



**US Army Corps
of Engineers**

Louisville District ®

Public Notice

Public Notice No.
LRL-2020-00006

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Kimberly J. Simpson, CELRL-RD-N, Rm 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6691

PUBLIC NOTICE FOR FEDERAL REGISTER NOTICE ANNOUNCING THE REISSUANCE OF THE NATIONWIDE PERMITS

On December 27, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 73522) announcing the reissuance of 40 existing nationwide permits (NWP) and one new NWP. These 41 NWP will go into effect on February 25, 2022, and they will expire on March 14, 2026:

- NWP 1 – Aids to Navigation
- NWP 2 – Structures in Artificial Canals
- NWP 3 – Maintenance
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleeting and Anchorage Areas
- NWP 10 – Mooring Buoys
- NWP 11 – Temporary Recreational Structures
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 15 – U.S. Coast Guard Approved Bridges
- NWP 16 – Return Water From Upland Contained Disposal Areas
- NWP 17 – Hydropower Projects
- NWP 18 – Minor Discharges
- NWP 19 – Minor Dredging
- NWP 20 – Response Operations for Oil or Hazardous Substances
- NWP 22 – Removal of Vessels
- NWP 23 – Approved Categorical Exclusions
- NWP 24 – Indian Tribe or State Administered Section 404 Programs
- NWP 25 – Structural Discharges

- NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- NWP 28 – Modifications of Existing Marinas
- NWP 30 – Moist Soil Management for Wildlife
- NWP 31 – Maintenance of Existing Flood Control Facilities
- NWP 32 – Completed Enforcement Actions
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 34 – Cranberry Production Activities
- NWP 35 – Maintenance Dredging of Existing Basins
- NWP 36 – Boat Ramps
- NWP 37 – Emergency Watershed Protection and Rehabilitation
- NWP 38 – Cleanup of Hazardous and Toxic Waste
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 45 – Repair of Uplands Damaged by Discrete Events
- NWP 46 – Discharges in Ditches
- NWP 49 – Coal Remining Activities
- NWP 53 – Removal of Low-Head Dams
- NWP 54 – Living Shorelines
- NWP 59 – Water Reclamation and Reuse Facilities

The new NWP 59 authorizes discharges of dredged or fill material into waters of the United States for the construction, expansion, and maintenance of water reclamation and reuse facilities.

The Corps has also issued final decision documents for these new and reissued NWPs. These final decision documents are available at www.regulations.gov at docket number COE-2020-0002.

The 40 existing NWPs published in the December 27, 2021, final rule, replace the 2017 versions of these NWPs. The 2017 versions of NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 45, 46, 49, 53, and 54 expire on February 24, 2022.

The NWP general conditions and definitions that were issued in the final rule that was published in the January 13, 2021, issue of the *Federal Register* (86 FR 2744) apply to the 40 reissued NWPs and the new NWP 59 that were published in the *Federal Register* on December 27, 2021.

With the publication of this *Federal Register* notice, Corps divisions will begin finalizing regional conditions for these 41 NWPs. Division Engineers will prepare supplemental documentation to address decisions concerning the addition of regional conditions to the 41 NWPs. Regional conditions will provide additional protection for the aquatic environment; and will help ensure that the NWPs authorize only those activities that have no more than minimal adverse environmental effects. Regional conditions will help ensure protection of high value waters within the state of Indiana.

Corps divisions and districts will also begin determining which conditions for water quality certifications issued by states, tribes, and EPA for the issuance of these 41 NWP's become regional conditions of these NWP's. Corps divisions and districts will also begin determining which conditions for Coastal Zone Management Act consistency concurrences issued by states for the issuance of these 41 NWP's become regional conditions of these NWP's. Water quality certification and Coastal Zone Management Act consistency regional conditions will be announced in a future public notice issued by the Louisville District.

The December 27, 2021, *Federal Register* notice is available for viewing at <https://www.federalregister.gov/documents/2021/12/27/2021-27441/reissuance-and-modification-of-nationwide-permits>

The January 13, 2021, *Federal Register* notice is available for viewing at: <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits>

As an alternative, interested parties can access the December 27, 2021, and January 13, 2021, final rules and related documents at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

Index of 2021 Nationwide Permits, Conditions, District Engineer's Decision, Further Information, and Definitions

December 2021 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
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
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
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
41. Reshaping Existing Drainage Ditches
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
49. Coal Remining Activities
53. Removal of Low-Head Dams
54. Living Shorelines
59. Water Reclamation and Reuse Facilities

January 2021 Nationwide Permits

12. Oil or Natural Gas Pipeline Activities
21. Surface Coal Mining Activities
29. Residential Developments
39. Commercial and Institutional Developments
40. Agricultural Activities
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
48. Commercial Shellfish Mariculture Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities

52. Water-Based Renewable Energy Generation Pilot Projects
55. Seaweed Mariculture Activities
56. Finfish Mariculture Activities
57. Electric Utility Line and Telecommunications Activities
58. Utility Line Activities for Water and Other Substances

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

Regulatory Division
North Branch
Public Notice No. LRL-2020-00006

Tidal wetland
Tribal lands
Tribal rights
Vegetated shallows
Waterbody