



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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March 6, 2017

Colonel John G. Buck  
District Engineer  
Seattle District, Corps of Engineers  
Post Office Box 3755  
Seattle, Washington 98124-3755

RE: Revised State of Washington decisions on Section 401 Water Quality Certification in response to Department of the Army, Corps of Engineers "Notice of Reissuance of Nationwide Permits," published in the *Federal Register* January 6, 2017

Dear Colonel Buck:

The Department of Ecology (Ecology) completed its review of the United States Department of the Army, Corps of Engineers, (the Corps) Nationwide Permit (NWP) Rule as published in the *Federal Register* (82 FR 1860) on January 6, 2017, and submitted the State's Section 401 Water Quality Certification decisions on March 1, 2017, to the Corps Seattle District.

On March 3, 2017, the Corps Seattle District requested clarification on State General Condition 4, Aquatic Resources Requiring Special Protection, and how this condition would be applied to NWP 48, Commercial Shellfish Aquaculture Activities. In response, Ecology has revised the State General Section 401 Certification Condition 4 and specific State Section 401 Certification Decision for NWP 48 to clarify the State's intent. State General Condition 4 (c) has been revised to include an exception for NWP 48 and the State Section 401 Certification decision has been revised to "Certified subject to conditions," with a condition to address direct impacts to eelgrass beds from new operations or expansion of existing operations.

Because the Corps Seattle District's proposed Regional General Conditions have not been finalized, Ecology also revised State General Condition 3 and 4 to remove specific reference to proposed Regional General Conditions.

All other State Section 401 Water Quality Certification decisions and conditions issued on March 1, 2017, remain unchanged.



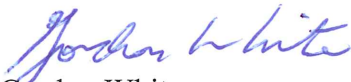
Below is a revised summary of Ecology's decisions regarding specific NWPs:

- Ecology certifies Section 401 Certification for:  
NWP # 1, 2, 4, 5, 7, 9, 10, 11, 18, 20, 22, 25, 30, and 31
- Ecology certifies subject to specific Section 401 Certification conditions for:  
NWP # 3, 6, 12, 13, 14, 15, 16, 19, 23, 27, 28, 29, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 45, 46, and 48
- Ecology denies without prejudice Section 401 Certification for:  
NWP # 8, 17, 21, 37, 44, 49, 50, 51, 52, 53, and 54

Revised Attachment #1 – State of Washington Final Decisions and Section 401 Water Quality Certification Conditions for Corps of Engineers 2017 Nationwide Permits. This document fully outlines Ecology's Section 401 Certifications decisions for activities which may result in a discharge and are carried out under a NWP for the Corps Section 404 and Section 10 permits.

Please contact Loree' Randall of my staff at (360) 407-6068 if you have any questions or would like additional information.

Sincerely,



Gordon White  
Program Manager  
Shorelands and Environmental Assistance Program

Enclosure

By certified mail 91 7199 9991 7037 0278 3157

cc: Muffy Walker, US Army Corps of Engineers, Seattle District  
Karen Urelus, US Army Corps of Engineers, Seattle District  
Linda Storm, US EPA, Region X  
Justin Parker, Northwest Indian Fisheries Commission  
Jim Weber, Northwest Indian Fisheries Commission  
Scott Schuyler, Upper Skagit Indian Tribe  
Sam Phillips, Port Gamble S'Klallam Tribe  
Merle Jefferson, Lummi Natural Resources Department  
Michal Rechner, WA DNR  
Lalena Amiotte, WA DNR  
Randi Thurston, WA DFW  
Virginia Stone, WA DOT

**STATE OF WASHINGTON FINAL DECISIONS AND SECTION 401**  
**WATER QUALITY CERTIFICATION CONDITIONS FOR THE**  
**CORPS OF ENGINEERS 2017 NATIONWIDE PERMIT PROGRAM**

In addition to all the U.S. Army Corps of Engineers' (Corps) National and Seattle Districts' Regional permit conditions, the following State General Section 401 Water Quality Certification (Section 401) conditions apply to all Nationwide Permits whether **certified** or **partially certified** in the State of Washington.

1. **For in-water construction activities.** Ecology Section 401 review is required for projects or activities authorized under NWPs that will cause, or may be likely to cause or contribute to an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

State water quality standards and sediment management standards are available on Ecology's website.

Note: In-water activities include any activity within a wetland and/or activities below the ordinary high water mark (OHWM).

2. **Projects or Activities Discharging to Impaired Waters.** Ecology Section 401 review is required for projects or activities authorized under NWPs if the project or activity will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listed parameter.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visit Ecology's Water Quality Assessment webpage for maps and search tools.

3. **Application.** For projects or activities that will require Ecology Section 401 review, applicants must provide Ecology with a Joint Aquatic Resources Permit Application (JARPA) along with the documentation provided to the Corps, as described in National General Condition 32, Pre-Construction Notification, including, when applicable:

- (a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, best management practices (BMPs), and any other Department of the Army or federal agency permits used or intended to be used to authorize any part of the proposed project or any related activity.
- (b) Drawings indicating the Ordinary High Water Mark (OHWM), delineation of special aquatic sites and other waters of the state. Wetland delineations must be prepared in accordance with the current method required by the Corps and shall include Ecology's Wetland Rating form. Wetland rating forms are subject to review and verification by Ecology staff.

Guidance for determining the OHWM is available on Ecology's website.

- (c) A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See State General Condition 5 for details on mitigation requirements.
- (d) Other applicable requirements of Corps Nationwide Permit General Condition 32, Corps Regional Conditions, or notification conditions of the applicable NWP.
- (e) Within 180 calendar days from receipt of applicable documents noted above **and** a copy of the final authorization letter from the Corps providing coverage for a proposed project or activity under the NWP Program Ecology will provide the applicant notice of whether an individual Section 401 will be required for the project. If Ecology fails to act within a year after receipt of **both** of these documents, Section 401 is presumed waived.

4. **Aquatic resources requiring special protection.** Certain aquatic resources are unique, difficult-to-replace components of the aquatic environment in Washington State. Activities that would affect these resources must be avoided to the greatest extent possible. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscape settings.

Ecology Section 401 review is required for activities in or affecting the following aquatic resources (and not prohibited by Seattle District Regional General Condition):

- (a) Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
  - Estuarine wetlands.
  - Wetlands of High Conservation Value.
  - Bogs.
  - Old-growth and mature forested wetlands.
  - Wetlands in coastal lagoons.
  - Interdunal wetlands.
  - Vernal pools.
  - Alkali wetlands.
- (b) Fens, aspen-dominated wetlands, camas prairie wetlands.
- (c) Marine water with eelgrass (*Zostera marina*) beds (except for NWP 48).
- (d) Category 1 wetlands.
- (e) Category II wetlands with a habitat score  $\geq 8$  points.

This State General Condition does not apply to the following Nationwide Permits:  
NWP 20 – *Response Operations for Oil and Hazardous Substances*  
NWP 32 – *Completed Enforcement Actions*

**5. Mitigation.** Applicants are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resources wherever practicable. For projects requiring Ecology Section 401 review with unavoidable impacts to aquatic resources, adequate compensatory mitigation must be provided.

- (a) Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at a minimum, include the following:
- i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.
  - ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).
  - iii. The rationale for the mitigation site that was selected.
  - iv. The goals and objectives of the compensatory mitigation project.
  - v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.
  - vi. How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.
  - vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, including credit/debit methodology, advance mitigation, and other programmatic approach such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

- (b) Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

6. **Temporary Fills.** Ecology Section 401 review is required for any project or activity with temporary fill in wetlands or other waters of the state for more than 90 days, unless the applicant has received written approval from Ecology.

Note: This State General Condition does not apply to projects or activities authorized under NWP 33, *Temporary Construction, Access, and Dewatering*

7. **Stormwater pollution prevention:** All projects that involve land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoid discharge of pollutants in stormwater runoff to waters of the state.
  - (a) For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.
  - (b) Following construction, prevention or treatment of on-going stormwater runoff from impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permit information are available on Ecology's website.

8. **State Section 401 Review for PCNs not receiving 45-day response from the Seattle District.** In the event the Seattle District Corps does not issue a NWP authorization letter within 45 calendar days of receipt of a **complete** pre-construction notification, the applicant must contact Ecology for Section 401 review prior to commencing work.

## **NATIONWIDE SPECIFIC 401 CERTIFICATION CONDITIONS**

In addition to compliance with the State General Conditions above, the following conditions apply to the specified Nationwide Permits issued for projects occurring in the State of Washington:

1. **Aids to Navigation**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

2. **Structures in Artificial Canals**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

### 3. **Maintenance**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activities are below the Ordinary High Water Mark (OHWM) with new work being proposed outside the original footprint.
2. The proposed project or activity increases the original footprint of the structure by more than 1/10<sup>th</sup> acre in wetlands.
3. The project or activity includes adding a new structure, such as a weir, flap gate/tide gate, or culvert to the site.

### 4. **Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

### 5. **Scientific Measurement Devices**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

### 6. **Survey Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity involves oil or natural gas exploration in waters of the state.
2. The project or activity requires trenching in wetlands.

### 7. **Outfall Structures and Associated Intake Structures**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

### 8. **Oil and Gas Structures on the Outer Continental Shelf**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

### 9. **Structures in Fleeting and Anchorage Areas**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

## **10. Mooring Buoys**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

## **11. Temporary Recreational Structures**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

## **12. Utility Line Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity impacts more than 1/3 acre of waters of the state.
2. The project or activity is in or adjoining a known contaminated or cleanup site.
3. The project or activity requires a Federal Energy Regulatory Commission (FERC) license.

## **13. Bank Stabilization**

**STATE Section 401 Certification** – Certified subject to conditions.

1. An individual Section 401 Certification is required for new, or expansion of existing, bank stabilization in marine and estuarine waters of the Salish Sea.
2. Ecology Section 401 review is required for projects or activities authorized under this NWP if:
  - a. The project or activity is greater than 500 feet in length.
  - b. The project or activity has not been designed and stamped by a Professional Engineer or Engineering Geologist.
  - c. The project or activity exceeds an average of one cubic yard per running foot below the Ordinary High Water Mark or High Tide Line.
  - d. The project or activity involves discharges of dredged or fill material into special aquatic sites.



#### **14. Linear Transportation Projects**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity impacts more than more than 1/3 acre of waters of the state.
2. The project includes fill related to a residential and/or commercial development.
3. The project or activity is in or adjoining a known contaminated or cleanup site.

#### **15. U.S. Coast Guard Approved Bridges**

**STATE Section 401 Certification** - Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity triggers an individual U.S. Coast Guard bridge permit.

NOTE: An Advance Approval from the U.S. Coast Guard is not considered a bridge permit and would not trigger Ecology review.

#### **16. Return Water from Upland Contained Disposal Areas**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

#### **17. Hydropower Projects**

**STATE Section 401 Certification** – Denied without prejudice. A Section 401 Water Quality Certification is required for all projects or activities under this NWP.

#### **18. Minor Discharges**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

#### **19. Minor Dredging**

**STATE State 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

**20. Response Operations for Oil and Hazardous Substances**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

**21. Surface Coal Mining Operations**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**22. Removal of Vessels**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

**23. Approved Categorical Exclusions**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity has fill impacts to waters of the state greater than ½ acre.

**24. Indian Tribe or State Administered Section 404 Programs**

*This NWP is not used in Washington State.*

**25. Structural Discharges**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

**26. [Reserved]**

**27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill in tidal waters.
2. The project or activity affects ½ acre or more of wetlands.
3. The project or activity is a mitigation bank or an advanced mitigation site.
4. The project or activity is in or adjoining a known contaminated or cleanup site.

## **28. Modifications of Existing Marinas**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP that have a potential to discharge to waters of the state and/or have a potential to re-suspend sediments if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

## **29. Residential Developments**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The residential development has impacts to waters of the state greater than  $\frac{1}{4}$  acre.
2. The project is a subdivision. (NOTE: “Subdivision” is the division or redivision of land into lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.)

## **30. Moist Soil Management for Wildlife**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

## **31. Maintenance of Existing Flood Control Facilities**

**STATE Section 401 Certification** – Certified, if all applicable State General Conditions are met.

## **32. Completed Enforcement Actions**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity has impacts to waters of the state greater than  $\frac{1}{4}$  acre.

## **33. Temporary Construction, Access, and Dewatering**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. Temporary fills are placed in more than  $\frac{1}{2}$  acre of waters of the state and left in place for more than 90 days.
2. Temporary fills are left in place for longer than six months.

### **34. Cranberry Production Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP unless the proposed project meets 1 or 2 below:

1. The proposed expansion area:
  - (a) At the time of the State’s certification of this NWP, did not or currently does not include forested wetland with trees of 8" diameter or greater at Breast Height or provide 30% or greater of the areal canopy coverage of that wetland. The burden of proof is on the applicant to demonstrate that trees meeting the size requirements were not present;
  - (b) Is not within 50 feet of the Pacific County Drainage Ditch 1; and
  - (c) Is located within the geographic area as described below (see attached map, based on USGS maps 46124-G1-TF-024 (Grayland, WA – revised 1984) and 46124-F1-TB-024 (North Cove, WA – revised 1984): Beginning at the intersection of Smith Road (aka Smid and/or Cranberry Road) and State Route 105 and running thence south and southeast along SR 105 to the intersection of SR 105 and Smith Anderson Road; thence north to the intersection of Smith Anderson Road and Lungren Road; thence north 1320.0 feet along Smith Anderson Road; thence west 450.0 feet; thence north 1690.0 feet; thence 13 degrees west of the northerly direction approximately 11,280.0 feet to the intersection of the east section line of Section 6 and the west section line of Section 5 (Township 15 North, Range 11 West Meridian) and Smith Road; thence west on Smith Road to the point of beginning.
2. Anywhere in Washington, the proposed expansion area has previously been used for cranberry production. Ecology will verify the expansion for these areas upon receipt of appropriate documentation that adequately demonstrates prior cranberry production in the proposed expansion area. Documentation may include one or more of the following:
  - (a) Evidence of the presence of old dikes around the boundary of the proposed expansion (dated photographs, dated video, topographic surveys);
  - (b) Old aerial photographs showing cranberry bogs within the proposed expansion area;
  - (c) Old maps drawn by registered engineers/surveyors showing the presence of cranberry bogs in the proposed expansion area; or
  - (d) Evidence that established plants of cultivated (not native) cranberry varieties are present within the proposed expansion area.

**NOTE:** *Applicants who do not meet the above criteria may still apply for Section 401 Certification. Certification will be granted by Ecology if it is determined that the proposed expansion will not cause significant degradation of wetland functions, or where adequate mitigation is proposed.*

### **35. Maintenance Dredging of Existing Basins**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP that have a potential to discharge to waters of the state and/or have a potential to re-suspend sediments if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

### **36. Boat Ramps**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity results in a discharge greater than 50 cubic yards into waters of the state.
2. The boat ramp exceeds 20 feet in width.
3. The project or activity is in or adjoining a known contaminated or cleanup site.

### **37. Emergency Watershed Protection and Rehabilitation**

**STATE Section 401 Certification** – Denied without prejudice. A Section 401 Water Quality Certification is required for all projects or activities under this NWP.

### **38. Cleanup of Hazardous and Toxic Waste**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity affects more than ½ acre of waters of the state.
2. The project or activity is not authorized through a Model Toxics Control Act (MTCA) order or a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) order.

### **39. Commercial and Institutional Developments**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity affects ¼ acre or more of waters of the state.

#### **40. Agricultural Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill or mechanized clearing impacting more than ¼ acre of waters of the state.

#### **41. Reshaping Existing Drainage Ditches**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity discharges dredged or fill material into a ditch that receives water from or discharges water to a water of the state within ½ mile of project site.
2. The project or activity occurs within a wetland.

#### **42. Recreational Facilities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity affects ¼ acre or more of waters of the state.

#### **43. Stormwater Management Facilities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity includes a Category I or Category II, wetland as part of a stormwater or flow control system. Including a Category I or Category II wetland in a stormwater treatment or flow control system is considered an impact and will need to be mitigated.
2. The project or activity includes a Category III (with a habitat score of  $\geq 5$ ) wetland as part of a stormwater or flow control system.

#### **44. Mining Activities**

**STATE 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**45. Repair of Uplands Damaged by Discrete Events**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity will involve the placement of more than 25 cubic yards of dredged or fill material into waters of the state.
2. The project or activity involves impacts to waters of the state greater than ½ acre.

**46. Discharges in Ditches**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity discharges dredged or fill material into a ditch that receives water from or discharges water to a water of the state within ½ mile of project site.

**47. [Reserved]**

**48. Commercial Shellfish Aquaculture Activities**

**STATE Section 401 Certification** – Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project is a new operation, or an expansion of an existing operation, with direct impacts to eelgrass beds in marine waters.

**49. Coal Remining Activities**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**50. Underground Coal Mining Activities**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**51. Land-Based Renewable Energy Generation Facilities**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**52. Water-Based Renewable Energy Generation Pilot Projects**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**53. Removal of Low-Head Dams**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.

**54. Living Shorelines**

**STATE Section 401 Certification** – Denied without prejudice. An individual Section 401 Water Quality Certification is required for all projects or activities under this NWP.