



Guidance: Hurricane Helene Repair work in Waters and Wetlands

NC Division of Water Resources
October 2024

The following information is intended to aid in determining what may/may not require a 401 Certification from the Division of Water Resources (DWR) following the damage in Western North Carolina from Hurricane Helene. The public may contact us with any questions regarding 401 Certifications for projects related to Helene recovery. Every effort will be made to return voice messages and e-mails as quickly as possible.

Projects in Ashville Region: 828-296-4500

Projects in Mooresville Region: 704-235-2100

Projects in Winston-Salem Region: 336-776-9800

Email Inquiries: stephanie.goss@deq.nc.gov

For any other area or to see a map of areas covered by each region, please visit DWR's website: <https://www.deq.nc.gov/about/contact/regional-offices>

401 Certifications are *only* required when the USACE determines that a 404 Permit is necessary.

404 Exemption = No 401 Certification needed

In accordance with a Fact Sheet issued by the USACE¹. A majority of work within waters of the U.S. (WOTUS) to repair damage cause by Helene is expected to qualify for an exemption from 404 permitting or verification under one or more Nationwide Permit (NWP).

From USACE Factsheet:

- **Exemptions:** No permit is required for maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design.
- No permit is required for maintenance, repair, or replacement of moorings or pile-supported structures including floats, stairs/pads, and boat/float lifts as well as other miscellaneous structures within inland, non-navigable waters if there is no discharge of dredged or fill material.
- ❖ **No 401 Certification is required from DWR for projects that qualify for the above noted exemptions.**

¹ [Fact Sheet: Regulatory Flood Response in North Carolina, October 2024. U.S. Army Corps of Engineers.](#) 3 October 2024

- **Discharge of dredged or fill material:** If your project does not qualify for an exemption from USACE, a 404 Permit and 401 Certification are required for the discharge of fill material into WOTUS. For these activities, the DWR intends to expedite issuance of the corresponding 401 Certification.
- **Structures located in or over navigable waters:** Permits and 401 Certifications are required for work or structures in or over navigable waters pursuant to Section 10 of the Rivers and Harbors Act of 1899. For these activities, the DWR intends to expedite issuance of the corresponding 401 Certification.

NWP authorized activities:

Most NWPs in North Carolina have corresponding 401 General Certifications. A 401 General Certification covers certain types of activities that can be conducted without needing to apply (via an application or “PCN”) to the DWR. Each 401 General Certification specifies thresholds which make a project ineligible for coverage under the General Certification and would therefore require PCN submittal to request an Individual 401 Certification. The most common NWPs and GCs expected to cover storm related activities are listed below.

USACE Nationwide Permit (404 Permit)	DWR General Certification (401 Certification)
NWP 3. Maintenance	General Certification # 4239
NWP 13. Bank Stabilization	General Certification # 4245
NWP 14. Linear Transportation Projects	General Certification # 4246
NWP 37. Emergency Watershed Protection and Rehabilitation	General Certification # 4246
NWP 45. Repair of Uplands Damaged by Discrete Events	General Certification # 4268

[Link: Full List of DWR General Certifications](#)

Projects that qualify for coverage under any General Certification must comply with the Conditions stated in the General Certification. With regards to the Condition in all 401 General Certifications stating “Work within a designated trout watershed of NC or identified state or federal endangered or threatened species habitat, shall be coordinated with the appropriate NCWRC, USFWS”, the NCWRC has indicated that the standard trout moratorium for work in waters shall be waived for any action that meets the definition of an “emergency” [as defined by the USACE²](#). For projects that do not meet this definition, an application will be required to allow DWR/USACE to conduct expedited coordination with resource agencies.

Projects that require an Individual Certification will require a PCN submittal, and review by DWR. [You may apply for authorization through a website tool and joint permit application, available here.](#) DWR will expedite application review/approvals for activities related to emergency storm recovery/repair as much as practical.

² [USACE Public Notice: Emergency Permit Application Processing Procedures for Hurricane Helene](#)