

## Activities Requiring a Permit

Any construction activity in “waters of the U.S.” may require a Section 404 permit. Examples of regulated activities are materials excavated or placed in a waterway or wetland of any purpose including; commercial, industrial or recreational construction; road fills and causeways where portions of the construction are in waters or wetlands; dams and dikes; and protection devices such as levees, groins, riprap and other bank stabilization . These activities also include dumping of construction demolition debris, asphalt, trash and any other material listed as hazardous.



*Navajo Nation Wheatfields, AZ*

## Who Administers the Law?

The U.S. Army Corps of Engineers in each respective state. To obtain information or send in a 404 application contact:

*Arizona:* Ron Fowler  
US Army Corps of Engineers  
Phoenix Regulatory Branch  
3636 N. Central  
Phoenix, AZ 85102  
(602) 640-5385 Ext. 226

*New Mexico:* Chris Wras  
Durango Regulatory-Albuquerque District  
103 Sheppard Drive  
Durango, CO 81303  
(970) 375-9509

*Utah:* US Army Corps of Engineers  
Intermountain Regulatory– Durango  
278 Sawyer Drive, Suite 1  
Durango, CO 81303-7995  
(970) 375-9452

Potential penalties for Section 404 violations include a maximum criminal fine of \$50,000/day and imprisonment for up to 3 years and a maximum civil penalty of \$25,000/day of violation.

## Who Must Apply?

Any person, agency, or entity, either public or private, proposing a project that is in a “waters of the U.S.” must apply for a 404 determination from the U.S. Army Corps of Engineers (COE). Due to the fact that the Navajo Nation boundaries fall in the states of Arizona, New Mexico, and Utah, communication with the respective state COE is essential

## Pre-Application Consultation

You are encouraged to contact the Navajo Nation EPA Water Quality Program and U.S. Army Corps of Engineers for any proposed work in the “waters of the U.S.” Remember, contact the respective state COE office.

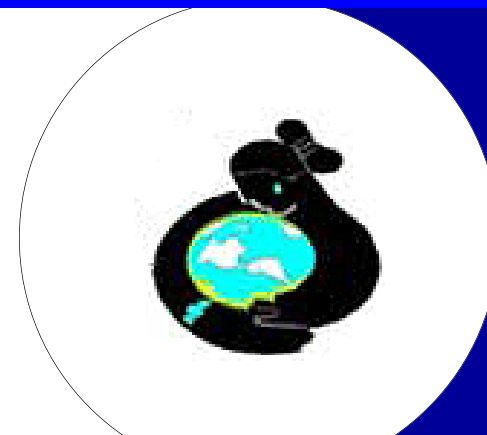
## What to Send

The application for a 404 permit should be sent to the respective Corps of Engineer’s Office the same time that the 401 application is sent to Navajo EPA. At minimum, the 404 application should include the following: project description, location, purpose, name of water-course(s) affected, acreage of waters directly/indirectly impacted by project, description of fill, potential pollutants, source location, the site’s biological resources, potential impacts to biological resources, mitigation and management plans to minimize impacts. Additional information such as UTM coordinates and pictures can be extremely helpful to the Corps in making their determination.

## Ways to Help Protecting our Navajo Land

- Report Illegal Dumping
- Dump at appropriate transfer stations, landfills
- Don’t throw trash in or near any waterbodies
- Don’t throw animal carcasses in waterbodies
- Dispose of used oil properly
- Don’t wash vehicles in washes/streams

## Navajo Nation Environmental Protection Agency (NNEPA)



## Clean Water Act (CWA) Sections 401 & 404

*Water Quality Program.*



Post Office Box 339  
Window Rock, AZ 86515

Tel: (928) 871-7690  
Fax: (928) 871-7599  
lamartinez@navajo.org

## Clean Water Act Section 401 Water Quality Certification

### Purpose of the Law

To restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The federal Clean Water Act Section 401 requires a review of federal permits, actions, and approvals that may result in a discharge to waters of the U.S. (including wetlands and many washes) to ensure compliance with state or tribal water quality standards. USEPA Region IX was responsible for administering the water quality certification program for the Navajo Nation (NN). After many years of establishing NN Statutes and Regulations (NN Clean Water Act-July 1999, NN Surface Water Quality Standards-Nov 1999; July 2004, NN Pollutant Discharge Elimination System Program Regulations-Aug 1996, Uniform Regulations For Permit Review, Administrative Enforcement Orders, Hearings, and Rulemaking under NN Environmental Acts-Sept.2001), the Navajo EPA Water Quality Program (NNEPA WQP) received its Treatment As State (TAS) from USEPA Region IX for assumption of the federal Clean Water act Sections 303 & 401 authorities on January 20, 2006 for all lands within (1) the formal Reservation excluding the former Bennett Freeze area and lands leased to the power plants, (2) the three satellite reservations of Alamo, Tohajiilee & Ramah, and (3) all tribal trust lands in the Eastern Navajo Agency. In March 2006 the USEPA approved the Navajo Nation Surface Water Quality Standards, which allows the Navajo Nations to issue federal permit certifications.

**Who Must Apply?** Any person, agency, or entity, either public or private proposing a project that requires a federal permit, license or approval and discharges into "waters of the U.S."(including wetlands and most washes).

### Activities Requiring a Permit

Any actions that require a federal permit, license, or approval that results in a discharge into "waters of the U.S."

A section 404 dredge and fill permit issued by the US Army Corps of Engineers is the most common action requiring Clean Water Act Section 401 certification on the Navajo Nation.

### Who Administers the Law?

As of March 23, 2006, the NNEPA WQP has the authority to issue water quality certification. To obtain an application or information, please contact: **Navajo Nation EPA-Water Quality, Post Office Box 339, Window Rock, AZ 86515, Tel: (928) 871-7690, location: Window Rock Blvd.Bldg.#W008-090 or visit [www.navajonationepa.org](http://www.navajonationepa.org)**

### Fees

Depending on the type of project and the amount of dredge and/or fill material into jurisdictional waters, the current fees are \$500 for removal of 500 cubic yards and \$500 for filing of 2.0 acres. Maximum fees can reach \$40,000 on both types. If the project has both excavation and fill, the higher fee will be assessed. Fees will not be charged for activities involving removal of 500 cubic yards and filing of 2.0 acres. If it is determined that the project requires no certification or the wrong application was filed, the fee may be refunded. However, these fees and amounts of material may change in the future.

### Pre-Application Consultation

You are encouraged to contact the NNEPA WQP for any proposed projects in the "waters of the U.S." Asking questions before work begins can avoid potentially substantial costs in remediation efforts and fines if a violation occurs.

### What to Send

The application for a 401-certification permit should be sent to the NNEPA WQP-Window Rock office listed above. At a minimum, the packet should include the following; the application, purpose/project description, start/end date, location (maps, UTM), name of watercourse affected, acreage of waters directly/indirectly impacted by project, description of fill, potential pollutants, the site's biological resources, potential impacts to biological resources, mitigation and management plans to minimize impacts.

Once the application is determined complete, there is a 30-day public notice period. If no comments are received and/or there are no hearings requests, the NNEPA WQP will notify the applicant of the determination. Any additional information is encourage in order for the packet to be complete.

## Clean Water Act Section 404 Dredge and Fill Permits

In 1972, the U.S. Congress enacted the Clean Water Act (CWA) to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

Section 404 of the CWA protects the Nation's waters from irresponsible and unregulated discharge of dredged or fill material that could permanently alter or destroy these valuable resources.

Section 404 prohibits the deposition of unpermitted fill into the "waters of the U.S. These waters are defined as 1)traditional navigable waters of the U.S. including adjacent wetlands; 2) all interstate waters including interstate wetlands; 3) all other waters such as interstate lakes, rivers, streams (including intermittent streams), prairie potholes, mudflats, playa lakes, wet meadows, natural ponds etc; 4)all impoundments of these waters; 5) tributaries of the above listed waters; and 6)wetlands adjacent to the above waters.



Navajo Nation Wheatfields, AZ