



US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: 10 June 2016

EXPIRES: 10 July 2016

SUBJECT: 2017 Nationwide Permit
Issuance

SECTIONS: 404 Clean Water Act
& 10 Rivers and Harbors Act

INFORMATIONAL PUBLIC NOTICE: NATIONWIDE PERMIT REISSUANCE

SUMMARY:

On June 1, 2016, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 50 existing nationwide permits (NWP) and issue two 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. The Clean Water Act requires the Corps to reissue nationwide permits every five years. The current suite of nationwide permits will expire on March 18, 2017. NWP often have regional conditions that are customized to a local Corps district.

BACKGROUND:

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-2015-0017 at www.regulations.gov, or by email to NWP2017@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 June 1, 2016 Federal Register notice. **Comments on the proposed NWP are due by August 1, 2016.**

St. Paul District Issues Concerning the Proposed NWP, Including Regional Conditioning:

For the last 15 years, the St. Paul District (covering both Minnesota and Wisconsin) has issued NWP only for activities regulated by Section 10 of the Rivers and Harbors Act. In lieu of NWP for activities that are regulated under Section 404 of the Clean Water Act (and which result in no more than minimal individual and cumulative adverse environmental effects), the St. Paul District has issued various regional general permits specific to Minnesota and Wisconsin. As many of these regional general permits have come to mirror, if not duplicate NWP, the District is considering issuing Section 404 NWP along with re-issuing all Section 10 NWP. For this effort the District will work closely with state and federal partners, Tribes and stakeholders to ensure consistency in our regulatory programs and in the protection of aquatic resources.

Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to 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's 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's may be more than minimal.

At this time, the St. Paul District is not able to provide a list of proposed regional conditions because they are still in development. A second 2017 NWP public notice will be issued in the coming months. That public notice will solicit comments on the proposed regional conditions and on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWP's are no more than minimal, individually and cumulatively.

Once the final NWP's are issued by Corps Headquarters, the Division Commander-approved final regional conditions will be provided. After that point, States and Tribes will make their Clean Water Act Section 401 (401) water quality certification decisions and States will make their Coastal Zone Management Act (CZMA) consistency decisions. The 401/CZMA decisions must be made within 90 days of the *Federal Register* notice announcing the issuance of the NWP's. The final NWP's will go into effect on March 19, 2017.

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 documents, as well as the proposed NWP's, are available for viewing at www.regulations.gov, docket number COE-2015-0017. Final decision documents will be prepared for the NWP's that are issued. In addition, the final national NWP decision documents will be supplemented by division engineers to address their decisions concerning regional conditions for the NWP's.

ADDITIONAL INFORMATION:

Enclosed 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 <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>, at www.regulations.gov in docket number COE-2015-0017, or at the Federal Register notice at <https://www.gpo.gov/fdsys/pkg/FR-2016-06-01/pdf/2016-12083.pdf>.

The St. Paul District's lead contact for NWP issuance is Ms. Jill Bathke. If you have questions about the potential issuance of NWP's, Ms. Bathke can be reached at (651) 290-5697 or via email at Jill.C.Bathke@usace.army.mil.

Chad Konickson
Chief, Regulatory Branch

Enclosure (list of 2017 NWP's)

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

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. Utility Line 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 Aquaculture 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
 - A. Removal of Low-Head Dams
 - B. Living Shorelines

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 Bird and Bald and Golden Eagle Permits
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
Enhancement
Ephemeral stream
Establishment (creation)
High Tide Line
Historic property
Independent utility
Indirect effects
Intermittent stream
Loss of waters of the United States
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
Vegetated shallows
Waterbody