



REGION 4

ATLANTA, GA 30303

Colonel Jeremiah A. Gipson
District Commander
United States Army Corps of Engineers
4155 Clay Street
Vicksburg, Mississippi 39183

Subject: EPA's CWA Section 401 Certification Decisions for the 2026 Section 404 Nationwide Permits for the Mississippi Band of Choctaw Indians in Mississippi

Dear Colonel Gipson:

The U.S. Environmental Protection Agency Region 4 has authority under Section 401 of the Clean Water Act (CWA) to evaluate and certify water quality protections for federal permits or licenses issued for activities where no state or Tribe has authority to give such certification. In this case, the Mississippi Band of Choctaw Indians (MBCI) does not have the authority to provide CWA Section 401 certification for projects within their Tribal land. On June 18, 2025, the Vicksburg District Corps requested Section 401 certification of the 2026 CWA Section 404 Nationwide Permits (NWP). The EPA has reviewed the certification request, including the United States Army Corps of Engineers' June 18, 2025, Federal Register notice announcing the reissuance and modification of 56 existing NWPs and issuance of one new NWP. The EPA is hereby transmitting (please see enclosures) its certification actions for the 2026 NWPs for Indian Country in Mississippi.

Thank you for your ongoing partnership in implementing the Section 404 program. If you have any questions regarding this matter, please contact me or have a member of your staff contact Ms. Molly Martin at martin.molly@epa.gov.

Sincerely,

Kathlene Butler
Director
Water Division

Enclosure

1. NWP_Certification_R4_MBCI_Mississippi Band of Choctaw Indians December 2025.docx

U.S. Environmental Protection Agency Region 4's Clean Water Act Section 401 Certification of the 2026 Nationwide Permits

December 15, 2025

Clean Water Act (CWA) Section 401 requires applicants for federal licenses or permits for 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, Mississippi Band of Choctaw Indians does not have the authority to provide CWA Section 401 certification for projects within their Tribal land. Therefore, the EPA is making the CWA Section 401 certification decision for the 2026 Nationwide Permits (NWP) reissuance in Indian Country in Mississippi.

Project Description

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) proposed to reissue 56 NWPs that would expire in March 2026 and issue 1 new NWP. See Federal Register Notice 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 the Corps has determined will 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 3, 2025, the EPA issued a public notice regarding the proposed project and invited public comments through August 2, 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 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 one of these NWPs may result in a discharge into a water of the United States, on lands where EPA acts as the certifying authority, the Corps 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 4.

Documentation Recommendations

- Project proponents for potential projects authorized under the NWP should retain this certification in their files with the applicable NWP as documentation of EPA's certification decisions for the above-referenced proposed NWP. This certification is specifically associated with the proposed NWP described above and expires when those NWP 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 4 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 Mississippi Band of Choctaw Indians Office of Environmental Protection.
- In the case of an oil spill, EPA recommends that the project proponent notify EPA Region 4 within 8 hours of 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 Molly Martin at martin.molly@epa.gov.

Certification Decisions

Grants of Certification without Conditions

EPA is granting certification without conditions for NWP 3, 4, 5, 6, 7, 12, 13, 14, 16, 17, 18, 19, 20, 23, 25, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 51, 54, 57, 58, 59, and A. For NWP for which the EPA grants certification without conditions, the 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.

Express Waiver of Certification

On behalf of the Mississippi Band of Choctaw Indians, EPA Region 4 is expressly waiving its authority to act on the CWA Section 401 request for certification for NWP 15, 21, 22, 34, 48, 50, 52, and 53.