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 (NWPs) and issue two new NWPs.

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 NWPs require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWPs cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public’s opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs 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 NWPs are due by August 1, 2016.

Regional Issues Concerning the Proposed NWPs, 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 NWPs are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs 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 NWPs may be more than minimal. An enclosure for this public notice (Enclosure 1) lists the proposed regional conditions currently under consideration by the Great Lakes and Ohio River Division for the State of Tennessee. The Nashville District is seeking comments on 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 NWPs are no more than minimal, individually and cumulatively. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the State of Tennessee. Comments on regional issues relating to the proposed NWPs and proposed
After the final NWPs are issued, the final regional conditions will be issued after they are approved by the Division Commander. After the final NWPs are issued, States and Tribes will make their Clean Water Act Section 401 (401) water quality certification and States will make their Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWPs. The final NWPs will go into effect on March 19, 2017.

Draft decision documents for each of the proposed NWPs, 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 NWPs with the requirements for issuance under the Corps general permit authority. These documents, as well as the proposed NWPs, are available for viewing at www.regulations.gov, docket number COE-2015-0017. Final decision documents will be prepared for the NWPs 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 NWPs.

Enclosed is an index of the proposed NWPs and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWPs 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 address listed below.
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Enclosure 1

Proposed Regional Conditions for the State of Tennessee

NATIONWIDE PERMIT SPECIFIC REGIONAL CONDITIONS:

1. *Aids to Navigation.*
   - No proposed regional conditions.

2. *Structures in Artificial Canals.*
   - No proposed regional conditions.

   - No proposed regional conditions.

   - No proposed regional conditions.

5. *Scientific Measurement Devices.*
   - No proposed regional conditions.

   - No proposed regional conditions.

   - No proposed regional conditions.

8. *Oil and Gas Structures on the Outer Continental Shelf.*
   - No proposed regional conditions.

   - No proposed regional conditions.

    - No proposed regional conditions.

    - No proposed regional conditions.
12. **Utility Line Activities.**

a. For projects in the Nashville District: PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for all discharges of dredged or fill material into wetlands exceeding 1/10 acre.

b. For projects in the Nashville District: The PCN shall include a restoration plan demonstrating how all temporary fills and structures will be removed and the area restored to pre-project conditions.

c. For projects in the Nashville District: For temporary crossings in wetlands, the use of best management practices (e.g. construction pads, timber matting, and geotextile fabric) is required to minimize compaction of wetland substrate.

d. For projects in the Nashville District: For utility crossings in waters of the U.S., the following measures are required to prevent the French drain effect:

   i. For streams: Check dams and/or anti-seep collars shall be installed in the bedding and backfill of all utility line trenches. Flowable fill encasement, or other methods may be approved on a case-by-case basis.

   ii. For wetlands: Anti-seep collars or clay plugs shall be utilized for trenching activities conducted in a wetland. Other methods may be approved on a case-by-case basis.


e. For projects in the Nashville District: Trench excavation in streams and rivers with bedrock-dominated channels: All appropriate and practicable measures shall be employed to minimize the risk of fracturing bedrock and the loss of stream flow. Typical measures include using a rock wheel or similar rock-cutting saw to excavate proposed open-cut trenches across bedrock portions of the stream channel. In the event a rock cutting saw cannot accomplish the proposed open-cut trench across the stream channel, a hoe ram or similar type of hammering machine may be used to accomplish the open-cut trench. To minimize the risk of fracturing bedrock, the hoe ram shall chip a predrilled area of streambed.

f. For projects in the Nashville District: Pre-construction notifications for aerial electric power transmission lines crossing navigable waters of the United States shall include the nominal system voltage of the proposed aerial electric power transmission line, and the minimum clearances prescribed by 33 CFR Part 322.5(i)(2). See the note and table below for additional information.

Note: The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or
the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in
the vicinity of the proposed power line crossing. The clearances are based on the low point
of the line under conditions which produce the greatest sag, taking into consideration
temperature, load, wind, length or span, and type of supports as outlined in the National
Electrical Safety Code. For any non-electrical cable, the crossing must have a minimum
clearance of 20 feet above the clearance required for bridges.

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13. **Bank Stabilization.**

   a. For projects in the Nashville District: PCN in accordance with NWP General Condition
      32 and Regional General Condition 4 is required for the construction of vertical
      bulkheads. A vertical bulkhead is defined as any structure or fill, with a vertical face. It
      may be constructed of timber, steel, concrete, etc.

14. **Linear Transportation Projects.**

   a. A separate PCN in accordance with NWP General Condition 32 and Regional General
      Condition 4 is required for:

      i. All regulated activities in Section 10 waters; and
      ii. For projects in the Nashville District: Each single and complete linear project
          which impacts greater than 200 linear feet of stream.

15. **U.S. Coast Guard Approved Bridges.**

   • No proposed regional conditions.

16. **Return Water From Upland Contained Disposal Areas.**

   • No proposed regional conditions.

17. **Hydropower Projects.**

   • No proposed regional conditions.
18. **Minor Discharges.**
   
   a. This NWP does not authorize stream relocations, channelization, or impoundments.
   
   b. For projects in the Nashville District: The loss of waters of the U.S. is limited to 300 feet of stream bed, unless the district engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in minimal adverse effects.

19. **Minor Dredging.**
   
   a. For projects in the Nashville District: PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for regulated activities in Section 10 waters.

20. **Response Operations for Oil and Hazardous Substances.**
   - No proposed regional conditions.

21. **Surface Coal Mining Activities.**
   - No proposed regional conditions.

22. **Removal of Vessels.**
   - No proposed regional conditions.

23. **Approved Categorical Exclusions.**
   
   a. PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for use of this NWP. The PCN shall include a statement/form verifying the activity is categorically excluded from the National Environmental Policy Act (NEPA) requirement to prepare an environmental impact statement or environmental assessment analysis, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment. The statement/form shall be signed by an official of the Federal agency that issued the categorical exemption.

24. **Indian Tribe or State Administered Section 404 Programs.**
   - No proposed regional conditions.

25. **Structural Discharges.**
   - No proposed regional conditions.

26. **Reserved.**
27. *Aquatic Habitat Restoration, Establishment, and Enhancement Activities.*

a. For projects subject to pre-construction notification, the notification shall explain why any permanent loss of waters of the United States is necessary and show how it would be fully offset by the beneficial impacts of the project. The PCN shall describe pre-project site conditions (e.g. photographs, habitat assessments, etc.), aquatic resource functions the site currently provides, anticipated aquatic resource benefits from project construction, and proposed maintenance and monitoring plans.

28. *Modification to Existing Marinas.*
   - No proposed regional conditions.

   - No proposed regional conditions.

   - No proposed regional conditions.

   - No proposed regional conditions.

32. *Completed Enforcement Actions.*
   - No proposed regional conditions.

33. *Temporary Construction, Access, and Dewatering.*

   a. The maximum allowable timeframe for temporary work in waters of the U.S. is limited to one year from the date the authorized work commences, unless the permittee receives written approval from the Corps granting an extension.

   b. All activities shall be constructed in a manner to withstand expected bankfull events and shall consist of clean and coarse non-erodible materials.

34. *Cranberry Production Activities.*
   - No proposed regional conditions.

35. *Maintenance Dredging of Existing Basins.*

   a. For projects in the Nashville District: PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for use of this NWP.
36. **Boat Ramps.**

   a. PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for any boat ramp proposed to be located within the area between the upstream and downstream arrival points of any Corps of Engineers lock and dam, or within 1,500 feet of any emergency-mooring cell at any lock.

37. **Emergency Watershed Protection and Rehabilitation.**
   - No proposed regional conditions.

38. **Cleanup of Hazardous and Toxic Waste.**
   - No proposed regional conditions.

39. **Commercial and Institutional Developments.**
   - No proposed regional conditions.

40. **Agricultural Activities.**
   - No proposed regional conditions.

41. **Reshaping of Existing Drainage Ditches.**
   - No proposed regional conditions.

42. **Recreational Facilities.**
   - No proposed regional conditions.

43. **Stormwater Management Facilities.**

   a. For projects in the Nashville District: PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for use of this NWP.

44. **Mining Activities.**
   - No proposed regional conditions.

45. **Repair of Uplands Damaged by Discrete Events.**
   - No proposed regional conditions.

46. **Discharges in Ditches.**
   - No proposed regional conditions.

47. **[Reserved]**
48. **Commercial Shellfish Aquaculture Activities.**
   - No proposed regional conditions.

49. **Coal Remining Activities.**
   - No proposed regional conditions.

50. **Underground Coal Mining Activities.**
   - No proposed regional conditions.

51. **Land-Based Renewable Energy Generation Facilities.**
   - No proposed regional conditions

52. **Water-Based Renewable Energy Generation Pilot Projects.**
   - No proposed regional conditions

A. **Removal of Low-Head Dams.**
   a. The PCN shall include
   i. The length of the stream/river that the low-head dam currently impounds;
   ii. A sediment characterization and estimated volume of sediment/material collected behind the low-head dam;
   iii. A description of the positive and adverse environmental effects associated with the release of sediment/materials collected behind the low-head dam once the low-head dam is removed; and
   iv. A discussion of the steps taken to minimize the potential adverse effects on the aquatic environment.

B. **Living Shorelines**
   - No proposed regional conditions

**Regional General Conditions**

1. **Advanced credits from in-lieu fee (ILF) programs:** Use of advanced credits from ILF programs as compensatory mitigation involves a lag time between the time impacts are conducted and the time collected fees are used to initiate compensatory mitigation. Therefore, in addition to any compensatory mitigation ratio, function or conditional assessment, or other suitable metric used to determine the amount of compensatory mitigation necessary to offset unavoidable impacts to aquatic resources, an additional compensatory mitigation multiplier of 20% is required to address temporal loss associated with the purchase of advanced credits from ILF programs (see 33 CFR Part 332.2).
2. A PCN in accordance with NWP General Condition 32 and Regional General Condition 4 is required for all uses of NWPs within 2,000 feet of a National Wildlife Refuge, any National Park Service property, Tennessee State Parks, Tennessee State Natural Areas, Tennessee Department of Environment and Conservation wildlife management area (WMAs), or an approved mitigation bank or in-lieu fee site.

3. All impacts to wetlands and open waters shall be calculated and reported in acres. Stream impacts shall be calculated separately and reported in both linear feet and acres.

4. The following information shall be submitted for a PCN to be considered complete:
   (NOTE: The 45-day NWP process will not begin until a PCN is determined complete by the Corps District.)
   
   a. All information required at NWP General Condition (GC) 32, “Contents of a Pre-Construction Notification.”

   b. The PCN shall include information sufficient to demonstrate the proposed project represents a single and complete project and a description of the ways in which the proposed project has been designed to avoid and minimize adverse impacts to waters of the U.S., including any proposed best management practices (BMPs).

   c. The PCN shall include the name(s) of the species listed as threatened or endangered under the Endangered Species Act that might be affected by the proposed work or that utilize designated critical habitat that might be affected by the proposed work. An official species list (pursuant to 50 CFR 402.12) shall be submitted with the PCN. An official species list can be obtained from the U.S. Fish and Wildlife Services’ IPAC website: [http://ecos.fws.gov/ipac](http://ecos.fws.gov/ipac).

   d. The PCN shall include a statement regarding the presence of cultural, archaeological, and/or historic resources on the project site. The statement should include the name of the resources consulted, a website printout, and/or a survey report. Information regarding cultural resources and the National Historic Preservation Act can be reviewed at the National Park Service’s website: [http://www.nps.gov/nr/](http://www.nps.gov/nr/).