



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, PHILADELPHIA DISTRICT  
1650 ARCH STREET  
PHILADELPHIA PA 19103-2004

Regulatory Branch

April 30, 2025

Matthew Jones  
Delaware Department of Natural Resources and Environmental Control  
Wetlands and Waterways Section  
Richardson and Robbins Building  
89 Kings Highway  
Dover, Delaware 19901  
[Matthew.jones@delaware.gov](mailto:Matthew.jones@delaware.gov)

Reference: 2026 Nationwide Permits  
401 Water Quality Certification  
(Pre-Filing Meeting Request)

Dear Mr. Jones:

The U.S. Army Corps of Engineers (Corps) is preparing to reissue its existing Nationwide Permits (NWP) and associated general conditions and definitions. The Corps is currently planning to reissue most of the NWP without changes. The Corps is currently planning to propose modifications for a small number of NWP. The proposed rule for reissuing the NWP is expected to be published in the *Federal Register* upon completion of higher-level review, estimated time frame is a couple months. To meet the Corps' schedule to reissue the NWP, we are submitting this information now in the spirit of early coordination, and to request a pre-filing meeting. Because the Corps is planning to propose reissuing most of the NWP without changes, we are providing the attachment (Combined text of January 2021 and December 2021 Nationwide Permits.pdf) for the existing NWP for pre-filing meeting consideration. Additional information regarding the Corps' NWP is located at:

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

Under Section 401 of the Clean Water Act (CWA), an activity which may result in a discharge into waters of the U.S. that is authorized by a Federal permit must receive a CWA Section 401 Water Quality Certification (WQC), or waiver, from the appropriate certifying authority. This process allows the certifying authority an opportunity to ensure that any discharge will comply with applicable water quality requirements.

In accordance with 40 CFR 121.5, publication of the proposed NWP's in the *Federal Register* for a 60-day public comment period will serve as the request for certification. The date of the Federal Register Notice shall serve as the reasonable period of time begin date. The Philadelphia District will send the Delaware Department of Natural Resources and Environmental Control, Wetlands and Waterways Section (DDNREC) notification when the proposed NWP's are published in the *Federal Register*. The reasonable period of time for certifying authorities to act on the proposed NWP's reissuance will be six months, in accordance with 40 CFR 121.6, to provide a consistent reasonable period of time for all certifying authorities. Certifying authorities can act on the certification request for the proposed NWP's in less time if they choose to do so.

This letter serves as the Philadelphia District's pre-filing meeting request, in accordance with 40 CFR 121.4, to discuss the proposed NWP's in advance of submitting a request for a general WQC for the proposed NWP's that may result in a discharge into waters of the United States. If the DDNREC accepts this request for a pre-filing meeting, please send a response that identifies points-of-contact for the pre-filing meeting.

We note that the Environmental Protection Agency regulations implementing Section 401 have changed since the Corps last requested water quality certification for the reissuance of the NWP's in 2020. While the new regulations allow for the modification of a grant of certification upon the mutual agreement of the certifying authority and the Corps, conditions or other language that reserve the unilateral right of the certifying authority to modify or retract a certification are not allowed and may result in the Corps declining to rely on blanket certifications that contains such language.

Thank you for your attention regarding this matter. The Corps looks forward to working with the DDNREC throughout the water quality certification process for the proposed NWP. If you have any questions regarding this request, please feel free to contact Mr. Michael D. Yost by telephone at (267) 240-5278 or by email at: michael.d.yost@usace.army.mil.

Sincerely,

Todd A. Schaible  
Regulatory Branch Chief

Attachment - Combined text of January 2021 and December 2021 Nationwide Permits.pdf