



Douglas A. Ducey  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera  
Director

March 27, 2017

Reading File: SWGP17-0015

Department of the Army  
Los Angeles District Corps of Engineers  
Attn: David J. Castanon, Chief, Regulatory Division  
915 Wilshire Blvd., Suite 930  
Los Angeles, CA 90017

**Re: Clean Water Act Section 401 Water Quality Certification for the Re-Issuance of the  
Clean Water Act 404 Nationwide Permits on March 19, 2017**

Dear Mr. Castanon:

The Arizona Department of Environmental Quality (ADEQ) has reviewed the U.S. Army Corps of Engineers (USACE) reissuance of the Nationwide Permits (NWP). Based on the information provided in the Federal Register on January 6, 2017 and the USACE Los Angeles District regional conditions in the Special Public Notice, dated June 9, 2016, ADEQ certifies the NWPs with the incorporation of the Water Quality Conditions, listed in Appendix A.

ADEQ also requires that an applicant submit an application to the department for a Water Quality Certification if the proposed activity will occur within the ordinary high water mark of any of the following: An Outstanding Arizona Water; an impaired water; a water that is listed as not attaining; or a lake.

Sincerely,

Trevor Baggione, Director  
Water Quality Division

electronic copies: USACE – Arizona Regulatory Branch, attn.: Sallie Diebolt  
USEPA Wetlands Regional Office, attn.: Elizabeth Goldmann

## **Appendix A:**

### **Definitions:**

**Not Attaining Waters** are surface waters that are identified pursuant to CWA Section 305(b) as not attaining (e.g. not meeting surface water quality standards) and as a result, merit special consideration. The current list of Not Attaining Waters (Category 4A, 4B and 4C) is available on the ADEQ website at [www.azdeq.gov](http://www.azdeq.gov).

**Native Fill** means soil, sand, gravel and other natural materials that are similar in physical, chemical and biological composition to existing natural materials in the project area; and which are free from pollutants in quantities and concentrations that can cause or contribute to an exceedance of applicable Surface Water Quality Standards (SWQS).

The following 401 water quality conditions apply to regulated discharges of dredged or fill material occurring within the ordinary high water mark (OHWM) of Waters of the US (WUS) under all applicable NWP (hereinafter referred to as "certified activities"):

1. Submission of a PCN pursuant to General Condition 32 and Regional Condition 3 shall be required for all waterbodies designated by ADEQ as Not Attaining, within 1600 meters (or 1 mile) upstream and/or 800 meters (or ½ mile) downstream of a not attaining water.
2. Any discharge occurring as a result of certified activities of the project shall not cause an exceedance of any Surface Water Quality Standard (SWQS). Applicability of this condition is as defined in A.A.C. R18-11-102.
3. This certification does not authorize the discharge of wastewater, process residues or other waste to any WUS.
4. Runoff of water used for irrigation or dust control for certified activities within WUS shall be limited to the extent practicable and shall not cause downstream erosion, flooding or an exceedance of applicable surface water quality standards (SWQS) in any WUS.
5. Clearing, grubbing, scraping or otherwise exposing erodible surfaces in WUS shall be minimized to the extent necessary for each construction phase or location.
6. Dredged or fill material in WUS shall be placed so that it is stable, meaning after placement, the material does not show signs of excessive erosion, such as gully, head cutting, caving, block slippage, material sloughing, etc. Dredged or fill material placed in WUS shall not discharge (e.g., via leaching, runoff) pollutants into streams or wetlands at levels exceeding any applicable SWQS.
7. The effectiveness of all pollution control measures, including sediment and erosion control measures, shall be inspected, maintained and modified (as necessary) to reduce pollutants and ensure compliance with SWQS in any WUS.

8. Except where certified activities are intended to permanently alter any WUS, all disturbed areas within WUS shall be restored and (re)vegetated or stabilized. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.
9. Silt laden or turbid water resulting from certified activities shall be managed in a manner to reduce sediment load prior to discharging so as not to exceed SWQS in any WUS.
10. Any washing or dewatering of fill material must occur outside of any WUS prior to placement.
11. Acceptable fill material that can be placed in any WUS includes: untreated logs and lumber; natural stone (crushed or not), crushed clean concrete (recycled concrete); native fill; precast, sprayed or cast-in-place concrete (including soil cement and unmodified grouts); steel (including galvanized); plastic; aluminum; and other material that is free from pollutants in quantities or combinations that can cause an exceedance of applicable SWQS. Other fill materials may be placed in WUS with prior written approval from ADEQ.
12. Upon completion of the certified activities, areas within any WUS shall be promptly cleared of all forms, pilings, construction residues, equipment, debris and other obstructions, including temporary structures.
13. If fully, partially or occasionally submerged structures in WUS are constructed of cast-in-place concrete instead of pre-cast concrete, applicant will take steps; e.g., sheet piling or temporary dams, to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant source.
14. Any permanent WUS crossings other than fords, shall be equipped with conveyances that direct untreated runoff away from WUS.
15. Permanent and temporary pipes and culvert crossings in WUS shall be adequately sized to handle expected flow and properly set with end section, splash pads, headwalls or other structures that dissipate water energy to control erosion.
16. Debris will be cleared as needed from culverts, ditches, dips and other drainage structures in any WUS to prevent clogging or conditions that may lead to washout.
17. All temporary structures in WUS constructed of imported materials and all permanent structures, including but not limited to, access roadways; culvert crossings; staging areas; material stockpiles; berms, dikes and pads, shall be constructed so as to accommodate overtopping and resist washout by streamflow.
18. Any temporary WUS crossing, other than fords on native material, shall be constructed in such a manner so as to provide armoring of the stream channel. Materials used to provide this armoring shall not include anything easily transportable by flow.