



US Army Corps  
of Engineers®

# Public Notice

Public Notice No. 21-10  
Nashville and Memphis Districts

Date: March 8, 2021

## **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 NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. 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>. These 16 NWP 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

On January 22, 2021, the Great Lakes and Ohio River Division (LRD) approved Tennessee regional conditions for the 2021 NWP in the state of Tennessee. The Tennessee Regional Conditions for the 2021 NWP for the state of Tennessee become effective on March 15, 2021 and are attached to this public notice. In addition, the Nashville and Memphis Districts have suspended NWP 48, 55, and 56 because these NWP are specific to Mariculture activities in marine waters and are activities that occur in geographic areas outside of the District's area of responsibility.

The Tennessee Department of Environment and Conservation (TDEC) denied the 401 WQC for NWP 12, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57 and 58, therefore an individual 401 WQC will be required for a project authorized by these NWP. The 401 WQC for the 2021 NWP becomes effective on March 15, 2021.

There are 40 existing NWPs that were not reissued or modified by the January 13, 2021 final rule. Those 40 NWPs were published in the January 6, 2017 issue of the Federal Register (82 FR 1860). The 40 2017 NWPs, accompanying regional conditions and 401 WQC will remain in effect until the Corps issues a final rule reissuing those NWPs, Regional Conditions, and 401 WQC, or until March 18, 2022, whichever comes first. Listed below are the 40 2017 NWPs that remain in effect.

- 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

Questions concerning implementation of the NWP and associated Regional Conditions should be sent to Mr. Aric Payne at [aric.j.payne@usace.army.mil](mailto:aric.j.payne@usace.army.mil).

**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.

## 2017 Regional General and Nationwide-Specific Conditions STATE OF TENNESSEE

### 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. 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/> .
2. All impacts to wetlands/open waters shall be calculated and reported in acres. Stream impacts shall be calculated separately and reported in both linear feet and acres.

### Additional Information

Endangered Species Act: Nationwide Permit General Condition 32, *Pre-Construction Notification*, requires a PCN to be submitted to the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat. To determine if any listed species, critical habitat, migratory birds or other natural resources may be impacted by your proposed project, please consult the U.S. Fish and Wildlife Services' IPAC website: <http://ecos.fws.gov/ipac> .

Historic Properties: Nationwide Permit General Condition 32, *Pre-Construction Notification*, requires a PCN to be submitted to the District Engineer if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places. The PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. 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/> . A map of non-restricted listed properties on the National Register of Historic Places at can be viewed at: <https://www.nps.gov/maps/full.html?mapId=7ad17cc9-b808-4ff8-a2f9-a99909164466>

**Nationwide Permit-Specific Regional Conditions:**

**13. *Bank Stabilization.***

- a. PCN in accordance with NWP General Condition 32 is required for the construction of vertical walls (i.e. concrete/timber/steel/gabion retaining walls).

**18. *Minor Discharges.***

- a. This NWP does not authorize stream relocations, channelization, or impoundments.
- b. PCN in accordance with NWP General Condition 32 is required for the loss of waters of the U.S. (ephemeral, intermittent, and/or perennial) exceeding 300 linear feet of stream bed.

**35. *Maintenance Dredging of Existing Basins.***

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

**36. *Boat Ramps.***

- a. 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.

**53. *Removal of Low-Head Dams.***

- a. The PCN for NWP 53 shall also 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.