

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

On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of 12 existing nationwide permits (NWP) and four new NWPs, as well as the reissuance of NWP general conditions and definitions with some modifications. These 16 NWPs will go into effect on March 15, 2021, and will expire on March 14, 2026:

- NWP 12 – Oil or Natural Gas Pipeline Activities
- NWP 21 – Surface Coal Mining Activities
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater Management Facilities
- NWP 44 – Mining Activities
- NWP 48 – Commercial Shellfish Mariculture Activities
- NWP 50 – Underground Coal Mining Activities
- NWP 51 – Land-Based Renewable Energy Generation Facilities
- NWP 52 – Water-Based Renewable Energy Generation Pilot Projects
- NWP 55 – Seaweed Mariculture Activities
- NWP 56 – Finfish Mariculture Activities
- NWP 57 – Electric Utility Line and Telecommunications Activities
- NWP 58 – Utility Line Activities for Water and Other Substances

The Corps has also issued final decision documents for the new and reissued NWPs. These final decision documents are available at www.regulations.gov at docket number COE-2020-0002. Furthermore, the national NWP decision documents will be supplemented by Division Engineers to address decisions concerning the addition of regional conditions to the NWPs.

The 12 existing NWPs published in the January 13, 2021 final rule replace the 2017 versions of these NWPs. The 2017 versions of NWPs 12, 21, 29, 39, 40, 42, 43, 44, 48, 50, 51, and 52 expire on March 14, 2021.

With the publication of this *Federal Register* notice, Corps divisions will begin finalizing regional conditions for these 16 NWPs. Regional conditions will provide additional protection for the aquatic environment, and will help ensure that the NWPs authorize only those activities with no more than minimal adverse environmental effects. Regional conditions will help ensure protection of high value waters within the Wilmington District in North Carolina.

Corps divisions and districts will also begin determining which conditions for water quality certifications issued by states, tribes, and EPA for the issuance of these NWPs become conditions of these NWPs. Corps divisions and districts will also begin

determining which conditions for Coastal Zone Management Act consistency concurrences issued by states for the issuance of these NWP's become conditions of these NWP's. Those regional conditions will be announced in a future public notice issued by the Wilmington District.

There are 40 existing NWP's that were not reissued or modified by the January 13, 2021 final rule. Those 40 NWP's were published in the January 6, 2017, issue of the Federal Register (82 FR 1860) and those NWP's remain in effect until the Corps issues a final rule reissuing those NWP's or March 18, 2022, whichever comes first. The 40 2017 NWP's that remain in effect are:

- NWP 1 – Aids to Navigation
- NWP 2 – Structures in Artificial Canals
- NWP 3 – Maintenance
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleeting and Anchorage Areas
- NWP 10 – Mooring Buoys
- NWP 11 – Temporary Recreational Structures
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 15 – U.S. Coast Guard Approved Bridges
- NWP 16 – Return Water From Upland Contained Disposal Areas
- NWP 17 – Hydropower Projects
- NWP 18 – Minor Discharges
- NWP 19 – Minor Dredging
- NWP 20 – Response Operations for Oil or Hazardous Substances
- NWP 22 – Removal of Vessels
- NWP 23 – Approved Categorical Exclusions
- NWP 24 – Indian Tribe or State Administered Section 404 Programs
- NWP 25 – Structural Discharges
- NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- NWP 28 – Modifications of Existing Marinas
- NWP 30 – Moist Soil Management for Wildlife
- NWP 31 – Maintenance of Existing Flood Control Facilities
- NWP 32 – Completed Enforcement Actions
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 34 – Cranberry Production Activities
- NWP 35 – Maintenance Dredging of Existing Basins
- NWP 36 – Boat Ramps

- NWP 37 – Emergency Watershed Protection and Rehabilitation
- NWP 38 – Cleanup of Hazardous and Toxic Waste
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 45 – Repair of Uplands Damaged by Discrete Events
- NWP 46 – Discharges in Ditches
- NWP 49 – Coal Remining Activities
- NWP 53 – Removal of Low-Head Dams
- NWP 54 – Living Shorelines

The regional conditions for these 40 NWPs that were approved by division engineers in 2017 remain in effect while these 2017 NWPs remain in effect.

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

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

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

Nationwide Permits

- 12. Oil or Natural Gas Pipeline Activities
- 21. Surface Coal Mining Activities
- 29. Residential Developments
- 39. Commercial and Institutional Developments
- 40. Agricultural Activities
- 42. Recreational Facilities
- 43. Stormwater Management Facilities
- 44. Mining Activities
- 48. Commercial Shellfish Mariculture Activities
- 50. Underground Coal Mining Activities
- 51. Land-Based Renewable Energy Generation Facilities
- 52. Water-Based Renewable Energy Generation Pilot Projects
- 55. Seaweed Mariculture Activities
- 56. Finfish Mariculture Activities
- 57. Electric Utility Line and Telecommunications Activities
- 58. Utility Line Activities for Water and Other Substances

General Conditions

- 1. Navigation
- 2. Aquatic Life Movements
- 3. Spawning Areas
- 4. Migratory Bird Breeding Areas
- 5. Shellfish Beds
- 6. Suitable Material
- 7. Water Supply Intakes
- 8. Adverse Effects from Impoundments
- 9. Management of Water Flows
- 10. Fills Within 100-Year Floodplains
- 11. Equipment
- 12. Soil Erosion and Sediment Controls
- 13. Removal of Temporary Fills
- 14. Proper Maintenance
- 15. Single and Complete Project
- 16. Wild and Scenic Rivers
- 17. Tribal Rights
- 18. Endangered Species
- 19. Migratory Birds and Bald and Golden Eagles
- 20. Historic Properties
- 21. Discovery of Previously Unknown Remains and Artifacts
- 22. Designated Critical Resource Waters
- 23. Mitigation

24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification

District Engineer's Decision

Further Information

Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Direct effects
Discharge
Ecological reference
Enhancement
Establishment (creation)
High Tide Line
Historic property
Independent utility
Indirect effects
Loss of waters of the United States
Navigable waters
Non-tidal wetland
Open water
Ordinary high water mark
Perennial stream
Practicable
Pre-construction notification
Preservation
Re-establishment
Rehabilitation
Restoration
Riffle and pool complex
Riparian areas
Shellfish seeding
Single and complete linear project
Single and complete non-linear project
Stormwater management
Stormwater management facilities

Stream bed
Stream channelization
Structure
Tidal wetland
Tribal lands
Tribal rights
Vegetated shallows
Waterbody

Index of 2017 Nationwide Permits, Conditions, District Engineer's Decision, Further Information, and Definitions That Remain in Effect Under the January 6, 2017, Final Rule (82 FR 1860)

Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. *[Reserved]*
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering

34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
41. Reshaping Existing Drainage Ditches
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
49. Coal Remining Activities
53. Removal of Low-Head Dams
54. Living Shorelines

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2. Aquatic Life Movements
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4. Migratory Bird Breeding Areas
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14. Proper Maintenance
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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
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Vegetated shallows
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