



**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-RDN, Rm 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6685

DISTRICT PUBLIC NOTICE – PROPOSAL

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On September 15, 2020, the U.S. Army Corps of Engineers published in the Federal Register (Vol. 85, No. 179) its proposal to reissue the 52 existing nationwide permits (NWP) and issue five (5) new NWP. This current Public Notice discusses and solicits public comment on the Buffalo, Huntington, Louisville and Pittsburgh Districts' proposal to issue 54 NWP and associated regional conditions, revoke two NWP (NWP A and B) within the State of Ohio, and revoke NWP 52 for use in Lake Erie. Comments relating to regional conditions are due by November 14, 2020 and should be sent to Gregory.a.mckay@usace.army.mil.

NWP 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 (**Enclosure 1**) lists the proposed regional conditions currently under consideration by the Great Lakes and Ohio River Division for the state of Ohio. The Louisville District, in concert with the Huntington, Buffalo, Louisville and Pittsburgh Districts,

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 Ohio. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to Greg McKay with the Louisville District by email at Gregory.a.McKay@usace.army.mil. If you do not have internet access, information may be submitted through the U.S. Postal Service to:

U.S. Army Corps of Engineers, Louisville District
ATTN: CELRL-RDN, Rm 752 (Greg McKay)
P.O. Box 59
Louisville, Kentucky 40202

Comments relating to regional conditions are due by November 14, 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 are issued, the final regional conditions will be issued after they are approved by the Division Commander.

401 Water Quality Certification and Coastal Zone Management Act: States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification decisions after reviewing the proposed NWP. States will make their Coastal Zone Management Act consistency determination decisions after reviewing the proposed NWP.

Draft Decision Documents: Draft decision documents for each of the proposed NWP, 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 with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP, are available for viewing at www.regulations.gov, docket number COE-2020-0002. Final decision documents will be prepared for the NWP that are issued.

Proposed NWP and Conditions: Enclosed is an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP 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>. Enclosure 2 provides a summary of the proposed 2020 NWP.

NWP Proposed to be REVOKED in the Buffalo, Huntington, Louisville and Pittsburgh Districts: The Districts are proposing to revoke the following NWP in both Ohio: 52 in Lake Erie, A, and B. The Districts believe that activities authorized by NWP 52 would result in more than minimal individual and cumulative adverse effects on the environment within the districts. NWP A and NWP B are not applicable in Ohio.

Index of Proposed Nationwide Permits, Conditions, and Definitions

Nationwide Permits

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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
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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
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44. Mining Activities

45. Repair of Uplands Damaged by Discrete Events
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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
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 - C. Electric Utility Line and Telecommunications Activities
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Nationwide Permit General Conditions

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28. Use of Multiple Nationwide Permits
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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)
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Ecological reference
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Nationwide Permit (NWP) Specific Regional Conditions

1. **Aids to Navigation.** No proposed regional conditions.
2. **Structures in Artificial Canals.** No proposed regional conditions.
3. **Maintenance.**
 - PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for the following activities:
 - Any stream channel modification (reconfiguration or reconstruction of all or part of a channel, such as by straightening, relocating, lining, or excavating the channel, or by enclosing the channel within a structure such as a pipe or culvert) that exceeds a distance of 50 feet upstream and 50 feet downstream of the structure;
 - The placement of any new rip-rap below the ordinary high water mark when associated with an existing bridge or similar crossing exceeding a total of 200 feet extending in either direction from the crossing;
 - The replacement of any permanent vertical bulkhead greater than one (1) foot waterward of the original alignment. A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.;
 - Activities in Section 10 navigable waters that involve the discharge of greater than 25 cubic yards of dredged or fill material below the ordinary high water mark; and
 - All activities in the navigation channels of Section 10 navigable waters and federal harbors in Lake Erie.
 - For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, all sand and gravel located below the proposed project, both below and above ordinary high water mark (573.4 feet International Great Lakes Datum 1985), will be excavated down to clay or bedrock, and side cast into the nearshore area either immediately waterward or downdrift of the project area. It will be at the discretion of the district engineer to determine whether the material located below the authorized structure needs to be relocated, where it should be relocated to, and the appropriate authorization, if needed, for the relocation. Verification of the placement of the excavated material within the nearshore area shall be documented through the submittal of dated photographs and an accompanying photo location map to the district engineer within 30 days of commencement of the project.
4. **Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and**

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Activities. No proposed regional conditions.

5. **Scientific Measurement Devices.** No proposed regional conditions.

6. **Survey Activities.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for the discharge of greater than 25 cubic yards of dredged or fill material into rivers, lakes, tributaries and Lake Erie.

7. **Outfall Structures and Associated Intake Structures.** No proposed regional conditions.

8. **Oil and Gas Structures on the Outer Continental Shelf.** No proposed regional conditions.

9. **Structures in Fleeting and Anchorage Areas.** No proposed regional conditions.

10. **Mooring Buoys.** No proposed regional conditions.

11. **Temporary Recreational Structures.**

- PCN in accordance with NWP General Condition 32 is required for all regulated activities in the navigation channel of Section 10 navigable waters and federal harbors in Lake Erie.

12. **Utility Line Activities.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for all permanent conversion of scrub/shrub and forested wetlands greater than 1/10 acre per single and complete project.
- This NWP does not authorize the placement of manholes in wetlands.

13. **Bank Stabilization.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for the following activities:
 - All activities within 2,000 feet of designated arrival points of locks and dams on the Ohio River.
 - All activities in Lake Erie, Sandusky Bay, and Maumee Bay that involve the discharge of greater than 10 cubic yards of dredged or fill material below the ordinary high water mark; and

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- The use of any vertical bulkhead. A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.
- For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, all sand and gravel located below the proposed project, both below and above ordinary high water mark (573.4 feet International Great Lakes Datum 1985), will be excavated down to clay or bedrock, and side cast into the nearshore area either immediately waterward or downdrift of the project area. Verification of the placement of the excavated material within the nearshore area shall be documented through the submittal of dated photographs and an accompanying photo location map to the district engineer within 30 days of commencement of the project.
- For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, a one-time sand prefill of two (2) cubic yards of sand per linear foot of shoreline stabilized shall be placed at an approved location in the nearshore area in less than three (3) feet of water within 30 days of project commencement, unless the district engineer waives this requirement by making a written determination. Verification of the placement of the sand prefill material within the nearshore area shall be documented through the submittal of contractor's receipts, including the volume of sand prefill, dated photographs, and accompanying photo location map to the district engineer. The sand shall be from an upland source or other approved source and shall be similar in composition to the sand at the project site, free from organic material; limestone sand and top soil are excluded.
- For bank stabilization projects located in Lake Erie, Sandusky Bay, and Maumee Bay, broken concrete shall not be used as suitable material, unless it is contained within a structure.
- Proper installation is required for the use of this NWP. This NWP does not authorize material that is dumped from the top of bank resulting in uncontrolled spilling of material over the bank into the waterway.
- PCN in accordance with NWP General Condition 32 is required for all regulated activities proposed to be located within the area between the upstream and the downstream arrival points of any Corps of Engineers lock and dam, or within 1,500 feet of any federal-mooring cell at any lock, as shown on the navigation charts.

14. Linear Transportation Projects.

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- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for all regulated activities in navigation channels of Section 10 navigable waters and federal harbors of Lake Erie; and

15. U.S. Coast Guard Approved Bridges. No proposed regional conditions.

16. Return Water From Upland Contained Disposal Areas. No proposed regional conditions.

17. Hydropower Projects. No proposed regional conditions.

18. Minor Discharges.

- For shore structure or bank stabilization projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, that will result in the permanent hardening or filling of the existing shoreline all sand and gravel located below the proposed project, both below and above ordinary high water mark (573.4 feet International Great Lakes Datum 1985), will be excavated down to clay or bedrock, and side cast into the nearshore area either immediately waterward or downdrift of the project area. Verification of the placement of the excavated material within the nearshore area shall be documented through the submittal of dated photographs and an accompanying photo location map to the district engineer within 30 days of commencement of the project.

19. Minor Dredging.

- Dredging operations in Lake Erie, Sandusky Bay, and Maumee Bay, that recover material consisting of greater than 60% sand and/or gravel, shall be disposed of in the nearshore area, in water with sufficient depth as determined by the district engineer, and downdrift from the dredging location.

20. Response Operations for Oil and Hazardous Substances. No proposed regional conditions.

21. Surface Coal Mining Activities. No proposed regional conditions.

22. Removal of Vessels. No proposed regional conditions.

23. Approved Categorical Exclusions. No proposed regional conditions.

24. Indian Tribe or State Administered Section 404 Programs. No proposed regional

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conditions.

25. **Structural Discharges.** No proposed regional conditions.

26. **[Reserved]**

27. **Aquatic Habitat Restoration, Establishment, and Enhancement Activities.** No proposed regional conditions.

28. **Modifications of Existing Marinas.** No proposed regional conditions.

29. **Residential Developments.** No proposed regional conditions.

30. **Moist Soil Management for Wildlife.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for use of this NWP unless the applicant is working under the leadership of a governmental wildlife resource agency such as the Natural Resource Conservation Service, the U.S. Fish and Wildlife Service (USFWS), or the Ohio Department of Natural Resources (ODNR).

31. **Maintenance of Existing Flood Control Facilities.** No proposed regional conditions.

32. **Completed Enforcement Actions.** No proposed regional conditions.

33. **Temporary Construction, Access and Dewatering.** No proposed regional conditions.

34. **Cranberry Production Activities.** No proposed regional conditions.

35. **Maintenance Dredging of Existing Basins.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for use of this NWP.

36. **Boat Ramps.**

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for discharges of dredged or fill material into islands (a piece of land surrounded by water Section 10 navigable waters), island backchannels (a channel located between an island and the mainland), embayments (indentation off of a Section 10 navigable water that forms a

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bay), and/or sites at the confluence of one (1) tributary with another.

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for any boat ramp proposed to be located within the area between the upstream and downstream arrival points of any U.S. Army Corps of Engineers lock and dam, or within 1,500 feet of any emergency-mooring cell at any lock.

37. Emergency Watershed Protection and Rehabilitation. No proposed regional conditions.

38. Cleanup of Hazardous and Toxic Waste. No proposed regional conditions.

39. Commercial and Institutional Developments. No proposed regional conditions.

40. Agricultural Activities. No proposed regional conditions.

41. Reshaping Existing Drainage Ditches. No proposed regional conditions.

42. Recreational Facilities. No proposed regional conditions.

43. Stormwater Management Facilities. No proposed regional conditions.

44. Mining Activities. No proposed regional conditions.

45. Repair of Uplands Damaged by Discrete Events. No proposed regional conditions.

46. Discharges in Ditches. No proposed regional conditions.

47. [Reserved]

48. Existing Commercial Shellfish Aquaculture Activities. No proposed regional conditions.

49. Coal Remining Activities.

- The PCN shall include the information required in the ODNR Division of Mineral Resource Management Policy Procedure Directive Regulatory 99-1 entitled Lands Eligible for Remining and dated November 18, 1999 or subsequent document.

50. Underground Coal Mining Activities. No proposed regional conditions.

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51. Land-Based Renewable Energy Generation Facilities. No proposed regional conditions.

52. Water-Based Renewable Energy Generation Pilot Projects. Proposing to revoke for use in Lake Erie.

53. Removal of Low-Head Dams. No proposed regional conditions.

54. Living Shorelines.

- For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, all sand and gravel located below the proposed project, both below and above ordinary high water mark (573.4 feet International Great Lakes Datum 1985), will be excavated down to clay or bedrock, and side cast into the nearshore area either immediately waterward or downdrift of the project area. Verification of the placement of the excavated material within the nearshore area shall be documented through the submittal of dated photographs and an accompanying photo location map to the district engineer within 30 days of commencement of the project.
- For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, a one-time sand prefill of two (2) cubic yards of sand per linear foot of shoreline stabilized shall be placed at an approved location in the nearshore area in less than three (3) feet of water within 30 days of project commencement, unless the district engineer waives this requirement by making a written determination. Verification of the placement of the sand prefill material within the nearshore area shall be documented through the submittal of contractor's receipts, including the volume of sand prefill, dated photographs, and accompanying photo location map to the district engineer. The sand shall be from an upland source or other approved source and shall be similar in composition to the sand at the project site, free from organic material; limestone sand and top soil are excluded.
- For projects located in Lake Erie, Sandusky Bay, and Maumee Bay, broken concrete shall not be used as suitable material, unless it is contained within a structure.

A. Seaweed Mariculture Activities. Proposing to revoke for use in Ohio.

B. Finfish Mariculture Activities. Proposing to revoke for use in Ohio.

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C. Electric Utility Lines and Telecommunication Activities.

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for all permanent conversion of scrub/shrub and forested wetlands of greater than 1/10 of an acre per each single and complete project.

D. Utility Line Activities for Water and Other Substances.

- PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for all permanent conversion of scrub/shrub and forested wetlands of greater than 1/10 of an acre per each single and complete project.

E. Water Relocation and Reuse Facilities. The U.S. Army Corps of Engineers is seeking comment on the proposed issuance of this new NWP.

NWPs Regional General Conditions

1. NWPs shall not authorize any activity which negatively impacts bogs and/or fens.

2. No NWP may be used in Lake Erie for purposes of diverting water from the Great Lakes.

3. NWPs shall not authorize any activity which has an adverse impact on littoral transport within Lake Erie.

4. **In-Water Work Exclusion Dates:** Any regulated work associated with a NWP cannot take place during the restricted period of the following ODNR In-Water Work Restrictions, unless the applicant receives advanced written approval from the ODNR and notifies the district engineer in accordance with NWP General Condition 32 and Regional General Condition 6 and receives written approval from the U.S. Army Corps of Engineers:

<u>Location</u>	<u>Restricted Period</u>
Percid streams ^a	3/15 - 6/30
Salmonid streams ^b	9/15 - 6/30
Other streams ^c	4/15 - 6/30

- a. **Great Miami River** (dam south of New Baltimore to mouth), **Hocking River** (falls at White's Mill to mouth), **Little Miami River** (dam at Waynesville to

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- mouth), **Maumee River** (split dam at Grand Rapids to mouth), **Maumee Bay**, **Muskingum River** (Devola Dam No.2 north of Marietta to mouth), **Ohio Brush Creek** (S.R. 32 bridge to mouth), **Ohio River** (entire reach), **Portage River** (entire reach), **Sandusky River** (first dam to mouth), **Sandusky Bay**, **Scioto River** (S.R. 207 bridge north of Chillicothe to mouth), **Toussaint River** (entire reach).
- b. **Arcola Creek** (entire reach), **Ashtabula River** (Hadlock Rd. to mouth), **Ashtabula Harbor**, **Aurora Branch** (Chagrin River (RM 0.38 to mouth)), **Big Creek** (Grand River (Girdled Road to mouth)), **Black River** (entire reach), **Chagrin River** (Chagrin Falls to mouth), **Cold Creek** (entire reach), **Conneaut Creek** (entire reach), **Conneaut Harbor**, **Corporation Creek** (Chagrin River (entire reach)), **Cowles Creek** (entire reach), **Ellison Creek** (Grand River (entire reach)), **Euclid Creek** (entire reach), **Grand River** (dam at Harpersfield Covered Bridge Park to mouth), **Fairport Harbor**, **Gulley Brook** (Chagrin River (entire reach)), **Huron River** (East Branch-West Branch confluence to mouth) **Indian Creek** (entire reach), **Kellogg Creek** (Grand River (entire reach)), **Mill Creek** (Grand River (entire reach)), **Paine Creek** (Grand River (Paine Falls to mouth)), **Rocky River** (East Branch-West Branch confluence to mouth), **Smokey Run** (Conneaut Creek (entire reach)), **Turkey Creek** (entire reach), **Vermilion River** (dam at Wakeman upstream of the US 20 & SR 60 bridge to mouth), **Ward Creek** (Chagrin River (entire reach)), **Wheeler Creek** (entire reach), **Whitman Creek** (entire reach).
- c. **Exceptional Warmwater Habitat, Cold Water Habitat, Warmwater Habitat, or streams with known occurrences of federally listed or proposed federally listed threatened and/or endangered species.** Includes Lake Erie and bays not listed above. Special conditions (such as occurrence of threatened and/or endangered species) may mandate local variation of restrictions.

Note 1: To determine the defined Aquatic Life Habitat designation for a stream and project segment, refer to: www.epa.ohio.gov/dsw/rules/3745_1.aspx

Note 2: This condition does not apply to Ohio Department of Transportation projects that are covered under the “Memorandum of Agreement Between The Ohio Department of Transportation, The Ohio Department of Natural Resources, and the United States Fish and Wildlife Service For Interagency Coordination For Projects Which Require Consultation Under the Endangered Species Act, Impact State Listed Species, and/or Modify Jurisdictional Waters 2016 Agreement Number: 19394” or subsequent amendments to this memorandum of agreement.

5. **Waters of Special Concern:** PCN in accordance with NWP General Condition 32

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and Regional General Condition 6 is required for regulated activities in the following resources:

- a. **Threatened and Endangered Species:** Due to the potential presence of federally threatened or endangered species or their habitats, PCN in accordance with NWP General Conditions 18 and 32 and Regional General Condition 6 is required for any regulated activity in waters of the U.S. in Ohio that includes:
- i. the removal of trees \geq three (3) inches diameter at breast height. These trees may provide suitable roosting, foraging, or traveling habitat for the federally listed endangered Indiana bat and the federally-listed threatened northern long-eared bat; and/or
 - ii. regulated activities that affects a sand, gravel, and/or cobble beach and/or mud flat on the Lake Erie shoreline; and/or
 - iii. regulated activities in the waterway or township of the corresponding counties listed in Appendix 1.

Note 1: Applicants must ensure they are referencing the latest version of Appendix 1 by contacting their nearest U.S. Army Corps of Engineers district office and visiting the online resources identified in General Condition 18(f) of these NWPs, since federally listed species are continuously listed, proposed for listing, and/or de-listed.

Note 2: As mentioned in General Condition 18 *Endangered Species*, federal agencies should follow their own procedures for complying with the requirements of the Endangered Species Act. Federal applicants, including applicants that have received federal funding, must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

b. **Critical Resource Waters:**

- i. In Ohio, two (2) areas have been designated critical habitat for the piping plover (*Charadrius melodus*) and are defined as lands 0.62 mile inland from normal high water line. Unit OH-1 extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately two (2) miles. Unit OH-2 extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile.
- ii. In Ohio three (3) areas have been designated critical habitat for the rabbitsfoot mussel (*Quadrula cylindrica cylindrica*). Unit RF26 includes 17.5 river kilometers (rkm) (10.9 river miles [ri mi]) of the Walhonding River from the convergence of the Kokosing and Mohican Rivers

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- downstream to Ohio Highway 60 near Warsaw, Coshocton County, Ohio. Unit RF27 includes 33.3 rkm (20.7 rmi) of Little Darby Creek from Ohio Highway 161 near Chuckery, Union County, Ohio, downstream to U.S. Highway 40 near West Jefferson, Madison County, Ohio. Unit RF29 includes 7.7 rkm (4.8 rmi) of Fish Creek from the Indiana and Ohio State line northwest of Edgerton, Ohio, downstream to its confluence with the St. Joseph's River north of Edgerton, Williams County, Ohio.
- iii. Old Woman Creek National Estuarine Research Preserve.
- c. **Oak Openings:** Wetland activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry and Fulton Counties. For a map of the Oak Openings Region, visit <https://www.google.com/maps/d/viewer?mid=1JADupaZXJzO6AUDvnUaV18GVjG7yfBim&usp=sharing>
- d. **Category 3 Wetlands:** As determined through use of the latest approved version of the Ohio Environmental Protection Agency's Ohio Rapid Assessment Method wetland evaluation form.
- e. **Ohio Stream Designations:** Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation; or water bodies with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Waters as determined by the Ohio Environmental Protection Agency except for NWP 1, 2, 3, 9, 10, 11, 27, 28, 32, and 35 or maintenance activities covered under NWPs 7 and 12. The current list of these rivers and tributaries can be found on the Ohio Environmental Protection Agency web-site at: http://www.epa.ohio.gov/dsw/rules/3745_1.aspx These designations can be found under the aquatic life use of the rivers and tributaries within its basin and under the "Anti-deg Rule #05."
6. **PCN Submittals:** In addition to the information required under NWP General Condition 32, the following information must be provided with the PCN:
- a. **U.S. Fish and Wildlife Service (USFWS):** The Endangered Species Act of 1973 (ESA) directs all federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the ESA, called "Interagency Cooperation," is the mechanism by which federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the continued existence of any federally or proposed federally listed species. Sufficient information must be provided in the PCN to determine the proposed activity's compliance with NWP General Condition 18. All relevant information obtained from the USFWS must be submitted with the PCN.

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- b. **Cultural Resources:** The Corps is mandated by the National Historic Preservation Act (NHPA) to ensure no federal undertaking, including a Corps permit action, which may affect historic resources, is commenced before the impacts of such action are considered and the Advisory Council on Historic Preservation and the State Historic Preservation Office (SHPO) are provided an opportunity to comment as required by the NHPA, 36 CFR 800, and 33 CFR 325, Appendix C. Sufficient information must be provided in the PCN, consistent with General Condition 20, if the proposed undertaking might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. All relevant information obtained from the SHPO must be submitted with the PCN.
- c. **National Wild and Scenic Rivers:** The following waterways are components of the National Wild and Scenic River System and require PCN to the Corps:

Big and Little Darby Creeks

- Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River;
- Little Darby Creek from the Lafayette-Plain City Road bridge downstream to within 0.8 mile from the confluence with Big Darby Creek; and
- Total designation is approximately 82 miles.

Little Beaver Creek

- Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth;
- North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown;
- Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport;
- West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport; and
- Total designation is 33 miles.

Little Miami

- Little Miami River - St. Rt. 72 at Clifton to the Ohio River;
- Caesar Creek-lower two (2) miles of Caesars Creek; and

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- Total designation is 94 miles.

d. **Temporary Fills or Structures:** When a PCN is required for temporary fills or structures, the PCN must specify how long the temporary fills or structures will remain and include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-construction contours and elevations. Native, non-invasive vegetation must be used unless otherwise authorized by a Corps NWP verification.

7. **Invasive Species:** No area for which grading has been completed will be unseeded or unmulched for longer than 14 days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.

APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
Adams	Ohio River, Scioto Brush Creek, South Fork Scioto Brush Creek	
Ashtabula	Grand River, Pymatuning Creek	Andover, Austinburg, Cherry Valley, Colebrook, Dorset, Hartsgrove, Harpersfield, Morgan, New Lyme, Orwell, Richmond, Rome, Trumbell, Wayne, Williamsfield, Windsor
Athens	Ohio River	
Brown	East Fork Little Miami River, Ohio River	
Butler	Great Miami River	Lemon, Liberty
Champaign		Mad River, Union, Urbana
Clark	Little Miami River	Bethel, Moorfield, Pleasant, Springfield
Clermont	East Fork Little Miami River, Little Miami River, Ohio River	
Clinton		Chester, Richland, Wayne
Columbiana		Butler, Fairfield, Hanover, Knox, Unity
Coshocton	Killbuck Creek, Muskingum River, Walhonding River	
Crawford		Auburn, Bucyrus, Cranberry, Dallas,

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APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
		Holmes, Whetstone
Darke	Stillwater River	
Defiance	St. Joseph River	Milford
Delaware	Mill Creek, Olentangy River	
Erie		Margaretta
Fairfield		Walnut
Fayette		Concord, Green, Jasper, Union
Franklin	Big Darby Creek, Little Darby Creek, Scioto River	
Fulton	Swan Creek	
Gallia	Ohio River	
Greene	Little Miami River	Bath, Beaver Creek, Spring Valley, Sugar Creek
Hamilton	Great Miami River, Little Miami River, Ohio River	
Hancock	Blanchard River	
Hardin	Blanchard River	Blanchard, Dudley, Hale, Jackson, McDonald, Roundhead
Hocking		Benton, Laurel
Holmes		All townships
Huron		New Haven, Richmond
Lake	Grand River	Madison
Lawrence	Ohio River	
Licking		Licking, Union
Logan	Great Miami River	Perry, Richland, Stokes, Washington, Zane
Lucas	Swan Creek	All townships
Madison	Big Darby Creek, Little Darby Creek	
Mahoning		Beaver, Boardman, Canfield, Green, Poland, Springfield
Marion	Tymochtee Creek	Big Island, Bowling Green, Grand, Green Camp, Montgomery, Salt Rock
Meigs	Ohio River	
Miami	Great Miami River, Stillwater River	
Montgomery	Great Miami River,	Mad River, Wayne

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APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
	Stillwater River	
Morgan	Muskingum River	
Muskingum	Muskingum River	
Ottawa		All townships
Perry		Thorn
Pickaway	Big Darby Creek, Scioto River	
Pike	Scioto River	
Portage		Aurora, Atwater, Charlestown, Deerfield, Edinburg, Franklin, Freedom, Mantua, Nelson, Palmyra, Paris, Randolph, Ravenna, Rootstown, Streetsboro
Preble		Dixon, Gasper, Isreal, Jackson, Lanier, Monroe, Somers, Twin, Washington
Richland		Plymouth
Ross	Salt Creek, Scioto River	
Sandusky		All townships
Scioto	Ohio River, Scioto Brush Creek, Scioto River, South Fork Scioto Brush Creek	Nile, Rush, Union
Shelby	Great Miami River	
Stark		Lexington, Marlboro
Summit		Hudson, Tallmadge, Twinsburg
Trumbull	Pymatuning Creek	All townships
Union	Big Darby Creek, Little Darby Creek, Mill Creek, Treacle Creek	Allen, Darby, Washington
Warren	Great Miami River, Little Miami River	Clear Creek, Deerfield, Massie, Turtle Creek, Union, Washington, Wayne
Washington	Muskingum River, Ohio River	
Wayne		All townships
Williams	Fish Creek, St. Joseph River	Bridgewater, Center, Florence, Jefferson, Madison, Northwest, St. Joseph, Superior
Wyandot	Tymochtee Creek	Antrim, Marseilles, Mifflin, Pitt

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HELPFUL INFORMATION FOR COMPLIANCE WITH THE
NWP GENERAL CONDITIONS

General Condition 1 (Navigation)

List of Section 10 Navigable Waters of the U.S.:

Buffalo District –

https://www.lrb.usace.army.mil/Portals/45/docs/regulatory/DistrictInfo/waterway_oh.pdf

Huntington District – <https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Louisville District –

<https://www.lrl.usace.army.mil/Portals/64/docs/Regulatory/Public%20Notices/Limits%20of%20Jurisdiction%20Public%20Notice-revised.pdf?ver=2013-02-13-120705-203>

Pittsburgh District –

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/RegulatoryBoundaries/PN12-2.pdf>

Navigation Charts:

Buffalo District – <https://www.lrb.usace.army.mil/Library/Maps-and-Charts/>

Huntington District – <https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Louisville District –

<https://www.lrl.usace.army.mil/Portals/64/docs/Ops/Navigation/Charts/Ohio/OhioRiverCharts102-122.pdf>

Pittsburgh District – <https://www.lrp.usace.army.mil/Missions/Navigation/Navigation-Charts/>

Locks and Dams:

Buffalo District – <https://www.lrb.usace.army.mil/Library/Maps-and-Charts/>

Huntington District – <https://www.lrh.usace.army.mil/Missions/Civil-Works/Locks-and-Dams/>

Louisville District – <https://www.lrl.usae.army.mil/Missions/Civil->

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[Works/Navigation/Locks-and-Dams/](#)

Pittsburgh District –

<https://www.lrp.usace.army.mil/Missions/Navigation/Locks-and-Dams/#:~:text=Locks%20and%20Dams%20%20Allegheny%20River%20,Locks%20%26%20Dam%20%205%20more%20rows%20>

Notice to Navigation Interests Request Sheets:

Huntington District –

<https://www.lrh.usace.army.mil/Portals/38/docs/navigation/Notice%20Info%20sheet.pdf>

Louisville –

<https://www.lrl.usace.army.mil/Portals/64/docs/Regulatory/Forms/Notice%20to%20Navigation%20Interests%20Data%20Form%202019.pdf?ver=2019-07-22-101251-297>

Pittsburgh District –

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/NavNoticeRequestForm.pdf>

General Condition 5 (Shellfish Beds)

Shellfish beds in Ohio include concentrations of freshwater mussels. All native mussels are protected in the State of Ohio (Section 1533.324 of the Ohio Revised Code). In addition, 10 federally listed species occur in the state and are protected by the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). All rivers and tributaries that contain mussels or potential mussel habitat must be surveyed prior to any proposed streambed disturbance. Currently accepted protocol and supporting materials can be found on the Ohio Department of Natural Resources' website:

<https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor>

General Condition 7 (Water Supply Intakes)

Locations of public water supply intakes can be found at the following link:

<https://oepa.maps.arcgis.com/apps/webappviewer/index.html?id=3b39e11ba7fc43c3b41801e3580e6d21>

General Condition 10 (Fills Within 100-year Floodplains)

The following website provides a statewide listing of Floodplain Managers in Ohio:

<https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/water-resources/floodplains/>

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General Condition 16 (Wild and Scenic Rivers)

Prior to submitting a PCN for work in a National Wild and Scenic River System, it is recommended that the applicant contact the National Park Service Regional Wild and Scenic Rivers Specialist, at the Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, for assistance in complying with NWP General Condition 16. Any determination provided by the National Park Service should be submitted with the PCN. The following website provides information on National Wild and Scenic Rivers within Ohio:

<https://www.rivers.gov/ohio.php>

General Condition 18 (Endangered Species)

To obtain the most up to date information on federally threatened and endangered species applicants are encouraged to utilize the USFWS's Information for Planning and Consultation System (IPaC) found at <https://ecos.fws.gov/ipac/>

Prior to the submittal of a PCN, applicants may also contact the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Mussel Survey Protocol may be found at the following link:

<https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor>

General Condition 4 (Migratory Bird Breeding Areas) and General Condition 19 (Migratory Birds and Bald and Golden Eagles)

Prior to the submittal of a PCN, information to assist in complying with NWP General Conditions 4 and 19 may be obtained from the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

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Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Division of Natural Resources Division of Wildlife may be contacted at (800) 945-3543.

General Condition 20 (Historic Properties)

The Ohio National Register of Historic Places can be found at the following link:
<https://www.ohiohistory.org/preserve/state-historic-preservation-office/nationalregister>

When reviewing a PCN, the Corps will scope appropriate historic property identification efforts and, if applicable, work with the applicant to take into account the effect of the proposed activity on historic properties. In these instances, information and coordination may include:

- Requesting comments directly from the Ohio History Connection SHPO on the effect the proposed regulated activity may have on historic properties. The Ohio History Connection SHPO may be contacted at:

Address: Ohio History Center
800 E. 17th Ave., Columbus, Ohio 43211
Phone: (614) 297-2300
Email: info@ohiohistory.org

- To identify potential historic properties that may be affected by a proposed project, the following information may be reviewed and/or provided with the PCN when applicable:
 - A detailed description of the project site in its current condition (i.e. prior to construction activities) including information on the terrain and topography of the site, the acreage of the site, the proximity of the site to major waterways, and any known disturbances within the site.
 - A detailed description of past land uses in the project site.
 - Photographs and mapping showing the site conditions and all buildings or structures within the project site and on adjacent parcels are useful. Photographs and maps supporting past land uses should be provided as available.
 - Information regarding any past cultural resource studies or coordination pertinent to the project area, if available.
 - U.S. Geological Survey (USGS) 7.5' series topographic maps;
 - Ohio History Connection SHPO files including:
 - Ohio Archaeological Inventory (OAI) files;

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- Ohio Historic Inventory files (OHI);
 - Ohio SHPO Cultural Resources Management (CRM)/contract archaeology files;
 - NRHP files including Historic Districts; and
 - County atlases, histories and historic USGS 15' series topographic map(s).
- When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the district engineer as part of the PCN.

General Condition 23 (Mitigation)

Information pertaining to mitigation can be found at the following link:

<https://www.lrh.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

General Condition 25 (Water Quality)

The Ohio Environmental Protection Agency may be contacted at:

Address: Lazarus Government Center
50 W Town St. Suite 700
Columbus, Ohio 43215

Phone: (614) 644-2001

Information pertaining to the Ohio Environmental Protection Agency water quality certification (WQC) program, including the Section 401 Clean Water Act WQC application form, can be obtained at the following link:

<https://www.epa.state.oh.us/dsw/#113292723-programs>

General Condition 32 (Pre-Construction Notification)

The nationwide permit pre-construction notification form (Form ENG 6082) may be obtained at the following link:

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https://www.publications.usace.army.mil/Portals/76/Eng_Form_6082_2019Oct.pdf?ver=2019-10-22-081550-710/

A checklist of information that must be provided in a pre-construction notification can be obtained at the following link:

<https://www.lrh.usace.army.mil/Missions/Regulatory/How-to-Apply-for-a-Permit/Nationwide-Permits/>

Electronic Submittal:

- PCNs should be saved as a PDF document, and then submitted as an attachment in an email to the appropriate Regulatory Office:

Buffalo District – LRB.Ohio.RegActions@usace.army.mil

Huntington District – LRH.permits@usace.army.mil

Louisville District – CELRL.Door.To.The.Corps@usace.army.mil

Pittsburgh District – Regulatory.Permits@usace.army.mil

- Electronic documents must have sufficient resolution to show project details. The PCN and supporting documents submitted electronically must not exceed 10 megabytes (10MB) per email. Multiple emails may be required to transmit documents to ensure the 10MB limit is not exceeded. Alternatively, use of the Department of Defense Secure Access File Exchange (DoD SAFE) service to transfer large files may be requested in your email.
- For tracking and processing purposes, the email should include the following:
 - **Email Subject Line:** include the name of the applicant, type of PCN request, and location (County and State). Example: RE: Doe, John, PCN and Section 401 WQC Request, Summit County, Ohio;
 - **Email Body:** 1) Brief description of the proposed project, 2) contact information (phone number, mailing address, and email address) for the applicant and/or their agent, and 3) the project location: Address and Latitude/Longitude in decimal degrees (e.g. 42.92788° N, 88.36257° W).
- If you do not have internet access, information may be submitted through the U.S. Postal Service to the appropriate Regulatory Office:

U.S. Army Corps of Engineers, Buffalo District
ATTN: Regulatory Branch
1776 Niagara Street

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Buffalo, New York 14207
Phone: (716) 879-4330
Fax: (716) 879-4310

U.S. Army Corps of Engineers, Huntington District
ATTN: Regulatory Division
502 Eighth Street
Huntington, West Virginia 25701-2070
Phone: (304) 399-5210
Fax: (304) 399-5805

U.S. Army Corps of Engineers, Pittsburgh District
ATTN: Regulatory Division
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186
Phone: (412) 395-7155
Fax: (412) 644-4211

U.S. Army Corps of Engineers, Louisville District
ATTN: CELRL-RD, Room 752
600 Dr. Martin Luther King Jr. Place
Louisville, Kentucky 40202-0059
Phone: (502) 315-6733
Fax: (502) 315-6677

DISCLAIMER: Contact the appropriate local, state, or federal agency for the most updated links to ensure compliance with the NWP General Conditions.

Enclosure 2

Summary of the proposed 2020 Nationwide Permits¹

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 1 – Aids to Navigation	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 2 – Structures in Artificial Canals	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 3 – Maintenance	10/404						
(a) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills		authorizes only minor deviations for maintenance	PCN not required	no	all waters of the U.S.	Authorize the repair, rehabilitation, or replacement of any currently serviceable structure or fill that did not require a permit at the time it was constructed. Authorize new or additional riprap to protect the structure or fill.	Does not authorize: maintenance dredging for the primary purpose of navigation; beach restoration; or new stream channelization or stream relocation projects. Limits stream channel modification to the minimum necessary for the maintenance activity.
(b) Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals		200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal	all activities	yes	all waters of the U.S.		
(c) Temporary structures, fills, and work necessary to conduct maintenance activity			PCN not required	no	all waters of the U.S.	none.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	10/404	none	PCN not required	no	all waters of the U.S.	none	Does not authorize impoundments or artificial reefs. Does not authorize covered oyster trays or clam racks.
NWP 5 – Scientific Measurement Devices	10/404	25 cubic yards for weirs and flumes	PCN not required	no	all waters of the U.S.	none	Devices and any associated structures or fills be removed upon completion of the use and restored to pre-construction elevations to maximum extent practicable.
NWP 6 – Survey Activities	10/404	1/10-acre	PCN not required	no	all waters of the U.S.	none	Does not authorize fills for roads. Does not authorize permanent structures. Does not authorize fill associated with recovery of historic properties. Backfilling of exploratory trenches must not drain a water of the U.S.

¹ This table is intended to provide **general** information on the proposed 2020 nationwide permits published in the September 15, 2020, issue of the *Federal Register* (85 FR 57298).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 7 – Outfall Structures and Associated Intake Structures	10/404	none	all activities	yes	all waters of the U.S.	none	Activity must comply with National Pollutant Discharge Elimination System Program.
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf	10	none	all activities	no	navigable waters of the U.S.	none	Limited to facilities in areas leased by the Bureau of Ocean Energy Management of the Department of the Interior.
NWP 9 – Structures in Fleeting and Anchorage Areas	10	none	PCN not required	no	navigable waters of the U.S.	none	Applies to structures, buoys, and other devices placed in anchorage or fleeting areas established for those purposes
NWP 10 – Mooring Buoys	10	none	PCN not required	no	navigable waters of the U.S.	none	Non-commercial, single boat mooring buoys
NWP 11 – Temporary Recreational Structures	10	none	PCN not required	no	navigable waters of the U.S.	none	Structures must be removed within 30 days after use discontinued.
NWP 12 – Oil or Natural Gas Pipeline Activities	10/404	1/2 acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre new oil or natural gas pipeline greater than 250 miles in length 	yes, if PCN required	see text of NWP	Limit to oil or natural gas pipeline activities. Remove PCN requirements for: (a) activities that involve mechanized land clearing in a forested wetland for the utility line right-of-way; (b) utility lines in waters of the United States, excluding overhead lines, that exceed 500 feet; (c) utility lines placed within a jurisdictional area (i.e., water of the United States), that run parallel to or along a stream bed that is within that jurisdictional area; (d) permanent access roads constructed above grade in waters of the United States for a distance of more than 500 feet; or (e) permanent access roads are constructed in waters of the United States with impervious materials. Add PCN requirement for new oil or natural gas pipelines more than 250 miles in length.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
oil or natural gas pipelines					all waters of the U.S., including navigable waters	Remove Note requiring district engineer to send copy of PCN and NWP verification letter to Department of Defense Siting Clearinghouse.	Must restore area to pre-construction contours.
oil or natural gas pipeline substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
foundations for above-ground oil or natural gas pipelines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 13 – Bank Stabilization	10/404	<ul style="list-style-type: none"> 500 feet along the bank (unless waived by DE – waivers for bulkheads limited to 1,000 linear feet along the shore) 1 cubic yard per running foot (unless waived by DE) 	<ul style="list-style-type: none"> >500 linear feet in length >1 cubic yard per running foot, as measured along the treated bank, below OHWM or HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	Add Note stating that in coastal waters and the Great Lakes, living shorelines authorized by NWP 54 may be an appropriate form of bank stabilization.	Activity cannot impair surface water flow into or out of waters of the U.S. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Native plant species appropriate for site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization.
NWP 14 – Linear Transportation Projects	10/404	<ul style="list-style-type: none"> 1/2 acre in non-tidal waters 1/3 acre in tidal waters 	<ul style="list-style-type: none"> >1/10 acre discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	Add “driveways” to list of examples of linear transportation projects.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Does not authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features.
NWP 15 – U.S. Coast Guard Approved Bridges	404	none	PCN not required	no	navigable waters of the U.S.	none	Causeways and approach fills for bridges are not authorized by this NWP; those activities require separate section 404 authorization. Bridge structures can be authorized by Section 9 of the Rivers and Harbors Act or other applicable laws.
NWP 16 – Return Water From Upland Contained Disposal Areas	404	none	PCN not required	no	all waters of the U.S.	none	Water quality issues addressed through Clean Water Act section 401 certification process
NWP 17 – Hydropower Projects	404	none	all activities	yes	all waters of the U.S., except navigable (i.e., section 10) waters	Increase total generating capacity from 5,000 kW to 10,000 kW.	Applies to activities licensed by the Federal Energy Regulatory Commission or activities exempt from licensing requirements.
NWP 18 – Minor Discharges	10/404	<ul style="list-style-type: none"> 25 cubic yards discharged below plane of OHWM/HTL 1/10 acre of waters of the U.S. 	<ul style="list-style-type: none"> >10 cubic yards discharged below plane of OHWM/HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize discharges for stream diversions.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 19 – Minor Dredging	10/404	50 cubic yards below plane of OHWM/ MHWM	PCN not required	no	navigable waters of the U.S.	Increase limit to 50 cubic yards.	Does not authorize dredging or degradation through siltation of coral reefs, submerged aquatic vegetation beds, anadromous fish spawning areas, or wetlands. Does not authorize the connection of canals to navigable waters.
NWP 20 – Response Operations for Oil or Hazardous Substances	10/404	none	PCN not required	no	all waters of the U.S.	none	Authorizes activities subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Authorizes activities required for cleanup of oil releases in waters of the U.S. Authorizes use of temporary structures and fills for spill response training exercises.
NWP 21 – Surface Coal Mining Activities	10/404	<ul style="list-style-type: none"> • 1/2 acre • No valley fills 	All activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision. Remove reference to integrated permit processing procedures. Remove requirement for written verification.	Activities must be authorized, or currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.
NWP 22 – Removal of Vessels	10/404	none	<ul style="list-style-type: none"> • if vessel listed or eligible for National Register of Historic Places • activities in special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize maintenance dredging, shoal removal, or river bank snagging. Disposal of removed vessel in waters of the U.S. may require separate authorizations from EPA and Corps.
NWP 23 – Approved Categorical Exclusions	10/404	none	PCN not required, except for certain activities identified in RGL 05-07	yes, if PCN required	all waters of the U.S.	none	Categorical exclusions must be approved by the Office of the Chief of Engineers. See RGL 05-07 for list of agencies and their activities that are currently eligible for NWP 23.
NWP 24 – Indian Tribe or State Administered Section 404 Program	10	none	PCN not required	no	navigable waters of the U.S.	none	Does not authorize activities in navigable waters that require only a section 10 permit.
NWP 25 – Structural Discharges	404	none	PCN not required	no	waters of the U.S.	none	Structure may require a section 10 permit if located in navigable waters of the U.S. Does not authorize structures that support buildings or similar structures.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 27 – Aquatic Habitat Restoration, Enhancement, and Establishment Activities	10/404	none	all activities, except for those that require reporting (e.g., activities under a binding agreement between the landowner and an agency)	yes, if PCN required	all waters of the U.S.	Add “releasing sediment from reservoirs to restore or sustain downstream habitat” and “coral restoration or relocation” to the list of examples of activities authorized by this NWP. No PCN required for activities conducted in accordance with the terms and conditions of a binding coral restoration or relocation agreement between the project proponent and the NMFS or any of its designated state cooperating agencies.	Does not authorize stream channelization. Does not authorize relocation or conversion of tidal waters. Does not authorize conversion of natural wetlands or streams, except for relocation activities. Compensatory mitigation is not required for NWP 27 activities.
NWP 28 – Modifications of Existing Marinas	10	activities limited to authorized marina area	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging, additional slips, dock spaces, or expansion in waters of the U.S.
NWP 29 – Residential Developments	10/404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	For residential subdivisions, the aggregate total loss of waters of the U.S. cannot exceed 1/2-acre.
NWP 30 – Moist Soil Management for Wildlife	404	none	PCN not required	no	non-tidal waters of the U.S.	none	Authorizes only on-going activities. Does not authorize construction of new dikes, roads, water control structures, etc. Does not authorize conversion of wetlands to uplands. Does not authorize impoundments. Does not authorize activities that result in net loss of aquatic functions and services.
NWP 31 – Maintenance of Existing Flood Control Facilities	10/404	maintenance baseline approved by district engineer	all activities	yes	all waters of the U.S.	none	PCN must indicate location of sites for disposal of dredged or excavated material and baseline information. Authorizes the removal of vegetation from levees associated with a flood control project, if Corps permits are required for those activities.
NWP 32 – Completed Enforcement Actions	10/404	<ul style="list-style-type: none"> 5 acres of non-tidal waters 1 acre of tidal waters also see text of NWP 	PCN not required	no	all waters of the U.S.	none	
NWP 33 – Temporary Construction, Access, and Dewatering	10/404	none	all activities in navigable (i.e., section 10) waters	yes	all waters of the U.S.	none	Associated primary activity must be authorized by Corps or U.S. Coast Guard, or be exempt from permit requirements. PCN must include restoration plan.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 34 – Cranberry Production Activities	404	10 acres, but activity cannot result in net loss of wetland acreage	all activities	yes	section 404 waters only	none	Does not authorize discharges in waters of the U.S. for attendant features, such as warehouses, processing facilities, or parking areas.
NWP 35 – Maintenance Dredging of Existing Basins	10	dredging to previously authorized depths or controlling depths, whichever are less	PCN not required	no	navigable waters of the U.S.	none	
NWP 36 – Boat Ramps	10/404	<ul style="list-style-type: none"> 50 cubic yards, unless waived by DE 20 foot width, unless waived by DE 	<ul style="list-style-type: none"> >50 cubic yards >20 feet wide 	yes, if PCN required	all waters of the U.S., except special aquatic sites	none	Section 10 permit required if dredging navigable water is necessary for access to boat ramp. No placement of material in special aquatic sites.
NWP 37 – Emergency Watershed Protection and Rehabilitation	10/404	none	all activities	yes	all waters of the U.S.	none	Prospective permittee should wait 45 calendar days before proceeding with the activity if the DE has not yet issued a verification letter, but may proceed immediately if there is an unacceptable hazard to life or significant loss of property or economic hardship will occur.
NWP 38 – Cleanup of Hazardous and Toxic Waste	10/404	none	all activities	yes	all waters of the U.S.	none	Does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
NWP 39 – Commercial and Institutional Developments	10/404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	Does not authorize construction of new golf courses or new ski areas. Authorizes the construction of oil or gas wells. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 40 – Agricultural Activities	404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	NWP can be used for agricultural activities, regardless of whether applicant is USDA participant. Does not authorize aquaculture ponds.
NWP 41 – Reshaping Existing Drainage and Irrigation Ditches	404	none	PCN not required	no	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Add irrigation ditches.	Reshaping drainage ditch cannot increase capacity of ditch or drain additional waters of the U.S. Does not authorize relocation of drainage ditches constructed in waters of the U.S.
NWP 42 – Recreational Facilities	404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	Authorizes variety of recreational facilities, except for hotels, restaurants, racetracks, stadiums, arenas, or similar facilities (these may be authorized by NWP 39).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 43 – Stormwater Management Facilities	404	<ul style="list-style-type: none"> 1/2 acre 	all activities involving expansion or construction of SWM facilities	yes, if PCN required	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	Does not authorize construction of new stormwater management facilities in perennial streams. Maintenance does not require PCN if limited to restoring original design capacities. Also authorizes low impact development integrated management features and pollutant reduction green infrastructure features.
NWP 44 – Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision. Limit mining in non-tidal navigable waters of the United States (i.e., section 10 waters) to 1/2-acre.	PCN must include final reclamation plan if reclamation is required by other statutes.
NWP 45 – Repair of Uplands Damaged by Discrete Events	10/404	Restore uplands to pre-event ordinary high water mark	all activities	yes	all waters of the U.S.	none	PCN must be submitted to district engineer within one year of date of damage; work must start or be under contract within two years of date of damage.
NWP 46 – Discharges in Ditches	404	<ul style="list-style-type: none"> 1 acre 	all activities	yes	certain types of non-tidal ditches constructed in uplands and determined to be waters of the U.S.	none	NWP does not authorize discharges into ditches constructed in streams or other waters of the U.S., or in streams that have been relocated in uplands.
NWP 48 –Commercial Shellfish Mariculture Activities	10/404	none	PCN not required	no	navigable waters of the U.S.	Change “aquaculture” to “mariculture.” Remove PCN requirements. Remove the prohibition against new commercial shellfish mariculture activities directly affecting more than 1/2-acre of submerged aquatic vegetation. Remove definition of “new commercial shellfish aquaculture operation” as operating in an area where such activities have not occurred during the past 100 years.	Does not authorize nonindigenous species not previously cultivated in the waterbody, aquatic nuisance species, or attendant features such as docks or staging areas. Does not authorize the deposition of shell material back into waters of the U.S. as waste. Project area is the area in which the operator is authorized to conduct commercial shellfish mariculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 49 – Coal Remining Activities	10/404	Limited to sites that were previously mined for coal, but new mining may be conducted in adjacent areas if the newly mined area is less than 40 percent of the area being remined plus any unmined area needed for reclamation.	all activities	yes	non-tidal waters of the U.S.	Remove requirement for written verification. Remove reference to integrated permit processing procedures.	Permittee must demonstrate net increase in aquatic resource functions through reclamation. Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title IV and V of the Surface Mining Control and Reclamation Act of 1977. Corps will review the SMCRA determination regarding the amount of previously unmined area necessary for the reclamation and make an independent determination of the amount needed.
NWP 50 – Underground Coal Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision. Remove requirement for written verification. Remove reference to integrated permit processing procedures. Remove Note stating that coal preparation and processing outside the mine site may be authorized by NWP 21.	Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977. If reclamation required, a copy of the plan must be submitted with PCN. Does not authorize coal preparation and processing activities outside of the mine site.
NWP 51 – Land-Based Renewable Energy Generation Facilities	10/404	<ul style="list-style-type: none"> 1/2 acre 	<ul style="list-style-type: none"> discharges that result in the loss of >1/10 acre 	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	Authorizes construction, expansion or modification of land-based renewable energy production facilities, including attendant features. If only activity requiring DA authorization is utility line, then NWP C shall be used. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate single and complete linear projects. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 52 – Water-Based Renewable Energy Generation Pilot Projects	10/404	<ul style="list-style-type: none"> • 1/2 acre • No more than 10 generation units • Floating solar panels in section 10 waters limited to 1/2-acre in size 	all activities	yes	all waters of the U.S. except in coral reefs	Remove the 300 linear foot limit for losses of stream bed. Remove waiver provision.	Authorizes construction, expansion, modification, or removal of water-based renewable energy generation pilot projects and their attendant features. Limited to “pilot projects.” Placement of a transmission line on bed of a navigable water of U.S. from generation unit to land-based collection facility is considered a structure under section 10 and is not considered a loss of waters of the U.S. Prohibits activities in coral reefs. Structures in anchorage areas must comply with U.S. Coast Guard requirements. Does not authorize structures in established danger zones, restricted areas, etc. Upon completion of pilot project, associated structures and/or fills must be removed unless authorized by separate DA permit. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate and complete linear projects. An activity located on an existing, maintained Corps project requires separate approval under 33 USC 408. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 53 – Removal of Low-Head Dams	10/404	none	all activities	yes	all waters of the U.S.	none.	Authorizes the removal of low-head dams for stream restoration and public safety. “Low-head dam” defined as a dam built to pass upstream flows over the entire width of the dam crest on a continual and uncontrolled basis. As a general rule, compensatory mitigation is not required for these activities because they result in net increases in stream ecological functions and services. NWP does not authorize regulated activities for restoration of stream in vicinity of former impoundment (these activities may be authorized by NWP 27), or bank stabilization activities (these activities may be authorized by NWP 13).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
NWP 54 – Living Shorelines	10/404	<ul style="list-style-type: none"> 30 feet channelward of mean low water in tidal waters or mean high water line in Great Lakes (unless waived by DE) 500 feet along the bank (unless waived by DE) 	all new activities; PCN not required for repair and maintenance of existing living shorelines	yes	all waters of the U.S.	none.	Authorizes construction and maintenance of living shorelines for shore erosion control. Living shorelines consist of natural and man-made materials. May include stone or reef structures to protect the shoreline from low to moderate energy waves. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures. Does not authorize beach nourishment or land reclamation activities. Discharges of dredged or fill material into waters of the United States, including the construction of fill structures such as sills or breakwaters, must be the minimum necessary for the establishment and maintenance of the living shoreline.
NWP A – Seaweed Mariculture Activities	10	none	all activities	yes	navigable waters of the U.S., including federal waters on the outer continental shelf	new NWP	Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(l)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(l)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP B – Finfish Mariculture Activities	10	none	all activities	yes	navigable waters of the U.S., including federal waters on the outer continental shelf	new NWP	Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(l)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(l)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP C – Electric Utility Line and Telecommunications Activities	10/404	<ul style="list-style-type: none"> 1/2-acre 	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	new NWP	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
electric utility lines and telecommunications lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
electric utility line and telecommunications substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Changes	Other Information
foundations for overhead electric utility line or telecommunication line towers, poles, and anchors					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP D – Utility Line Activities for Water and Other Substances	10/404	<ul style="list-style-type: none"> 1/2-acre 	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	new NWP	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
utility lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
utility line substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for above-ground utility lines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP E – Water Reclamation and Reuse Facilities	10/404	<ul style="list-style-type: none"> 1/2-acre 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	new NWP	