



US Army Corps
of Engineers
Memphis District

PUBLIC NOTICE

NATIONWIDE PERMITS

Date: December 15, 2003

PUBLIC NOTICE ANNOUNCING WATER QUALITY CERTIFICATION CONDITIONS AND REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE STATE OF MISSOURI

On November 28, 2003, the Mississippi Valley Division Engineer approved the revised Section 401 water quality conditions for the Nationwide Permits (NWP) published in the Federal Register, January 15, 2002 (67 FR 2020-2095) for the State of Missouri. These conditions apply to NWPs 3, 4, 5, 6, 7, 12, 13, 14, 18, 27, 33, 36, 40, 41, 42 and 43. Individual certification is required for NWPs 15, 16, 17, 19, 20, 21, 22, 23, 25, 29, 30, 31, 32, 34, 37, 38, 39 and 44. Nationwide Permits 1, 2, 8, 9, 10, 11, 24, 28 and 35 are under Section 10 of the Rivers and Harbors Act of 1899 only and do not require water quality certification.

The Memphis District has posted its Corps regional conditions for the NWPs on its Internet home page at: <http://mvm.usace.army.mil/regulatory/> click on nationwide permits, then the state of Missouri Water Quality Certification requirements. A copy of the regional conditions for the State of Missouri is provided in Attachment 1 and on the foregoing website.

Questions concerning implementation of the new and modified NWPs and conditions or the Corps regional conditions within the Memphis District should be sent to Memphis District, Corps of Engineers, ATTN: Richard Mochow, Ph.D., CEMVM-CO-R, 167 North Main Street, RM B202, Memphis TN 38103-1894.

Larry D. Watson, P.E.
Chief
Regulatory Branch

NOTICE TO POSTMASTERS:

Please post this notice for 30 days from the issuance date.

NOTICE TO EDITORS:

This notice is provided as background information for your use in formatting news stories. This notice is **not** a contract for classified display advertising. For more information call the Memphis District Public Affairs Office, 901/544-3348.

ATTACHMENT 1

REGIONAL CONDITIONS WITHIN MISSOURI¹

1. NWP 3 – Maintenance. The permittee must notify the District Engineer when repairing, rehabilitating or replacing low water crossings if: discharges of fill or dredged material would raise or lower the lowest elevation of the crossing by a total of 12-inches or more, or when removing the structure. The permittee must propose and employ measures to mitigate the potential impact of impounding gravel above the low water crossing or of releasing impounded-gravel downstream of the structure. Such mitigation might include: removing impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.

2. NWP 12 - Utility Activities. Except for a minimal corridor that is essential for operation and maintenance of the utility line, the right-of-way must be allowed to re-vegetate naturally to native tree species when forested wetlands or riparian wooded areas are cleared in order to construct the utility line. This does not preclude the planting of native vegetation.

3. NWP 23 - Approved Categorical Exclusions. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a Federal agency's categorically excluded activities are in or affect waters of the United States. This notification must include a delineation of special aquatic sites, including wetlands. In addition to information required by NWP general condition 13 (b), the notification must identify the approved categorical exclusion that applies (i.e. list Federal Register citation) and include documentation that the project fits the categorical exclusion.

4. NWP 27 - Stream and Wetland Restoration Activities. NWP 27 will not be used to authorize discharges associated with relocation of forested wetlands.

5. NWP 29 - Notification Requirements. Prior to issuing a verification letter for this NWP, the District Engineer will coordinate all requests for NWP 29 with the U.S. Fish and Wildlife Service (USFWS) for its evaluation of impacts to Federally listed endangered species. Coordination with the USFWS will follow the procedures in general condition 13(e) for agency coordination in January 15, 2002, Federal Register, Issuance of Nationwide Permits; Notice (67 FR 2092).

6. NWP 43 - Stormwater Management Facilities. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a regulated in-stream basin impacts an intermittent stream. The permittee's mitigation plan must specifically identify measures to prevent the export of contaminants directed into any in-stream basin by the upland collection system. The permittee must also include mitigation for any in-stream projects that would adversely impact normal aquatic life migration. This NWP does not authorize the retention of water, in excess of that required to meet stormwater management requirements, for other purposes such as recreational lakes, reflecting pools and irrigation.

7. Recording Mitigation (Applicable To All NWPs). NWPs with mitigation may require recording of the permit mitigation areas with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property and provide proof of recording to the Corps.

8. Notification Requirement for Activities Proposed in Fens, Seeps and Bogs (Applicable To All NWPs). The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when any regulated activity impacts a fen, seep or bog of any size.

9. Notification for Confined Animal Feeding Operations (Applicable To All NWPs). The permittee must notify the District Engineer in accordance with the "Notification" general condition for agency coordination (general condition 13(e)) about any discharges of dredged or fill material associated with the construction of any portion of a confined animal feeding operation (CAFO).

10. Seasonal Restrictions for Activities Proposed in Spawning Areas (Applicable To All NWPs). In addition to the requirements of NWP general condition 20, for any regulated activity, the following specific seasonal restrictions apply. Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into the listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at <http://www.nwk.usace.army.mil/regulatory/gravel.txt>(Missouri Combined Stream Spawning Season List).

¹ NOTE: None of the regional conditions pertain to paragraph a. of Nationwide Permit Number 40.

11. District-Designated Waters.

St. Louis District: For any discharge or excavation activity requiring authorization, proposed under NWPs 39, 41, 42 and 43, in any ephemeral, intermittent, and perennial streams in the following Missouri watersheds, the permittee must notify the District Engineer in accordance with the "Notification" general condition 13 (Federal Register, 67 FR 2090-2092).

St. Louis County: Wildhorse Creek, Bonhomme Creek, Creve Coeur Creek, Fox Creek, and Deer Creek.

St. Charles County: Dardenne Creek and Peruque Creek.

Jefferson County: Saline/Sugar/Romaine Creeks, Rock Creek, Dulin/Bourne/Heads/Bear Creeks, La Barque Creek, Glaize Creek, and Joachim/Sandy Creeks.

Ste. Genevieve and Perry Counties: Saline Creek.

Cape Girardeau County: Indian Creek, Williams/Hubble/Randol/ Goose Creeks, Ramsey Branch, Ranney Creek, and Byrd Creek.

Memphis District: For any regulated activity proposed under NWPs 14, 39, 41, 42 and 43, in the following waters; the permittee must notify the District Engineer in accordance with the "Notification" general condition 13 (Federal Register, 67 FR 2090-2092).

St. Francis Floodway from 1 mile below Wappapello Lake to the Arkansas/Missouri state line below U.S. Highway 314, in Dunklin County.

Castor River from the Union Pacific Railroad bridge, in Stoddard County, to the headwater levee, in Bollinger County.

Ramsey Branch from St. Louis District line to Headwater Diversion Channel in Cape Girardeau and Scott Counties.

Ramsey Creek from the Headwater Diversion Channel to State Routes PP & N (East Branch), and Scott County Route 325 (West Branch) in Scott County.

NWP Mitigation Information

Mitigation includes measures that avoid, minimize, or compensate for impacts to the aquatic ecosystem. Avoidance and minimization associated with nationwide permit authorizations are limited to on-site measures.

Avoid: Take all appropriate and practicable measures to avoid adverse impacts to the aquatic ecosystem.

Minimize: Take all appropriate and practicable measures to minimize adverse impacts to the aquatic ecosystem.

Compensate: The applicant may be required to implement appropriate and practicable measures to compensate for adverse project impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized. Compensatory mitigation can take many forms. Some of which are the use of buffer zones adjacent to the stream corridors and wetland areas; stream restoration or "naturalization"; project specific mitigation; mitigation banking; in-lieu fee based mitigation; protection of areas by deed restrictions, or conservation easements.

Department of the Army permittees are responsible for developing a mitigation plan and submitting it to the Corps. A mitigation plan should generally include:

1. A complete description of efforts made to avoid and minimize adverse project impacts to the aquatic ecosystem, and a thorough description of the proposed compensatory mitigation.
2. A jurisdictional determination, including wetland delineation (if appropriate) conducted in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual.

3. A detailed description of the nature and location of all proposed ground disturbing activities and structures associated with the compensatory mitigation project.
4. For work that would create new aquatic resources or modify existing aquatic resources, provide as appropriate a description of the proposed hydrology, a soil description, and a planting plan.
5. A proposal for monitoring the success of the proposed mitigation plan is extremely important. It should include the name and telephone number of the responsible party, how success criteria will be measured, and a detailed reporting program to achieve compliance. Generally, monitoring should occur annually and continue for at least five years or until two years after all mitigation project activities have been completed and planting survival requirements have been achieved. Include all appropriate contingency plans and address provisions for long-term operations and maintenance of the site. The District Regulatory office will be furnished annual reports throughout the mitigation site development process.