



US Army Corps  
of Engineers  
St Paul District

# Public Notice

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SECTION: 10 & 404

REFER TO: NWP2002-FINAL

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## PUBLIC NOTICE FOR FEDERAL REGISTER NOTICE ANNOUNCING NEW NATIONWIDE PERMITS

On January 15, 2002, in Part II of the *Federal Register* (67FR 2020- 2095), the U.S. Army Corps of Engineers announced the re-issuance of all existing Nationwide Permits (NWPs), related General Conditions, and definitions with some modifications, and one new General Condition.

After publication of this *Federal Register* notice, Corps districts will begin finalizing their NWP regional conditions or alternative procedures for the new and modified NWPs for their district. Regional conditions provide additional protection for the aquatic environment by ensuring that the NWPs authorize only activities with minimal adverse effects on the aquatic environment. As noted below, the St. Paul District proposes to continue to use alternative procedures that were implemented in 2000 instead of the Section 404 NWPs and regional conditions, in both Minnesota and Wisconsin.

The publication of this *Federal Register* notice also begins a 60-day process for States and Tribes to make Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 60 days of publication of the January 15, 2002, Federal Register or the Corps will consider 401 water quality certification or CZMA determination waived by the responsible agency. At the end of this 60-day period on March 18, 2002, the re-issued NWPs and Corps regional conditions will become effective in Corps Districts unless they are suspended or revoked. No state or tribal 401 actions are necessary to simply continue the existing situations in Minnesota and Wisconsin as proposed by the St. Paul District and noted below.

**SPECIAL NOTE FOR MINNESOTA AND WISCONSIN.** The St. Paul District has proposed to continue replacing the Section 404 NWPs with statewide procedures that are already in place in Minnesota and Wisconsin. In early 2000, the Section 404 NWPs were suspended in the two states and replaced with specifically tailored, regional general permits (GPs) and letter-of-permission (LOP)

evaluation procedures. These regional "GP/LOP" actions are GP/LOP-98-MN for Minnesota, GP/LOP-98-WI for Wisconsin, and GP/LOP-98-R for Indian Reservations in both states (except the Mole Lake Reservation in Wisconsin where no Section 404 NWP or GP/LOP applies). These GP/LOPs are published on the District's Internet web site at:

<http://www.mvp.usace.army.mil/regulatory/proposals/proposals.htm>

In an August 17, 2001, public notice concerning the re-issued NWP's, the St. Paul District proposed to simply maintain the existing situations in Minnesota and Wisconsin, including Indian Reservations, by continuing to use the three GP/LOPs instead of the Section 404 NWP's that are being re-issued. The District received only favorable comments in response. The District has reviewed the final re-issued NWP's and finds no changes that appreciably affect the basis for the NWP suspension that is currently in effect. Therefore, the District is pursuing its proposal to continue using the GP/LOPs, including the suspension of the re-issued Section 404 NWP's before they become effective on March 16, 2002. This suspension would make it unnecessary for states or tribes in the St. Paul District to consider Section 401 certification or Coastal Zone Consistency actions concerning the re-issued Section 404 NWP's. It should be noted that the District has always used the Section 10 NWP's and will continue to use them after they are re-issued.

The St. Paul District's proposal to continuing replacing the Section 404 NWP's with the GP/LOPs would require the Mississippi Valley Division Engineer to suspend the Section 404 NWP's, as was done in 2000. In the event that the Division Engineer does not suspend the NWP's as proposed, they would become effective in Minnesota and Wisconsin. The District is coordinating these matters with Section 401 and Coastal Zone authorities in Minnesota and Wisconsin, and will announce further actions concerning the NWP's or the GP/LOPs in a future public notice.

The January 15, 2002, *Federal Register* notice is available for viewing at St. Paul District regulatory offices or on the Internet at:

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/2002nwps.pdf>.

As an alternate, World Wide Web users can access the *Federal Register* through the U.S. Government Printing Office at

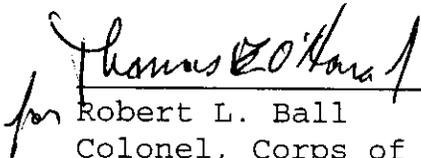
[http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

The Corps has also issued final decision documents for the new and modified NWPs. These documents are also available on the Internet at

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/nw2002dd/index.htm>

and at Corps district offices. The NWP decision documents will be supplemented by Division Engineers to address decisions concerning regional conditioning of the NWPs or use of alternative procedures instead of some or all NWPs.

Enclosed is an index of the final NWPs and conditions. The complete document is available through the Corps Internet Home Page or the *Federal Register* as noted above, or may be obtained by contacting the St. Paul District at (651) 290-5375.

  
for Robert L. Ball  
Colonel, Corps of Engineers  
District Engineer

Index of Nationwide Permits, Conditions, Further Information,  
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 Maintenance
8. Oil and Gas Structures
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. Oil Spill Cleanup
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Stream and Wetland Restoration Activities
28. Modifications of Existing Marinas
29. Single-family Housing
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. Residential, Commercial, and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities

#### Nationwide Permit General Conditions

1. Navigation
2. Proper Maintenance
3. Soil Erosion and Sediment Controls
4. Aquatic Life Movements
5. Equipment
6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification
14. Compliance Certification
15. Use of Multiple Nationwide Permits.
16. Water Supply Intakes
17. Shellfish Beds
18. Suitable Material
19. Mitigation

20. Spawning Areas
21. Management of Water Flows
22. Adverse Effects from Impoundments
23. Waterfowl Breeding Areas
24. Removal of Temporary Fills
25. Designated Critical Resource Waters
26. Fills Within 100-year Floodplains
27. Construction Period

#### Further Information

##### Definitions

Best Management Practices (BMPs)

Compensatory Mitigation

Creation

Enhancement

Ephemeral Stream

Farm Tract

Flood Fringe

Floodway

Independent Utility

Intermittent Stream

Loss of Waters of the US

Non-tidal Wetland

Open Water

Perennial Stream

Permanent Above-grade Fill

Preservation

Restoration

Riffle and Pool Complex

Single and Complete Project

Stormwater Management

Stormwater Management Facilities

Stream Bed

Stream Channelization

Tidal Wetland

Vegetated Buffer

Vegetated Shallows

Waterbody