



**US Army Corps
of Engineers**

Louisville District ®

Public Notice

Public Notice No.
LRL-2020-00006

Open Date:
28 September 2020

Closing Date:
12 November 2020

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Greg A. McKay, CELRL-FN, Rm 752
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INITIAL PUBLIC NOTICE

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On September 15, 2020, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 52 existing nationwide permits (NWP) and issue five new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWP require notification to the District Engineer before commencing those activities, to ensure that the activities authorized by those NWP cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWP: The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2020-0002 at www.regulations.gov, or by email to nationwidepermits2020@usace.army.mil or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the September 15, 2020 Federal Register notice. Comments on the proposed NWP are due by November 16, 2020.

Regional Issues Concerning the Proposed NWP, Including Regional Conditioning: Division Engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are an important mechanism to help ensure that the adverse environmental effects of activities authorized by the NWP are no more than minimal, both individually and cumulatively. Division Engineers may also suspend or revoke specific NWP in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWP may be more than minimal. AN ENCLOSURE FOR THIS PUBLIC NOTICE LISTS THE PROPOSED REGIONAL CONDITIONS CURRENTLY UNDER CONSIDERATION BY THE MISSISSIPPI VALLEY DIVISION (ROCK ISLAND, MEMPHIS, AND ST. LOUIS DISTRICTS) AND THE GREAT LAKES AND OHIO RIVER DIVISION (CHICAGO AND LOUISVILLE DISTRICT) FOR THE STATE OF ILLINOIS (Enclosure 1). The Louisville District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWP are no more than minimal, individually and cumulatively. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the state of Illinois.

Comments on the regional issues relating to the proposed NWP's and proposed regional conditions should be sent to the Louisville District, Greg McKay, CELRL-RDN at the address noted above and should refer to the Public Notice Number No. LRL2020-00006, or through email to lrl.regulatorypubliccomment@usace.army.mil. Comments relating to regional conditions are due by November 12, 2020. Similar public notices proposing regional conditions in other regions or states are being published concurrently by other division or district offices. After the final NWP's are issued, the final regional conditions will be issued after they are approved by the Division Commander.

States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWP's. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP's.

Draft decision documents for each of the proposed NWP's, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP's with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP's, are available for viewing at www.regulations.gov, docket number COE-2020-0002. Final decision documents will be prepared for the NWP's that are issued.

Below is an index of the proposed NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through the Corps Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>, at www.regulations.gov in docket number COE-2020-0002, or at the following Federal Register address: <https://www.federalregister.gov/documents/2020/09/15/2020-17116/proposal-to-reissue-and-modify-nationwide-permits>.

Index of Proposed Nationwide Permits, Conditions, and Definitions
Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Oil or Natural Gas Pipeline Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges

16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Mariculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
54. Living Shorelines
 - A. Seaweed Mariculture Activities
 - B. Finfish Mariculture Activities
 - C. Electric Utility Line and Telecommunications Activities
 - D. Utility Line Activities for Water and Other Substances
 - E. Water Reclamation and Reuse Facilities

Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Birds and Bald and Golden Eagles
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification

District Engineer's Decision

Further Information

Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Direct effects
Discharge
Ecological reference
Enhancement
Establishment (creation)

High Tide Line
Historic property
Independent utility
Indirect effects
Loss of waters of the United States
Navigable waters
Non-tidal wetland
Open water
Ordinary high water mark
Perennial stream
Practicable
Pre-construction notification
Preservation
Re-establishment
Rehabilitation
Restoration
Riffle and pool complex
Riparian areas
Shellfish seeding
Single and complete linear project
Single and complete non-linear project
Stormwater management
Stormwater management facilities
Stream bed
Stream channelization
Structure
Tidal wetland
Tribal lands
Tribal rights
Vegetated shallows
Waterbody

ENCLOSURE 1

Illinois Proposed Regional Conditions Nationwide Permits 2020

1. For NWP 12, NWP C, and NWP D, pre-construction notification is required in accordance with General Condition No. 32 for the following activities:
 - a. Activities that involve mechanized land clearing in a forested wetland for the utility line right-of-way.
 - b. Activities that involve discharges into special aquatic sites, including wetlands.
 - c. Utility lines placed parallel to or along a jurisdictional stream bed.
2. Pre-construction notification in accordance with General Condition No. 32 is required for all proposed projects that result in the loss of greater than 300 linear feet of stream bed.
3. Any bank stabilization activity involving a method that protrudes from the bank contours, such as jetties, stream barbs, and/or weirs, will require a pre-construction notification in accordance with General Condition No. 32.
4. For projects in Cook, DuPage, and Will Counties. Permittees must submit a pre-construction notification to the District Engineer if the NWP activity is located in the recharge zones for Hine's emerald dragonfly (*Somatochlora hineana*, "HED"), critical habitat units or within 3.25 miles of a critical habitat unit for HED. Please visit the following website for the locations of the Hine's emerald dragonfly critical habitat units in Illinois. www.fws.gov/midwest/endangered/insects/hed/FRHinesFinalRevisedCH.html
5. All permanent new or replacement culverts in streams shall be constructed/installed in accordance with the following, in order to ensure compliance with NWP General Conditions No. 2 - Aquatic Life Movement and No. 9 - Management of Water Flows.
 - a. Size: The width of the culvert should be sufficient to accommodate bank-full flows. Either a bottomless culvert or bridge must be used where practicable. In the event this is not practicable, a single pipe or box culvert system should be considered as a preferred option to a multi-barrel pipe or multi-cell box culvert. If proposing a multi-barrel or cell structure, document why a preferable option cannot be utilized.
 - b. Depth: To maintain low flow and aquatic life movement within culverts with a bottom, the culvert invert must be embedded. Specifically, the culvert must be installed with its bottom buried below the grade of the stream bed, as measured at the average low point, to a depth of a minimum of 6 to 12 inches throughout the length of the culvert. (Note: When not practicable to do so due to small culvert size or site geomorphology, it is acceptable to allow natural deposition to cover the interior of the culvert bed following placement of the culvert invert to the 6-12 inches depth.) Multiple pipe culverts may not be used to receive base flow.

c. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width or depth of the stream channel.

d. The culvert bed slope shall remain consistent with the slope of the adjacent stream channel.

e. Stone aprons and scour protection placed in streams shall not extend higher than the stream bed in order to create a uniform grade, and shall be filled with native stream bed material and supplemented with similarly sized material, if needed, to fill interstitial spaces to maintain water flow on the surface of the stream bed.

f. For all crossings, provide a brief description of the stream (i.e. flow, stream bed slope, size, type of stream bed material, existing natural or man-made barrier, etc.), assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement. In addition, provide cross-sections of the stream at the crossing, and upstream and downstream of the crossing showing the stream bed low point and ordinary high-water width.