

PUBLIC NOTICE



**US Army Corps
of Engineers
Memphis District**

Nationwide Permit Reauthorization

Issue Date: June 6, 2016

Expiration Date: August 1, 2016

INITIAL PUBLIC NOTICE

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

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.

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-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.

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 documents, as well as the proposed NWP, are available for viewing at www.regulations.gov, docket number COE-2015-0017. Final decision documents will be prepared for the NWP 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.

An index of the proposed NWP and conditions is appended at the end of this notice. Anyone wishing to provide comments may obtain a full text copy of the NWP 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 at the Federal Register at <https://www.gpo.gov/fdsys/pkg/FR-2016-06-01/pdf/2016-12083.pdf>.

After the final NWP are issued, the final regional conditions will be issued after they are approved by the Division Commander. After the final NWP are issued, States and Tribes will make their Clean Water Act Section 401 (401) water quality certification. The 401 decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWP. The final NWP will go into effect on March 19, 2017.

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 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 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.

The current Missouri regional conditions are listed below with notes concerning anticipated revisions or changes to those conditions. The Kansas City District, as the lead district for Missouri, is seeking comments on the adoption of 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 Missouri. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to Mr. James Reenan at the U.S. Army Corps of Engineers, Missouri State Regulatory Office, 515 East High Street, Suite 202, Jefferson City, Missouri, 65101, by telephone at (816) 389-3832 or by email at jame.s.reenan@usace.army.mil. Comments relating to regional conditions are due by **July 21, 2016**. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

MISSOURI NWP REGIONAL CONDITIONS

For All Nationwide Permits:

1. **Stream Crossings.** In addition to requirements of General Condition (2) and General Condition (9) of the Nationwide Permits, the following guidelines for stream crossings apply for regulated activities in waters of the United States. The guidelines are available at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MORC1Streams.pdf>.

*****We anticipate making changes to this regional condition that clarify the guidelines for stream crossings.***

2. **Seasonal Restrictions for Activities Proposed in Spawning Areas.** In addition to the requirements of General Condition (3) of the Nationwide Permits, the following specific seasonal restrictions apply for regulated activities in waters of the United States. 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/Portals/29/docs/regulatory/nationwidepermits/2012/SpawningList.pdf>

*****We anticipate minor changes to the linked list that pertain to start/end points that define the extent of the reach.***

3. **Invasive and Exotic Species.** Plant species listed at: <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MOInvasivePlants.pdf> shall not be used for revegetation unless this requirement is waived by the district engineer based on a case specific analysis of the revegetation plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Best management practices can be found at: <http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters within Missouri can be found at: <http://nas.er.usgs.gov/queries/zmbyst.asp>.

*****We do not anticipate any significant changes to this condition.***

4. **Suitable Material.** In addition to the specific examples in General Condition (6) of the Nationwide Permits, the following materials are not suitable for fill activities in waters of the United States: vehicle bodies, construction or demolition debris, garbage, tires, treated lumber (chromated copper arsenate (CCA), creosote, and pentachlorophenol), liquid concrete not poured into forms, grouted riprap, bagged cement, and sewage or organic waste.

Broken concrete used as bank stabilization must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces to withstand expected high flows. Applicants must break all large slabs to conform to the well graded requirement. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume when using broken concrete as fill. All protruding reinforcement rods, trash, asphalt, and other extraneous materials must be removed from the broken concrete prior to placement in waters of the United States.

*****We do not anticipate any significant changes to this condition.***

5. **Priority Watersheds.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity in a priority watershed. The list of priority watersheds requiring notification is available on request from the Corps or at <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/PriorityWatersheds.pdf>

*****We are considering elimination of this condition based on experience with the condition over the last 5 years.***

6. **Special Aquatic Resources.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity which may impact a jurisdictional fen, seep or bog of any size.

*****We do not anticipate any significant changes to this condition.***

7. **Sensitive Aquatic Species.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity in waters listed at: <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2012/MORC7AquaticSpecies.pdf>. The submitted preconstruction notification will be coordinated in accordance with General Condition 31(d) with the U.S. Fish and Wildlife Service as determined appropriate by the Corps.

*****We do not anticipate any significant changes to this condition. NOTE: General Condition 31 in the 2012 NWP is now listed as No. 32 in the proposed 2017 NWP.***

For Specific Nationwide Permits:

*****We do not anticipate any significant changes to the following conditions.***

8. **NWP 12 – Utility Line Activities.** The applicant must provide preconstruction notification to the District Engineer prior to commencing the activity if the discharge is in a special aquatic site or when new utility line construction activities have multiple crossings of the same stream and/or parallel a stream. The preconstruction notification must include a revegetation plan for impacted wetlands and riparian areas in accordance with Regional Condition 3. Where preconstruction notification is required for utility line activities within streams, the submittal must include site-specific plans for the stabilization of disturbed channel bed and bank areas.

9. **NWP 23 - Approved Categorical Exclusions.** The applicant must provide preconstruction notification to the District Engineer for all regulated Nationwide Permit 23 activities in waters of the United States. In addition to information required by General Condition 31, the applicant must identify the approved categorical exclusion that applies and provide documentation that the project fits the categorical exclusion.

****NOTE: General Condition 31 in the 2012 NWPs is now listed as No. 32 in the proposed 2017 NWPs.**

10. **NWP 27 – Stream and Wetland Restoration Activities.** The applicant must provide preconstruction notification to the District Engineer prior to commencing the activity if the discharge is associated with impacts to forested wetlands.

11. **NWP 44 – Mining Activities.** Nationwide Permit 44 cannot be used to authorize in-stream mining projects, including in-stream sand and gravel mining operations.

Requirements for Waiver of 300 Linear Foot Limit Associated with NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, 52. The applicant must request the waiver in writing and provide documentation and environmentally based reasons to support the waiver request in accordance with the requirements of General Condition (31)(e) for making waiver determinations.

****NOTE: General Condition 31 in the 2012 NWPs is now listed as No. 32 in the proposed 2017 NWPs.**

12. **Lake of the Ozarks.** The applicant must provide a preconstruction notification to the District Engineer for any regulated activity associated with Nationwide Permits 3, 7, 12, 14, 15, 18, 22, 27, 33, and 45 within Lake of the Ozarks. A copy of this notification must also concurrently be sent to Ameren Missouri. Nationwide Permits 2, 13, 16, 19, 25, 29, 31, 35, 36, 39, 41, and 44 are revoked in the Lake of the Ozarks. NWPs 1, 9, 10, 11 and 28 are only valid when both Ameren Missouri and the Missouri State Water Patrol have approved the activity. The Corps and Ameren Missouri, regardless of the request to use any Nationwide Permit, may verify the activity under the provisions of Regional General Permit 38M <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/permits/GP-38M.pdf>. Additional information on Ameren Missouri and Lake of the Ozarks permit requirements can be found at the following webpage: <http://www.ameren.com/sites/ae/lakeoftheozarks/Pages/Home.aspx>

Index of Proposed Nationwide Permits, Conditions, and Definitions

Nationwide Permits

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4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities

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9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
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12. Utility Line Activities
13. Bank Stabilization
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Nationwide Permit General Conditions

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29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
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Further Information

Definitions

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Non-tidal wetland
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Practicable
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Preservation
Re-establishment
Rehabilitation
Restoration
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Riparian areas
Shellfish seeding
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Vegetated shallows
Waterbody