations, and revegetation with an appropriate seed mix. IDEM will review the restoration plan as part of the proposed project.

(3) This CWA Section 401 WQC authorizes:

(a) The use of multiple NWPs on a single project given the cumulative amount of those impacts is less than the most restrictive thresholds of this CWA Section 401 WQC. If a project exceeds specified impact thresholds, the activities are not authorized and an Individual Section 401 WQC is required. IDEM may also certify several NWPs under one Individual Section 401 WQC.

(b) Activities with cumulative permanent impacts exceeding one-tenth (0.10) acre or 300 linear feet of waters of the U.S., provided the following conditions are met:

1. When activities exceed one or both of the above impact thresholds, mitigation for all stream, open water, and wetland impacts is provided at the following ratios:
   i. 1:1 for streams, open water, and farmed wetland
   ii. 2:1 for emergent wetland
   iii. 3:1 for scrub shrub wetland
   iv. 4:1 for forested wetland

2. Mitigation is provided through the following mechanisms:
   i. Mitigation credits are purchased from an approved compensatory mitigation bank or through the Indiana Stream and Wetland Mitigation Program (in-lieu fee (ILF)).
   ii. Mitigation credits are purchased from a bank in the same HUC-8 watershed or within the same ILF service area where the impacts occur.
   iii. Sufficient proof of mitigation credit availability in the service area is provided to IDEM with the notification materials.

3. Permittee responsible mitigation is not authorized under this CWA Section 401 WQC.

4. IDEM will consider mitigation obligations to be fulfilled upon receipt of proof of a finalized credit purchase:
   i. Before the impacts occur.
   ii. Within one (1) year of IDEM's receipt of the Section 401 WQC Regional General Permit notification form.

   Note: Credits may not always be available. Banks and ILF programs may require 30 days or more to finalize a purchase.

   Failure to purchase credits before impacting water resources will require an individual 401 WQC and may result in additional mitigation requirements to compensate for temporal loss of water resource functions.

(c) Minimal changes to stream morphology, including minor relocations, when they result in a net benefit to the aquatic ecosystem. Minor stream relocations may be authorized provided the activity:

1. Is associated with the installation of a stream crossing or replacement of an existing crossing, and results in a net benefit to the stream morphology.

2. Does not reduce the cross-sectional area under the OHWM.
3. Is accompanied by an acceptable restoration/stabilization plan.
4. Does not accelerate stream instability. Examples of instability include, but are not limited to, stream bank erosion, channel enlargement, channel incision, degradation, aggradation, meander migration (down-valley and lateral accretion), avulsion and base-level shifts.

(d) Stream bank stabilization activities or new lake and reservoir shoreline stabilization that will permanently affect 500 linear feet or less when the applicant demonstrates that the bank or shoreline in question is unstable. Natural shoreline stabilization methods are required where there is no pre-existing seawall or other shoreline hard armament on a lake or reservoir. Natural shoreline stabilization methods include bank stabilization practices that benefit the aquatic environment by incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation.

(e) Placement of appropriately sized riprap or other bank stabilization materials provided the design and installation is flush with the upstream and downstream bank and stream channel/lakebed elevations and grades. Geotextile under riprap on slopes that exceed 2:1 is not authorized.

(f) New bridge piers, piles, shafts or other support structures and their associated scour protection measures that do not significantly reduce the cross-sectional area of the stream and are located below the OHWM and outside the low flow channel of the stream.

(g) Permanent stream encapsulations, except those qualifying under NWP3, that:

1. Are for the purpose of constructing a road, driveway, or pedestrian crossing.
2. Allow the passage of aquatic organisms in the waterbody.
3. Do not exceed 150 cumulative linear feet across all encapsulations within the scope of the project including replacement of existing encapsulations.
4. Have a cross-sectional area at least twenty percent (20%) larger than the area under the OHWM of the stream immediately upstream and downstream of the encapsulation. If multiple parallel encapsulations are proposed for a single crossing, then:
    i. At least one (1) encapsulation must meet the above cross-sectional area requirement.
    ii. The largest encapsulation meeting the cross-sectional area requirement must be positioned in the channel to align with the existing low flow channel.
    iii. Secondary encapsulations must be placed off-center and at higher elevation to handle high flow events.

5. Have a streambed slope within the encapsulation that matches the slope of the bed both immediately upstream and downstream.
6. Do not create or accelerate stream instability. Examples of stream instability include, but are not limited to head cutting, stream bank erosion, channel enlargement, channel incision, degradation, aggradation, meander migration, (down-valley and lateral accretion), avulsion and base-level shifts.
7. Either have no bottom (e.g., three-sided culvert) or are embedded, or sumped, into the stream channel (i.e. the inside elevation of the bottom of the structure is placed at a specified depth below the grade of the streambed) based on the following structure sizes and substrate types:
    i. Streambed of sand
        - Structure < four (4) feet wide: Six (6) inch sump
        - Structure four (4) feet wide to 12 feet wide: 12 inch sump
        - Structure 12 feet to 20 feet wide: 18 inch sump
    ii. Streambed of other soil or unconsolidated till (substrates that are more cohesive and less mobile, e.g. clay, silt, gravel, and cobble substrates)
        - Structure < four (4) feet wide: Three (3) inch sump
        - Structure four (4) feet wide to 12 feet wide: Six (6) inch sump
        - Structure 12 feet to 20 feet wide: 12 inch sump
    iii. Streambed of bedrock or consolidated till (dense, hard materials such as hardpan)
        - Inside elevation of the structure bottom must be a minimum of three (3) inches below the surface of the bedrock or consolidated till.
8. Meet the following requirements when installed in perennial streams with OHWM width of 12 feet or greater. These encapsulations must:
    i. Be sumped to a greater depth if needed for the design of the streambed inside the encapsulation.
    ii. Have a width equal to or wider than the existing OHWM.
    iii. Have a natural stream bottom. If the stream bottom will be disturbed during construction (e.g. four-sided box culverts or pipe culverts or because of footer work for three sided culverts), natural stream substrate must be placed in the encapsulation in accordance with "with "Stream Simulation: An Ecological Approach to Providing Passage for Aquatic Organisms at Road-Stream Crossings" (U.S. Department of Agriculture, Forest Service, 2008: https://www.fs.usda.gov/biology/nsaec/assets/sn_01_09.pdf)
        - Additional guidance can be found in the Federal Highway Administration Hydraulic Engineering Circular No. 26: Culvert Design for Aquatic Organism Passage. https://www.fhwa.dot.gov/engineering/hydraulics/pubs/11008/hif11008.pdf
    iv. Have a low flow channel constructed or restored through the encapsulation. The low flow channel must have the same width,

depth, and side slope as the natural upstream and downstream low flow channel. If the upstream and downstream channels are highly degraded, a V-shaped channel with 5:1 bank slopes within the structure may be substituted.

(h) Stream pump-around activities provided:

1. The discharge from the activity does not cause erosion at the outlet
2. Cofferdam dewatering activities are directed to a filter bag(s), upland sediment basins/traps, or a combination of other appropriate sediment control measures to minimize the discharge of sediment-laden water into waters of the U.S.
3. All sediment control measures are installed and maintained in good working order.
4. Any materials used for an in-stream dam are constructed using non erodible materials. Examples include sandbags and sheet pile walls.
5. Pump-arounds are established in a manner that maintains daily flow rates. This will require maintenance and monitoring of fuel levels to continue pumping as needed including during times construction is not active.

(i) The installation of temporary work causeways provided:

1. The temporary causeways:
   i. Are constructed from material that can be expected to withstand high flow events.
   ii. Are installed in a manner that maintains near normal downstream flows.
   iii. Do not interfere with aquatic organism passage.
   iv. Do not span the entire width of the channel unless the notification is accompanied by a letter of approval from the Indiana Department of Natural Resources Division of Water.
   v. Are constructed using culverts that:
      - Are placed on the channel bottom.
      - Are kept clear of sediment and debris throughout the use of the causeway.
      - Are maintained in their designed and approved conditions throughout.
2. The stream is restored to preconstruction channel bottom elevations and substrate types following the construction activity.
3. The stream banks and riparian corridor are restored to preconstruction contours, grades, and vegetative condition following the construction activity.

(j) The installation of temporary stream crossings provided:

1. The temporary stream crossings:
    i. Are installed in a manner that maintains near normal downstream flows.
    ii. Are installed in a manner that does not interfere with aquatic organism passage.
    iii. Are constructed of materials that will not erode due to expected high flow events.
2. Culverts installed within the temporary stream crossings:
    i. Are placed on the bottom of the channel in the low flow channel. If multiple culverts are necessary, all are placed on the bottom of the channel.
    ii. Are kept clear of sediment and debris and maintained in their designed and approved conditions.
    iii. Are placed in a manner that does not direct stream flows toward a streambank in their designed and approved conditions throughout.
3. The stream is restored to preconstruction channel bottom elevations and substrate types following the construction activity.
4. The stream banks and riparian corridor are restored to preconstruction contours, grades, and vegetative condition following the construction activity.

Note: Stream, for the purpose of this Water Quality Certification, means conveyance channels that have a defined bed and bank and an ordinary high water mark. This term includes natural streams, relocated streams, channelized streams, artificial channels, encapsulated channels and ditches.

NWP A, ACTIVITIES TO IMPROVE PASSAGE OF FISH AND OTHER AQUATIC ORGANISMS

The following conditions apply to any project that qualifies for NWP A in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP A but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) This WQC requires submittal of documentation that demonstrates proposed activities will improve the passage of fish or aquatic organisms.

(2) This WQC authorizes activities that improve passage through or around existing in-stream structures only.

NATIONWIDE PERMIT #3, MAINTENANCE, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 3 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of

this CWA Section 401 WQC. All activities that qualify for NWP 3 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) For activities involving the replacement of a stream encapsulation:
   (a) The replacement must not reduce the cross-sectional area under bankfull elevation.
   (b) More than 150 linear feet may be encapsulated under this NWP if the structure length does not increase more than 20 feet upstream and 20 feet downstream.
   (c) The replacement must have either the same slope as the existing encapsulation, or more closely match the slope of the stream immediately upstream and downstream.
   (d) The replacement must either be the same size and type of encapsulation or one that has a greater ability to provide for aquatic life movement. The replacement must not reduce the cross-sectional area of the encapsulation.
   (e) Bank stabilization and channel bottom stabilization must not exceed either one bank full width upstream and downstream of the replacement encapsulation or ten linear feet whichever is greater.
   (f) Any channel bottom stabilization must be flush with the existing grade of the stream bottom.
   (g) The replacement must not create or accelerate stream instability. Examples of stream instability include, but are not limited to head cutting, stream bank erosion, channel enlargement, channel incision, degradation, aggradation, meander migration, (down-valley and lateral accretion), avulsion and base-level shifts.

(2) For activities involving the placement of thermal plastic liners or other liner types into existing structures:
   (a) Liners may not be used to extend the structure length by more than 12-inches on either end of the structure.
   (b) Liners must be installed so that the invert of the liner is as close to the invert of the host pipe as practical.
   (c) Riprap scour protection or an energy dissipater must be installed flush with the upstream and downstream bank and stream channel elevations and grades.
   (d) The project must be reviewed and approved by the INDOT Office of Hydraulics for projects undertaken by the Indiana Department of Transportation (INDOT) and a Local Public Agency (LPA).
   (e) The liner size must be the largest size approved by the INDOT Office of Hydraulics.
   (f) A hydraulic modeling report must be submitted following the INDOT Standards and Specifications found at

http://www.in.gov/indot/design_manual/design_manual_2013.htm for projects undertaken by permittees or entities other than INDOT or a LPA.

(g) If a culvert sump required under General Condition (3)(g) above cannot be maintained by the installation of a liner, then an individual Section 401 Water Quality Certification is required.

(h) For perennial streams, the structure must not be in an elevated position (hanging culvert) within the stream channel. Hanging culverts in perennial stream channels require an Individual Section 401 Water Quality Certification.

(3) For bank stabilization activities:

(a) The permittee must demonstrate the bank or shoreline in question is unstable.

NATIONWIDE PERMIT #7, OUTFALL STRUCTURES AND ASSOCIATED INTAKE STRUCTURES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 7 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 7 but do not meet these conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) All areas disturbed by the construction of intake and outfall structures must be immediately seeded and stabilized.
(2) All outfalls shall be constructed in a manner that does not cause erosion at the outlet.

NATIONWIDE PERMIT # 12, OIL AND NATURAL GAS PIPELINE ACTIVITIES, SPECIFIC CONDITIONS

The following conditions apply any project that qualifies for NWP 12 . in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 12 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) For in-stream utility line stabilization activities, the use of articulated or other matting is only authorized if the utility is only partially (<10%) exposed. Fully exposed utility stabilization activities are not authorized by this WQC;
(2) Remediation of inadvertent returns of drilling fluids into waters of the U.S require the following actions:
(a) Immediately implement containment and clean up measures.
(b) Report the spill to IDEM's 24 Hour Emergency Spill Line at (888) 233-7745.
(c) Contact the IDEM Wetlands & Stormwater Section at (317) 233-8488.

(d) Submit the containment, clean up and restoration plan to IDEM for review and approval.

(3) If a utility line is placed beneath the bed of a river or stream, the following conditions must be met:

(a) Cover of at least three (3) feet, measured perpendicularly to the line, between the lowest point of the stream bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials; and

(b) Cover of at least one (1) foot, measured perpendicularly to the line, between the lowest point of the bed and the top of the utility or its encasement, whichever is higher, if the bed is composed of consolidated materials.

NATIONWIDE PERMIT #13, BANK STABILIZATION, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 13 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 13 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) This CWA Section 401 WQC does not authorize bank stabilization activities within wetlands;

(2) The installation of in-stream structures such as stream barbs, bendway weirs, j-hooks, etc. must:

(a) Be a component of a bank stabilization project:

(b) Be designed by a qualified engineer;

(c) Include bioengineering and vegetative practices to add roughness to the bank;

(d) Be installed in a manner that does not create additional erosion and sedimentation long-term

(e) Be keyed into the stream bank and stream bed;

(f) Be placed in a manner that transitions flow into the downstream channel and receiving riffle.

NATIONWIDE PERMIT #25, STRUCTURAL DISCHARGES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 25 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 25 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) New bridge piers, piles, shafts, or other support structures authorized under this NWP shall be located outside the low flow channel of the stream except where the bridge structure is located in a U.S. Army Corps of Engineers Section 10 Water;
(2) The material excavated from a tightly sealed form or cell must be disposed of in an upland disposal area;
(3) The dewatering of the tightly sealed form or cell must be discharged into a contained upland disposal area; and

NATIONWIDE PERMIT #27, AQUATIC HABITAT RESTORATION, ESTABLISHMENT, AND ENHANCEMENT ACITIVITIES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 27 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 27 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) An activity qualifies for this NWP because it is a component of a restoration program previously approved by IDEM if:
    (a) The activity occurs within the same HUC-14 watershed as a water that IDEM has identified as impaired.
    (b) IDEM has identified the activity as beneficial for reducing or eliminating the impairment in a Total Maximum Daily Load (TMDL), an IDEM approved Watershed Plan or a Memorandum of Agreement or Memorandum of Understanding with the party sponsoring the restoration or enhancement activities.
(2) An activity qualifies for this NWP because it is a qualifying AML project if:
    (a) The activity is undertaken by the IDNR, Division of Reclamation, AML Program.
    (b) The activity is designed to improve water quality in an impaired water of the United States where the source of impairment is acid mine contamination.
    (c) The activity facilitates the treatment of acid mine drainage or covers a source of impairment.
    (d) The activity does not result in the discharge of dredged or fill material into any waterbody. that are unimpaired by acid mine drainage unless that discharge qualifies under specific condition #1 above.
(3) This WQC does not authorize the discharge of sediment from a reservoir to restore downstream habitat.

NATIONWIDE PERMIT #29, RESIDENTIAL DEVELOPMENTS, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 29 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of

this CWA Section 401 WQC. All activities that qualify for NWP 29 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) The installation of utilities associated with residential developments must comply with the **Specific Conditions of NWP 12, NWP 57, and NWP 58** of this WQC.

NATIONWIDE PERMIT #36, BOAT RAMPS, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 36 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 36 but do not meet these additional conditions require an Individual Section 401WQC from IDEM and are not authorized under this WQC.

(1) Boat ramps shall not be placed in wetlands.
(2) The width of the ramp shall not exceed 60 feet.
(3) The area to be dredged shall be the minimum necessary to construct the ramp.

NATIONWIDE PERMIT #37, EMERGENCY WATERSHED PROTECTION AND REHABILITATION, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 37 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 37 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) The activity is consistent with a Memorandum of Agreement (MOA) or Memorandum of Understanding (MOU) between the IDEM and the Natural Resources Conservation Service, the United States Forest Service, the Department of the Interior, the Farm Services Agency, or the IDNR. An MOA/MOU must be in place prior to the emergency situation and must ensure that the emergency activities authorized under NWP #37 will not cause or contribute to permanent water quality degradation or impairment.

NATIONWIDE PERMIT # 39, COMMERCIAL AND INSTITUTIONAL DEVELOPEMNTS, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 39 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 39 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) The installation of utilities associated with commercial or institutional developments must comply with the **Specific Conditions of NWP 12, NWP 57, and NWP 58** of this WQC.

NATIONWIDE PERMT #40, AGRICULTURAL ACTIVITIES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 40 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 40 but do not meet these additional conditions require an Individual Section 401 WQC from the IDEM and are not authorized under this WQC. This WQC does not authorize the:

(1) Construction of drainage ditches within wetlands.
(2) Construction of levees when the levee results in a loss of hydrology to a wetland.
(3) Installation of field tile within wetlands unless the tile is solid, non-perforated field tile.
(4) Installation of tile riser pipes within a wetland. Inlet holes to riser pipes must be set at an elevation that does not drain wetland.

NATIONWIDE PERMIT #42, RECREATION FACILITIES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 42 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 42 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) Installation of utilities associated with recreational facilities must comply with the **Specific Conditions of NWP 12, NWP 57, and NWP 58** of this WQC;
(6) Trails, bike paths, and golf cart paths constructed in wetlands must be constructed at-grade, or be underlain with culverts to ensure hydrologic connectivity between wetlands;

NATIONWIDE PERMIT #44, MINING ACTIVITIES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 44 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 44 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) This WQC does not authorize discharges associated with outfalls authorized by a National Pollutant Discharge Elimination System Permit;

NATIONWIDE PERMITS 57 AND 58, UTILITY LINE ACTIVITES, SPECIFIC CONDITIONS

The following conditions apply to any project that qualifies for NWP 57 and for NWP 58 in addition to the applicant responsibilities, permittee responsibilities, terms, and general conditions of this CWA Section 401 WQC. All activities that qualify for NWP 57 or for NWP 58 but do not meet these additional conditions require an Individual Section 401 WQC from IDEM and are not authorized under this WQC.

(1) For in-stream utility line stabilization activities, the use of articulated or other matting is only authorized if the utility is only partially (<10%) exposed. Fully exposed utility stabilization activities are not authorized by this WQC;
(2) Remediation of inadvertent returns of drilling fluids into waters of the U.S require the following actions:
    (a) Immediately implement containment and clean up measures.
    (b) Report the spill to IDEM's 24 Hour Emergency Spill Line at (888) 233-7745.
    (c) Contact IDEM Wetlands & Stormwater Section at (317) 233-8488.
    (d) Submit the containment, clean up and restoration plan to IDEM for review and approval.
(3) If a utility line is placed beneath the bed of a river or stream, the following conditions must be met:
    (a) Cover of at least three (3) feet, measured perpendicularly to the line, between the lowest point of the stream bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials.
    (a) Cover of at least one (1) foot, measured perpendicularly to the line, between the lowest point of the bed and the top of the utility or its encasement, whichever is higher, if the bed is composed of consolidated materials.

Notice of Right to Administrative Review

If you wish to challenge this certification, you must file a Petition for Administrative Review with the Indiana Office of Administrative Law Proceedings (OALP) and serve a copy of the petition upon IDEM. The requirements for filing a Petition for Administrative Review are found in IC 4-21.5-3-7, IC 13-15-6-1 and 315 IAC 1-3-2. A summary of the requirements of these laws is provided below.

A Petition for Administrative Review must be filed with the Office of Administrative Law Proceedings (OALP) within fifteen (15) days of the issuance of this notice, or eighteen (18) days if you received this notice by U.S. Mail, and a copy must be served upon IDEM.

Addresses are:

Director
Office of Administrative Law Proceedings Management
Indiana Government Center North
100 North Senate Avenue, Room N802
Indianapolis, Indiana 46204

Commissioner
Indiana Dept. of Environmental
Indiana Government Center North
100 North Senate Avenue, Room 1301
Indianapolis, Indiana 46204

The petition must contain the following information:

(a) The name, address, telephone number, and other pertinent contact information of each petitioner.
(b) A description of each petitioner's interest in the certification .
(c) A statement of facts demonstrating that each petitioner is:
    (1) A person to whom the order is directed;
    (2) Aggrieved or adversely affected by the certification; or
    (3) Entitled to administrative review under any law.
(d) The reasons for the request for administrative review.
(e) The particular legal issues proposed for review.
(f) The alleged environmental concerns or technical deficiencies of the certification.
(g) The certification terms and conditions that the petitioner believes would be appropriate and would comply with the law.
(h) The identity of any persons represented by the petitioner.
(i) The identity of the person against whom administrative review is sought.
(j) A copy of the certification that is the basis of the petition.
(k) A statement identifying petitioner's attorney or other representative, if any.

Failure to meet the requirements of the law with respect to a Petition for Administrative Review may result in a waiver of your right to seek administrative review of the certification.

Examples include:

(a) Failure to file a Petition by the applicable deadline.
(b) Failure to serve a copy of the Petition upon IDEM when it is filed.
(c) Failure to include the information required by law.

If you seek to have a certification stayed during the administrative review, you may need to file a Petition for a Stay of Effectiveness. The specific requirements for such a Petition can be found in 315 IAC 1-3-2 and 315 IAC 1-3-2.1.

Pursuant to IC 4-21.5-3-17, OALP will provide all parties with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action. If you are entitled to notice under IC 4-21.5-3-5(b) and would like to obtain notices of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this action without intervening in the proceeding you must submit a written request to OALP at the address above.

For additional information on filing a petition with OALP, visit their website at https://www.in.gov/oalp/

Questions regarding this Section 401 Water Quality Certification can be directed to the IDEM Office of Water Quality by phone at (317)-233-8488, or by e-mail at WetlandsProgram@idem.IN.gov.

Enclosures:
Attachment 1
Attachment 2
Attachment 3

CC: USACE Louisville District
USACE Detroit District
USACE Chicago District

Attachment 1: Indiana Waters Designated for Special Protection

Salmonid Waters [327 IAC 2-1.5-5(a)(3)]

(1) LaPorte County
  (a) Trail Creek and its tributaries downstream to Lake Michigan
  (b) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch
  (c) Galena River and its tributaries

(2) Porter County
  (a) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch
  (b) Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan

(3) St. Joseph County
  (a) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line

(4) Open waters of Lake Michigan (Indiana)

(5) IDNR-designated waters for put-and-take trout fishing
http://www.in.gov/dnr/fishwild/5457.htm

Outstanding State Resource Waters [327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), 327 IAC 2-1.5-19(b)]

(1) Fountain County
  (a) Bear Creek from the bridge on CR 450 N to its confluence with the Wabash River
  (b) Unnamed Tributary to Bear Creek within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch
  (c) Rattlesnake Creek from the bridge on CR 450 N to its confluence with Bear Creek

(2) Montgomery County
  (a) Indian Creek from the bridge on CR 650 W downstream to its confluence with Sugar Creek
  (b) Clifty Creek within the boundaries of Pine Hills Nature Preserve

(3) Orange County
  (a) Lost River and all surface and underground tributaries upstream from the Orangeville Rise and the Rise of Lost River
  (b) Lost River mainstem from Orangeville Rise downstream to its confluence with East Fork White River

(4) Washington County
    (a) Blue River from the confluence of the West and Middle Forks of the Blue River downstream to its confluence with the Ohio River
    (b) South Fork Blue River from the bridge on Horner's Chapel Road downstream to its confluence with the Blue River

(5) Warren County
    (a) Big Pine Creek downstream of the bridge on SR 55 near the town of Pine Village to its confluence with the Wabash River
    (b) Mud Pine Creek from the bridge on the County Road between Brisco and Rainsville to its confluence with Big Pine Creek
    (c) Fall Creek from the bridge on Old CR 119 in the NW quarter of Section 21, Township 22N, Range 8W downstream to its confluence with Big Pine Creek

(6) Washington / Crawford / Harrison County
    (a) Blue River from river mile 57.0 to river mile 11.5

(7) Carroll / Tippecanoe County
    (a) North Fork Wildcat Creek from river mile 43.11 to river mile 4.82

Attachment 2: Critical Wetlands and Special Aquatic Sites

IDEM defines Critical Wetlands and Critical Special Aquatic Sites to be synonymous with Rare and Ecologically Important Wetland Types under 327 IAC 17-1-3(3)(B)

Acid Bog
An acidic wetland of kettle holes in glacial terrain. Acid bogs can be graminoid (*Carex spp.* and *Sphagnum spp*.) or low shrub (*Chamaedaphne calyculata* and *Betula pumila*). The graminoid bog can be a floating, quaking mat. The soils in acid bogs are saturated and acidic peat. Bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. When a sphagnum mat floats, it rises and falls with the water table. Acid bogs can be found in northern Indiana.

Acid Seep
A bog-like wetland typically found in unglaciated hill regions. This community is a small groundwater-fed wetland located primarily in upland terrain. A thin layer of muck may lie over a mineral substrate. The soil reaction is acid. This seep community is characterized by flowing water during at least part of the year. Acid seeps are located primarily in southern Indiana.

Circumneutral Bog
A bog-like wetland that receives groundwater. Circumneutral bogs can be a mosaic of tall shrub bog, graminoid bog, and other communities. The graminoid bog often occurs on a quaking or floating mat. Although a few bogs occur in unglaciated regions, most are found in glacial ice-block depressions. The soils in circumneutral bogs are usually peat, or other low nutrient organic substrates, which are saturated and circumneutral to slightly acid. Circumneutral bogs have non-flowing or very slow flowing water. The water level fluctuates seasonally. Circumneutral bogs are usually found in northern Indiana.

Circumneutral Seep (Seep-Spring)
A groundwater-fed wetland on organic soil. It is primarily herbaceous. Species typically include marsh marigold (*Caltha palustris*) and skunk cabbage (*Symplocarpus foetidus*) with a scattered tree canopy. Circumneutral seep is typically situated on or near the base of a slope. The soil is typically circumneutral muck. This seep community is characterized by slowly flowing water during at least part of the year. Circumneutral seeps can be found scattered throughout Indiana.

Cypress Swamp
Seasonally to permanently inundated wetlands found in depressions and sloughs of large bottomlands associated with the Wabash/Ohio River system. Poorly to very poorly drained soils characterize this environment. Bald cypress (*Taxodium distichum*) is present, and green ash (*Fraxinus pennsylvanica*), silver maple (*Acer saccharinum*), and overcup oak (*Quercus lyrata*) are also usually present. This community is restricted to extreme southwest Indiana.

Dune and Swale
An ecological system consisting of a mixture of upland (black oak sand savanna, dry to mesic sand prairie) and wetland (pond, panne, sedge meadow, marsh, wet prairie) natural communities. These communities occur in long, narrow, linear complexes, with the dry communities occupying sand ridges, and the wet communities occurring in the intervening swales. Black oak (*Quercus velutina*), paper birch (*Betula papyrifera*), jack pine (*Pinus banksiana*), and prairie vegetation typically occur on the ridges, and sedges, reeds, and marsh/aquatic vegetation line are found in the swales. Water levels are directly influenced by ground water, with the interdunal swales controlled largely by lateral flow through porous beach ridges. Dune and swale is restricted to extreme northwest Indiana, near Lake Michigan.

Fen
A calcareous, groundwater-fed wetland. Fens are often a mosaic of grassy areas, sedgy areas, graminoid-shrubby cinquefoil, and tall shrub areas. The extent of the tall shrub component of fens may be determined by fire frequency and/or soil moisture. Drying of the soil increases the growth of shrubs. Fens typically occur in the vicinity of glacial moraines. Fens typically have a muck or peat substrate. The water level fluctuates seasonally and is fed by groundwater. Fens can be found in central and northern Indiana.

Forested Fen
A tree-dominated wetland on organic soil which receives groundwater. Forested fens are often a mosaic of treed areas, tall shrub areas, and herbaceous areas. A tall shrub layer is often well developed in forested fens. Indicative species typically include tamarack (*Larix laricina*), black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), poison sumac (*Toxicodendron vernix*), and red maple (*Acer rubrum*). Forested fens occur in wet lowlands, where moraines meet outwash features or depressions. Forested fens have saturated, poorly to very poorly drained soils that are often muck, but some seasonal flooding can occur in forested fens that are especially level. This community is a late successional stage of fen or circumneutral bog. Forested fens occur in northern Indiana.

Forested Swamp
A seasonally inundated to intermittently exposed wetland of large river bottoms. Forested swamps do not receive direct flow from river flooding except under exceptional circumstances. Forested swamps occur in depressions, sloughs and large bottomlands, typically dominated by tree species such as swamp cottonwood (*Populus heterophylla*), green ash (*Fraxinus pennsylvanica*), and swamp white oak (*Quercus bicolor*). In northern Indiana important tree species include black ash (*Fraxinus nigra*), yellow birch (*Betula alleghaniensis*), and red maple (*Acer rubrum*). Poorly to very poorly drained and aerated soils characterize the swamp environment. Soils usually are mineral not muck or peat. This community type is found throughout Indiana.

Marl Beach
A fen-like community located on the marly muck shorelines of lakes. Marl precipitate is evident. A thin layer of water is present in spring but dries down in summer. Draw-down of a lake creates additional area for this community to develop on. Marl beaches can be found in extreme northern Indiana, primarily in the northeast.

Muck Flat
A shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a peat substrate. The muck flats can float on the water surface, but during high water periods are usually inundated. The water level of a basin fluctuates seasonally or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Muck flats are found in northern Indiana.

Panne
A groundwater-fed herbaceous wetland occupying interdunal swales near Lake Michigan. Pannes are located on the lee side of the first or second line of dunes from the lakeshore. The soil is wet, calcareous sand. Pannes are located in counties bordering Lake Michigan.

Sand Flat
A shoreline and lake community possessing a unique flora of sedges and annual plants, many of which are also found on the Atlantic and Gulf Coastal Plains. This community is found at the margins of lakes or covering shallow basins. This community has a sand substrate. During high water periods sand flats at the margins of lakes or ponds are inundated. The water level of a basin fluctuates seasonally or from year to year in response to the amount of precipitation. This exposes bare substrate needed for germination by species of the community. Sand flats occur in northern Indiana, and in the Plainville Sand Section of southwest Indiana.

Sedge Meadow
An herbaceous wetland typically dominated by graminoid species such as flat sedge (*Cyperus spp*.), spike rush (*Eleocharis spp*.), rushes (*Juncus spp*.) and sedges (*Carex spp*.). Sedge meadow is an herbaceous wetland of stream margins and river floodplains, and lake margins or upland depressions. Streamside sedge meadows are frequently flooded in the spring and early summer. Sedge meadows of lake margins and depressions often contain standing water during wet months and after heavy rains; during dry periods, the water level is at or just below the substrate. Sedge meadow usually occupies the ground between a marsh and the uplands, or a shrub swamp or wet forest. Periodic high water can kill trees and shrubs invading sedge meadows. Sedge meadows can be found in the northern half of the state.

Shrub Swamp
A shrub-dominated wetland that is seasonally inundated to intermittently exposed. This community occurs in depressions and the substrate in either mineral soils or muck, as

opposed to peat which is characteristic of bogs. Shrub swamp is characterized by non-flowing or very slowly flowing water with levels that fluctuate seasonally. Shrub swamps are persistent, though considered successional. Two opportunistic native shrubs, sandbar willow (*Salix exigua*) and gray dogwood (*Cornus racemosa*), by themselves, are not indicative of shrub swamps. This community type is found throughout Indiana.

Sinkhole Pond
Water-containing depressions in karst topography. Sinkhole ponds are found in the Mitchell Karst Plain in south-central Indiana.

Sinkhole Swamp
Depressions in karst topography dominated by tree or shrub species. Sinkhole swamps are found in the Mitchell Karst Plain in south-central Indiana.

Wet Floodplain Forest
A broadleaf deciduous forest of river floodplains. Wet floodplain forests occur in depressions and flats on narrow to wide floodplains and also on recently exposed substrates that are frequently flooded. Wet floodplain forests are frequently flooded and may have standing water seasonally to permanently present. Wet floodplain forests occur statewide.

Wet Prairie
An herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp*.). Vegetation height is often 2-3 m. The species diversity of wet prairies is lower than that of mesic prairies. Wet prairies occur in deep swales and the substrate ranges from very deep black mineral soils (which are high in organic matter) to muck. Ponding in spring lasts for several weeks prior to drainage. Wet prairies commonly occur in the Grand Prairie Natural Region, the Tipton Till Plain and the Bluffton Till Plain, with a few examples found in the Northern Lakes Natural Region.

Wet Sand Prairie
An herbaceous wetland typically dominated by graminoid species such as prairie cordgrass (*Spartina pectinata*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex spp*.). Vegetation height is often 2-3 m. The species diversity of wet prairies is lower than that of mesic prairies. Wet lowland prairies occur in deep swales and the substrate is sand, sometimes mixed with muck. Flooding is a regular springtime occurrence in wet sand prairie and may last several weeks. This community occurs in a mosaic with marsh and other wetlands, and with upland prairies and sand savannas. Fire was frequent occurrence, but more common in the fall when waters had receded. This community occurs in northwest Indiana and in the Plainsville Sands area.

Attachment 3: 40 CFR 121.7 Citation and Justification

NWP Denial Citation and Justification

It is the judgment of the Office of Water Quality that the proposed Nationwide Permits 8, 16, 17, 20, 23, 24, 31, 32, 34, 35, 38, 41, 43, 53, 54, and 59 may violate Indiana Code (IC) 13-18-4-5 and the water quality standards (WQS) set forth at 327 Indiana Administrative Code (IAC) 2-1-6(a)1, and 327 IAC 2-1.3-3.

1. Indiana Code 13-18-4-5 states in part:

   A person may not:
   (1) throw, run, drain or otherwise dispose into any of the streams or waters of Indiana;
   or
   (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed into any waters; any organic or inorganic matter that causes or contributes to a polluted condition of any waters, as determined by a rule of the board adopted under Sections 1 and 3 of this chapter.

2. 327 Indiana Administrative Code 2-1-6(a)1 states in part:

   All waters at all times and at all places meet the minimum conditions of being free from substances, materials, and discharges that form objectionable deposits, are unsightly or deleterious, and are toxic to plant, animal or aquatic life.

3. 327 Indiana Administrative Code 2-1.3-3 states in part:

   For all surface waters of the state, existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected.

Because the discharges associated with the activities specified in NWPs 8, 16, 17, 20, 23, 24, 31, 32, 34, 35, 38, 41, 43, 53, 54, and 59 may, even as conditioned, violate Indiana's WQS, projects undertaking those activities will require a site-specific Section 401 Water Quality Certification to ensure compliance with the water quality requirements found in 327 IAC 2.

The discharges associated with the activities specified in NWPs 23 and 32 are undefined and therefore require a site-specific Section 401 Water Quality Certification to ensure compliance with 327 IAC 2.

The discharges associated with activities specified in NWP 41 have no maximum limitation, no notification requirement, and would authorize activities that would alter the

flow path, velocity, and cross-sectional area under the ordinary high water mark. Activities authorized by this NWP would not comply with Indiana's General Condition 9 and therefore require an Individual Section 401 Water Quality Certification to ensure compliance with 327 IAC 2.

For NWP 43 activities to receive a site-specific Section 401 Water Quality Certification, the applicant must provide information for the proper installation, monitoring and maintenance of adequate pre-treatment measures and appropriate mitigation to ensure measures installed in waters of the U.S do not violate the states water quality standards identified above.

The discharges associated with activities specified in NWP 54 would not comply with Indiana's General Condition 21 and would require an Individual Section 401 Water Quality Certification to ensure compliance with 327 IAC 2.

Applicant Responsibility Citation and Justification

Applicant Responsibility #1
The goal of 327 IAC 2 is to restore and maintain the chemical, physical, and biological integrity of waters of the state. This condition is required to ensure there are no state rare, threatened, or endangered water dependent species impacts authorized by the NWPs.

Applicant Responsibility #2
For certain NWPs, IDEM has placed a notification requirement to ensure the discharges associated with the activities specified in those NWPs comply with 327 IAC 2. To appropriately evaluate impacts to water quality, including cumulative impacts, Indiana needs to be notified.

Applicant Responsibility #2
Several NWPs allow temporary impacts. Since these activities exceed the minimal impact threshold specified in GC 13, IDEM is requiring notification to ensure they are properly restored. This will ensure compliance 327 IAC 2.

Applicant Responsibility #3
This is a necessary condition to ensure an applicant submitted all required information with the notification required by GC 1. Without all necessary information, IDEM cannot determine if a project complies with 327 IAC 2.

Applicant Responsibility #4
Per IC 13-14-4-2, the department may inspect public or private property to inspect for and investigate possible violations of environmental management laws. Additionally, 40 CFR 121.11 allows the certifying authority the right to inspect a facility or activity prior to initial operation of a certified project.

Applicant Responsibility #5

This condition is necessary to ensure only projects that have a minimal impact to water quality and comply with 327 IAC 2 are authorized by the NWPs.

Permittee Responsibility Citation and Justification

Permittee Responsibility #1
This condition is necessary to ensure projects are implemented in accordance with this Section 401 Water Quality Certification and only projects described in the notification are authorized. This ensures compliance with 327 IAC 2 and 327 IAC 5-2-8.

Permittee Responsibility #2
Per IC 13-14-4-2, the department may inspect public or private property to inspect for and investigate possible violations of environmental management laws. Additionally, 40 CFR 121.11 allows the certifying authority the right to inspect a facility or activity prior to initial operation of a certified project.

Permittee Responsibility #3
Several NWPs authorize minor dredging. This condition requiring the deposit any dredged material in a contained upland disposal area to prevent sediment run-off to any waterbody is necessary to ensure the discharges associated with the disposal of the dredged material complies with 327 IAC 2.

Permittee Responsibility # 4 and #5
These conditions are necessary as best management practices to protect existing uses for aquatic life. Per 327 IAC 2-1-6 the protection of existing uses for aquatic life is required and, per 327 IAC 2-1.3-2 (4) the utilization of best management practices helps ensure the protection of existing uses.

Permittee Responsibility # 6
Per 40 CFR 122.26 and 327 IAC 15, the use of appropriate stormwater control measures and maintenance thereof will prevent any sediment laden water from migrating off site and entering waterways and wetlands, potentially impairing water quality.

Permittee Responsibility #7
Per 40 CFR 122.26 and 327 IAC 15, the use of appropriate stormwater control measures and maintenance thereof will prevent any sediment laden water from migrating off site and entering waterways and wetlands, potentially impairing water quality.

General Condition Citation and Justification

To ensure projects completed under the Indiana certified NWPs comply with Indiana's WQS, the Indiana general conditions are required.

General Condition 1(a),1(b), 2(a), 2(b), 2(c)
These conditions are necessary to ensure projects are implemented in accordance with this Section 401 Water Quality Certification and only projects described in the notification are authorized. This ensures compliance with 327 IAC 2 and 327 IAC 5-2-8.

General Condition 2(d)
This condition is necessary to prevent concentrating pollutants from stormwater in waters of the state. This ensures compliance with 40 CFR 122.26, 327 IAC 2-1-6, IC 13-11-2-265(b)(3), and 327 IAC 15

General Condition 2(e)
This condition is necessary because the Office of Water Quality issues permits for the release of stormwater run-off under Section 402 of the Clean Water Act.

General Condition 2(f)
This condition is necessary to ensure only clean fill materials are proposed for discharge to ensure compliance with 327 IAC 2. Discharges of pollutants may require separate authorization under Section 402 of the Federal Clean Water Act.

General Condition 2(g)
Salmonid streams are designated for special protection by 327 IAC 2-1.5-5(a)(3). Only those activities identified in GC (10) are authorized by this WQC. Compliance with these activities, conditions and work restrictions will ensure the chemical, physical and biological integrity of the salmonid waters are maintained and protected in compliance with 327 IAC 2.

General Condition 2(h)
These waters are designated as Outstanding State Resource Waters by 327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), and 327 IAC 2-1.5-19(b). Individual Section 401 Water Quality Certifications are required for these waters to ensure there is no degradation and their water quality is protected and maintained in accordance with 327 IAC 2-1-1.5 and 327 IAC 2-1.5-3.

General Condition 2(h)
These wetlands and special aquatic sites are synonymous with Rare and Ecologically important wetland types under 327 IAC 17-1-2(3)(B). Individual Section 401 Water Quality Certifications are required for impacts to these waters to ensure there is no degradation and their water quality is protected and maintained in accordance with 327 IAC 2-1-1.5 and 327 IAC 2-1.5-3.

General Condition 2(i)
This condition is necessary to ensure mitigation banking projects go through the procedures found in 33 CFR 332 and IDEM has the opportunity to appropriately review and condition any proposed mitigation bank to ensure it complies with 327 IAC 2.

General Condition 2(j)&(k)
These conditions are necessary to avoid secondary impacts which warrant a more in-depth review and public comment from being processed under an individual Water Quality Certification.

General Condition 2(l)
Projects that will permanently change the sinuosity, flow path, velocity, cross-sectional area or the slope of a stream have more than a minimal impact. These activities can change the physical, chemical, and biological integrity of waters by impacting aquatic life movement, sediment transport, and changing the thalweg of a stream. These activities do not comply with 327 IAC 2.

General Condition 2(m)
This condition is necessary to ensure a projects permanent and secondary impacts fall within the designated minimal impact thresholds specified in GC 13 and GC 14. This condition is necessary to ensure authorized project comply with 327 IAC 2.

General Condition 2(n)
To ensure projects comply with the water quality standards found at 327 IAC 2, IDEM has established 0.10 acre as the minimal impact threshold for the state of Indiana. To ensure consistency with the policy established in 327 IAC 17-2-2(b), this is the threshold for which minimal impact projects are eligible for general permit authorizations. To allow more projects to fit under the NWPs, IDEM has increased this threshold to 0.25 acre if compensatory mitigation is conducted in accordance with GC 15. Compensatory mitigation ensures there is no permanent degradation to water quality in compliance with 327 IAC 2.

General Condition 2(n)
To ensure projects comply with the water quality standards found at 327 IAC 2, IDEM has established 300 linear feet as the minimal impact threshold for streams in the state of Indiana. To allow more projects to fit under the NWPs, IDEM has increased this threshold to 500 linear feet if compensatory mitigation is conducted in accordance with GC 16. Compensatory mitigation ensures there is no permanent degradation to water quality in compliance with 327 IAC 2.

General Condition 2(o)
Several NWPs allow temporary impacts. This condition is necessary to ensure those temporary impacts are restored so there is no degradation and the project complies with 327 IAC 2.

General Condition 3(a)
This a clarification condition to allow the use of multiple NWPs if they do not exceed specific impact thresholds. This condition is necessary to ensure compliance with 327 IAC 2.

General Condition 2(n), 3(b)
327 IAC 2-1.3-3 establishes anti-degradation standards for all waters of the State to include waters of the U.S. Proposed activities that exceed the minimal impact thresholds identified in GC 13 require compensatory mitigation to ensure there is no permanent degradation. IDEM is authorizing the use of mitigation banks and the Indiana Stream and Wetland Mitigation Program since the use of the NWPs does not allow for the placement of specific conditions on a permittee responsible mitigation proposal. IDEM is requiring proof of purchase and establishing a timeframe for submittal which is consistent with current Corps and IDEM procedures. To ensure aquatic resource functions and values are replaced, the compensatory mitigation ratios and service area requirements are based in part on the requirements found in IC 13-18-22 and 33 CFR 332.

General Condition 2(n), 3(b)
327 IAC 2-1.3-3 establishes anti-degradation standards for all waters of the State to include waters of the U.S. Proposed activities that exceed the minimal impact thresholds identified in GC 14 require compensatory mitigation to ensure there is no permanent degradation. IDEM is authorizing the use of mitigation banks and the Indiana Stream and Wetland Mitigation Program since the use of the NWPs does not allow for the placement of specific conditions on a permittee responsible mitigation proposal. IDEM is requiring proof of purchase and establishing a timeframe for submittal which is consistent with current Corps and IDEM procedures. To ensure aquatic resource functions and values are replaced, the compensatory mitigation ratios and service area requirements are based in part on the requirements found in IC 13-18-22, 327 IAC 2 and 33 CFR 332.

General Condition 3(c), 3(f), 3(g)

Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical, and biological integrity of the state's waters. Activities authorized by several NWPs allow for the installation of permanent stream encapsulations. If the encapsulations and associated fill are not properly installed, they can cause erosion and scour within stream channels, interfere with sediment transport and aquatic organism passage which alters the chemical, physical, and biological integrity of waters. The sumping requirements were developed by IDEM and the Indiana Department of Transportation and are part of their standards and specifications. The requirements for perennial streams greater than 12 feet were designed by the Federal Highway Administration to ensure aquatic organism passage is considered during culvert installations. These conditions are necessary to ensure compliance with 327 IAC 2.

General Condition 3(d)
This condition is necessary to ensure authorized activities do not interfere with sediment transport, create aquatic life barriers, or interfere with movement between aquatic and upland habitats and ensure compliance with 327 IAC 2.

General Condition 3(e)
Certain NWPs allow for the discharge of riprap or other bank stabilization material. This condition is necessary to ensure authorized activities do not interfere with sediment transport, create aquatic life barriers, or interfere with movement between aquatic and upland habitats and ensure compliance with 327 IAC 2.

General Condition 3(h), 3(i), 3(j)
Certain NWPs allow for temporary impacts. If these activities are poorly implemented, they result in discharges that would affect water quality. This condition is necessary to ensure projects comply with 327 IAC 2 and 327 IAC 15.

Nationwide Permit Specific Condition Citation and Justification

Nationwide Permit A
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Installation of aids to navigation can interfere with or become injurious to aquatic life movements. These activities can change the physical integrity of a water and interfere with movement between aquatic environments and upland habitat. The Specific Conditions for NWP A will ensure authorized projects will comply with 327 IAC 2.

Nationwide Permit #3 Maintenance
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Maintenance activities such as the replacement of stream encapsulations and the installation of thermal plastic liners or other liner types can interfere with or become injurious to aquatic life movements. These activities can change the physical integrity of a stream channel and interfere with movement between aquatic environments and upland habitat. The Specific Conditions for NWP #3 will ensure authorized projects will comply with 327 IAC 2.

Nationwide Permit #7 Outfall Structures and Associated Intake Structures
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justifications above for references to General Conditions. The activities authorized by NWP #7 can interfere with or become injuries to aquatic life movements. These activities can change the physical integrity of a stream channel and interfere with movement between aquatic environments and upland habitat. The Specific Conditions for NWP #7 will ensure authorized projects will comply with 327 IAC 2.

Nationwide Permit # 12 Oil or Natural Gas Pipeline Activities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please

refer to the citations and justifications above for references to General Conditions. The conversion of forested and scrub shrub wetlands to emergent wetlands is a permanent impact and results in a degradation of the existing chemical, physical, and biological integrity of the wetlands. The depth requirements for utility lines installed within a river or stream can be found at 312 IAC 10-5-4. These depth requirements ensure utilities do not create a hydraulic jump within the stream channel which could interfere with sediment transport, aquatic life movements, and otherwise impact water quality. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit # 13 Bank Stabilization
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions. These conditions are necessary to ensure bank stabilization activities do not interfere with sediment transport, aquatic life movements, or movement between aquatic environments and upland habitat. Some of the condition language is directly from the September 15, 2020, Federal Register Notice Proposal to Reissue and Modify Nationwide Permits and the Indiana Regional General Permit (LRL-2018-00988). These conditions are necessary to ensure compliance with 327 IAC 2.

Nationwide Permit #25 Structural Discharges
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions. These conditions are necessary to ensure the authorized activities are located outside the low flow channel to avoid impacts to sediment transport, aquatic life movements, and the physical degradation of the channel. The disposal requirements are necessary to ensure excavation and dewatering activities are conducted in a manner that does not result in a discharge where a numeric water quality standard exists. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions. The specified conditions for NWP #27 are necessary to ensure there is no permanent degradation to the existing beneficial uses of waters of the State. The impact thresholds are to ensure only minimal impact projects are authorized. The release of sediment from a reservoir is not authorized by this WQC. The release may result in discharges that have numeric limits within 327 IAC 2. Additionally, the sediment may result in harmful and objectionable depositions to aquatic life. Due to the complexity and numerous types of activities authorized by this NWP, notification for activities that install or remove water control structures, dikes, berms, or accumulated sediment is required to verify compliance with 327 IAC 2. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #29 Residential Developments
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions and NWP Specific Conditions. These conditions are necessary to ensure the existing beneficial uses of waters of the State are protected and there is no permanent degradation to water quality. Stream relocations are not authorized because these activities change the physical, chemical, and biological integrity of waters by impacting aquatic life movement, sediment transport, and changing the thalweg of a stream. Stormwater management facilities are not authorized because they convert waters of the state to a pollution prevent device or convert them to a differing use for water retention which degrades the existing beneficial uses and changes the chemical, physical, and biological integrity. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #36 Boat Ramps
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions. Some of the condition language is directly from the September 15, 2020, Federal Register Notice Proposal to Reissue and Modify Nationwide Permits and the Indiana Regional General Permit (LRL-2018-00988). These conditions are necessary to ensure activities authorized by NWP #36 comply with 327 IAC 2.

Nationwide Permit #37 Emergency Watershed Protection and Rehabilitation
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. This condition is necessary to ensure IDEM has participated in the development of the project and has signed the agreement to ensure compliance with 327 IAC 2.

Nationwide Permit #39 Commercial and Institutional Developments
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions and NWP Specific Conditions. These conditions are necessary to ensure the existing beneficial uses of waters of the State are protected and there is no permanent degradation to water quality. Stream relocations are not authorized because these activities change the physical, chemical, and biological integrity of waters by impacting aquatic life movement, sediment transport, and changing the thalweg of a stream. Stormwater management facilities are not authorized because they convert waters of the state to a pollution prevent device or convert them to a differing use for water retention which degrades the existing beneficial uses and changes the chemical, physical, and biological integrity. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #40 Agricultural Activities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions. Stream relocations are not authorized because these activities change the physical, chemical, and biological integrity of waters by impacting aquatic life movement, sediment transport, and changing the thalweg of a stream. The construction of drainage ditches and perforated tile within wetlands degrades the chemical, physical, and biological integrity by removing hydrology and changing the use. The requirements for riser pipes are necessary to ensure wetlands are not degraded by the removal of hydrology. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #42 Recreational Facilities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions and NWP Specific Conditions. These conditions are necessary to ensure the existing beneficial uses of waters of the State are protected and there is no permanent degradation to water quality. Stream relocations are not authorized because these activities change the physical, chemical, and biological integrity of waters by impacting aquatic life movement, sediment transport, and changing the thalweg of a stream. Stormwater management facilities are not authorized because they convert waters of the state to a pollution prevent device or convert them to a differing use for water retention which degrades the existing beneficial uses and changes the chemical, physical, and biological integrity The condition for trails, bike paths, and golf cart paths is necessary to ensure hydrologic connectivity between wetlands to ensure there is no loss of hydrology which results in water quality degradation. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #44 Mining Activities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justification above for references to General Conditions and NWP Specific Conditions. Stormwater management facilities are not authorized because they convert waters of the state to a pollution prevent device or convert them to a differing use for water retention which degrades the existing beneficial uses and changes the chemical, physical, and biological integrity. The dewatering requirements are necessary to ensure no objectionable deposits occur from an authorized discharge. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #57 Electric Utility Line and Telecommunication Activities
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justifications above for references to General Conditions. The conversion of forested and scrub shrub wetlands to emergent wetlands is a permanent impact and results in a degradation of the existing chemical, physical, and biological

integrity of the wetlands. The depth requirements for utility lines installed within a river or stream can be found at 312 IAC 10-5-4. These depth requirements ensure utilities do not create a hydraulic jump within the stream channel which could interfere with sediment transport, aquatic life movements, and otherwise impact water quality. These conditions ensure compliance with 327 IAC 2.

Nationwide Permit #58 Utility Line Activities for Water and Other Substances
Per 327 IAC 2-1-1.5, the goal of Indiana's water quality standards is to restore and maintain the chemical, physical and biological integrity of the state's waters. Please refer to the citations and justifications above for references to General Conditions. The conversion of forested and scrub shrub wetlands to emergent wetlands is a permanent impact and results in a permanent degradation of the existing chemical, physical, and biological integrity of the wetlands. The depth requirements for utility lines installed within a river or stream can be found at 312 IAC 10-5-4. These depth requirements ensure utilities do not create a hydraulic jump within the stream channel which could interfere with sediment transport, aquatic life movements, and otherwise impact water quality. These conditions ensure compliance with 327 IAC 2.

REGION 5
CHICAGO, IL 60604

December 11, 2025

Eric Reusch
Chief, Regulatory Division
U.S. Army Corps of Engineers, Louisville District
P.O. Box 59, Rom 183
Louisville, Kentucky 40201-0059

Clean Water Act (CWA) Section 401 Certification for the 2026 reissuance of the Nationwide Permits in Indian Country within Indiana

Dear Mr. Reusch:

On June 18, 2025, the EPA received a request for water quality certification of the U.S. Army Corps of Engineers' proposed 2026 Nationwide Permits (NWPs) for Indian Country within Indiana. In that notification, the Corps requested that EPA issue a Clean Water Act (CWA) Section 401 water quality certification for the 2026 NWPs.

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 Pokagon Band of Potawatomi Indians and the Miami Tribe of Oklahoma Indians do not have the authority to provide CWA Section 401 certification for projects within their respective Indian Country. Therefore, the EPA is making the CWA Section 401 certification decision for the 2026 Nationwide Permit reissuance in Indian Country in Indiana.

Enclosed is a CWA Section 401 water quality certification that applies to Indian Country in Indiana where EPA is Certifying Authority. To the extent that it has the authority to do so, EPA hereby certifies that the NWPs for authorized activities that may occur in Indian Country in Indiana will comply with the applicable requirements of the Clean Water Act, subject to the conditions outlined in the attached Water Quality Certification document.

If you have any questions, please contact Melissa Blankenship at r5wetlands@epa.gov.

Sincerely,

12/11/2025

X David Pfeifer

David Pfeifer
Manager, Watersheds and Wetlands Branch
Signed by: DAVID PFEIFER

Enclosure: The U.S. Environmental Protection Agency Region 5's Clean Water Act Section 401 Certification Decisions for the reissuance of the Nationwide Permits in Indian Country within Indiana

cc (via email w/ enclosures):

Laban Lindley, Regulatory Chief-North Branch, USACE, Louisville District, (laban.c.lindley@usace.army.mil)

Sarah Keller, Team Leader, USACE, Louisville District, (sarah.j.keller@usace.army.mil)

Cody Thayer, Project Manager, USACE, Louisville District, (cody.a.thayer@usace.army.mil)

Matthew J. Wesaw, Chair, Pokagon Band of Potawatomi, (matthew.wesaw@pokagonband-nsn.gov)

Jennifer Kanine, Director, Pokagon Band of Potawatomi, (jennifer.kanine@pokagonband-nsn.gov)

Douglas Lankford, Akima - Chief, Miami Tribe of Oklahoma, (dlankford@miamination.com)

Dustin Olds, Niišonaminki akima - Second Chief and NRD Director, Miami Tribe of Oklahoma (dsolds@miamination.com)

The U.S. Environmental Protection Agency Region 5's Clean Water Act Section 401 Certification Decision for the reissuance of the Nationwide Permits in Indian Country within Indiana

Clean Water Act (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 Pokagon Band of Potawatomi Indians and the Miami Tribe of Oklahoma Indians 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 within Indiana.

Project Description

On June 18, 2025, the Corps proposed to reissue 56 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 the project proponent. On July 1, 2025, the EPA issued a public notice regarding the proposed project and provided the opportunity for the public to submit comments until July 31, 2025. EPA received no public comments during the public notice period.

General Information

The general information provided in this section does not constitute a certification condition(s).

General Applicability

- The Corps did not request for certification for NWPs 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 project proponent 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 5.

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 5 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 5 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 Melissa Blankenship at R5wetlands@epa.gov.

Certification Decision

Grants of Certification without Conditions

EPA is granting certification without conditions for NWPs 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. For NWPs that EPA grants certification 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.