



Missouri Department of dnr.mo.gov

**NATURAL RESOURCES**

Michael L. Parson, Governor

Carol S. Comer, Director

Jay Hoskins, P.E., Assistant Director  
Division of Environmental Compliance  
Metropolitan St. Louis Sewer District  
10 East Grand Avenue  
St. Louis, MO 63147-2913

RE: Response to Comments on Section 401 Water Quality Certification of 2020 Section 404  
Nationwide Permits

Dear Jay Hoskins:

Thank you for your comments received October 28, 2020, concerning the draft Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) for the 2020 CWA Section 404 Department of the Army Nationwide Permits (NWP). The Missouri Department of Natural Resources appreciates the time you have taken to participate in the public comment period which expired on November 2, 2020. Your summarized comments and the Department's response is as follows:

Comment 1: In General Condition 2, MSD recommends the exception be expanded to include "construction easements" and "permanent easements."

Response 1: The Department has edited the document to include the suggested, additional easements.

Comment 2: For General Condition 10, MSD suggests striking the verbiage "project activity shall be conducted at times of little or no rainfall to limit the amount of overland flow..." Weather patterns are oftentimes unpredictable, and the condition would add elements of risk and uncertainty to projects that face non-compliance implications and other negative consequences if unnecessarily delayed and not completed on time.

Response 2: A preceding stipulation in General Condition 10 that such activity shall be conducted "to the best of the applicant's ability" allows for flexibility. For this reason, the language will be retained to ensure such activities are discouraged as practicable.

Comment 3: For General Condition 11a, MSD requests that "other pollutants" be stricken from the condition to prevent it from being vague and ambiguous.

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Response 3: As noted during the public meeting on October 21, 2020, the Department acknowledges the language could be considered vague. For this reason, “contamination from metals and other pollutants” has been stricken from the condition. The condition will still include language regarding streams with sediment-related impairments, which the Department interprets to include sediment-bound metals and polycyclic aromatic hydrocarbons (PAHs).

Comment 4: For General Conditions 12 and 13, MSD supports the recommendation to reduce the response period from 15 days to 10 days.

Response 4: To ensure regulatory certainty, the U.S. Army Corps of Engineers (USACE) requested the Department remove notification and review language for all WQC general conditions. For this reason, the Department is no longer requiring notification and review for NWP in outstanding national or state resource waters or NWPs receiving USACE waivers. However, all NWPs issued on waters listed for a sediment-related impairment, aquatic habitat alteration, channelization, or unknown impairment as listed in the most current Water Quality Report (Section 305(b) Report) will now require individual WQC to ensure the impairments are not exacerbated.

Thank you again for your comments on the draft WQC. This response to comments will be posted to the Department’s website at <http://dnr.mo.gov/env/wpp/401/index.html>. If you have any questions or require more information regarding the Department’s WQC, please contact Mike Irwin, of my staff, by phone at 573-522-1131, by email at [mike.irwin@dnr.mo.gov](mailto:mike.irwin@dnr.mo.gov), or by mail at Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176.

Sincerely,

WATER PROTECTION PROGRAM

Chris Wieberg, Chief  
Operating Permits Section

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