



US Army Corps
of Engineers®

Public Notice

Public Notice No. 22-01
Nashville and Memphis Districts

Date: February 11, 2022

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

On December 27, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 73522) announcing the reissuance of 40 existing nationwide permits (NWP) and one new NWP. These 41 NWP will go into effect on February 25, 2022, and they will expire on March 14, 2026:

- 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
- NWP 59 – Water Reclamation and Reuse Facilities

The new NWP 59 authorizes discharges of dredged or fill material into waters of the United States for the construction, expansion, and maintenance of water reclamation and reuse facilities.

The Corps has also issued final decision documents for these new and reissued NWP. These final decision documents are available at www.regulations.gov at docket number COE-2020-0002.

The 40 existing NWP published in the December 27, 2021, final rule replace the 2017 versions of these NWP. The 2017 versions of NWP 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 45, 46, 49, 53, and 54 expire on February 24, 2022.

The NWP general conditions and definitions that were issued in the final rule that was published in the January 13, 2021, issue of the *Federal Register* (86 FR 2744) apply to the 40 reissued NWP and the new NWP 59 that were published in the *Federal Register* on December 27, 2021.

With the publication of this *Federal Register* notice, Corps divisions will begin finalizing regional conditions for these 41 NWP. Division Engineers will prepare supplemental documentation to address decisions concerning the addition of regional conditions to the 41 NWP. Regional conditions will provide additional protection for the aquatic environment, and will help ensure that the NWP authorize only those activities that have no more than minimal adverse environmental effects. Regional conditions will help ensure protection of high value waters within the State of Tennessee.

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 41 NWP become regional conditions of these NWP. 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 41 NWP become regional conditions of these NWP. Water quality certification and Coastal Zone Management Act consistency regional conditions will be announced in a future public notice issued by the Nashville and Memphis Districts.

The December 27, 2021, *Federal Register* notice is available for viewing at <https://www.federalregister.gov/documents/2021/12/27/2021-27441/reissuance-and-modification-of-nationwide-permits>

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 December 27, 2021, and January 13, 2021, final rules and related documents at:

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

Questions concerning implementation of the NWPs and associated Regional Conditions should be sent to Mr. Aric Payne at aric.j.payne@usace.army.mil.

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December 2021 Nationwide Permits

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January 2021 Nationwide Permits

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40. Agricultural Activities
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43. Stormwater Management Facilities
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50. Underground Coal Mining Activities
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General Conditions

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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
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11. Equipment
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13. Removal of Temporary Fills
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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
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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

**December 2021 Regional General and Nationwide-Specific Conditions
STATE OF TENNESSEE
EFFECTIVE February 25, 2022**

Regional General Conditions (Applicable Nationwide Permits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 45, 46, 49, 53, and 54):

1. Except for NWP 3 Maintenance, a PCN is required for all proposed activities in *Exceptional Tennessee Waters* and/or *Outstanding National Resource Waters*. A list of known Exceptional Tennessee Waters and Outstanding National Resource Waters can be obtained from the Tennessee Department of Environment and Conservation's website: <https://tn.gov/environment/article/wr-water-resources-data-viewer>. A map of known Exceptional Tennessee Waters and Outstanding National Resource Waters can be obtained from the Tennessee Department of Environment and Conservation's website: <http://tdeconline.tn.gov/dwr/>.

Nationwide Permit-Specific Regional Conditions:

8. *Oil and Gas Structures on the Outer Continental Shelf* - Suspended

24. *Indian Tribe or State Administered Section 404 Programs* – Suspended

35. *Maintenance Dredging of Existing Basins.*

PCN in accordance with NWP General Condition 32 is required for all regulated activities in Section 10 waters.

36. *Boat Ramps*

PCN in accordance with NWP General Condition 32 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.

54. *Living Shorelines* – Suspended

**January 2021 Regional Conditions for Nationwide Permits
STATE OF TENNESSEE
EFFECTIVE March 15, 2021**

Regional General Conditions (Applicable Nationwide Permits 12, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57 and 58):

1. Except for NWP 3 Maintenance, a PCN is required for all proposed activities in *Exceptional Tennessee Waters* and/or *Outstanding National Resource Waters*. A list of known Exceptional Tennessee Waters and Outstanding National Resource Waters can be obtained from the Tennessee Department of Environment and Conservation's website: <https://tn.gov/environment/article/wr-water-resources-data-viewer>. A map of known Exceptional Tennessee Waters and Outstanding National Resource Waters can be obtained from the Tennessee Department of Environment and Conservation's website: <http://tdeconline.tn.gov/dwr/>.

Nationwide Permit-Specific Regional Conditions:

12. *Oil or Natural Gas Pipeline Activities.*

PCN in accordance with NWP General Condition 32 is required for all proposed blasting within waters of the U.S.

48. *Commercial Shellfish Mariculture Activities* - Suspended

55. *Seaweed Mariculture Activities* - Suspended

56. *Finfish Mariculture Activities* – Suspended

57. *Electric Utility Line and Telecommunications Activities.*

PCN in accordance with NWP General Condition 32 is required for all proposed blasting within waters of the U.S.

58. *Utility Line Activities for Water and Other Substances.*

PCN in accordance with NWP General Condition 32 is required for all proposed blasting within waters of the U.S.