



# SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

BUILDING STRONG®

September 22, 2020

## NATIONWIDE PERMIT REISSUANCE AND REQUEST FOR COMMENTS

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On September 15, 2020, the U.S. Army Corps of Engineers (Corps) published in the *Federal Register* its proposal to reissue the 52 existing nationwide permits (NWP) and issue five new NWP. The Corps also issued a press release announcing its proposal to reissue the NWP, which can be viewed at <https://www.usace.army.mil/Media/News-Releases/News-Release-Article-View/Article/2347750/army-corps-of-engineers-seeks-public-comments-on-proposal-to-renew-and-revise-n/>.

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 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-2020-0002 at [www.regulations.gov](http://www.regulations.gov), or by email to [nationwidepermits2020@usace.army.mil](mailto:nationwidepermits2020@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 September 15, 2020 *Federal Register* notice. Comments on the proposed NWP are due by November 16, 2020.

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 an important mechanism to help 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. An enclosure for this public notice (Enclosure 2) lists the proposed regional conditions currently under consideration by the South Pacific Division for the Los Angeles District (the boundaries of the Los Angeles District are defined as the coastal drainages of San Luis Obispo County, the eastern drainages of Mono County to the Conway Summit north of Mono Lake, the eastern drainages of Kern County, all of Inyo, San Bernardino, Riverside, Imperial, Santa Barbara, Ventura, Los Angeles, Orange and San Diego counties in California, and all of the State of Arizona). The Los Angeles 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 NWP's 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 Los Angeles District. Comments on regional issues relating to the proposed NWP's and proposed regional conditions should be sent by email to [Antal.J.Szjij@usace.army.mil](mailto:Antal.J.Szjij@usace.army.mil) or by mail to U.S. Army Corps of Engineers, Ventura Field Office, ATTN: Antal Szjij, 60 South California Street, Suite 201, Ventura, CA 93001.

Comments relating to regional conditions are due by **November 6, 2020**. Similar public notices proposing regional conditions in other regions or states are being published concurrently by other division or district offices. After the final NWP's are issued, the final regional conditions will be issued after they are approved by the Division Commander.

States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWP's. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP's.

Draft decision documents for each of the proposed NWP's, 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's with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP's, are available for viewing at [www.regulations.gov](http://www.regulations.gov), docket number COE-2020-0002. Final decision documents will be prepared for the NWP's that are issued.

Enclosed is an index of the proposed NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through the Corps Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>, at [www.regulations.gov](http://www.regulations.gov) in docket number COE-2020-0002, or at the following *Federal Register* address: <https://www.federalregister.gov/documents/2020/09/15/2020-17116/proposal-to-reissue-and-modify-nationwide-permits>.



*Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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## **Enclosure 1 - Index of Proposed Nationwide Permits, Conditions, and Definitions**

### **Nationwide Permits**

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Oil or Natural Gas Pipeline Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities

45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Mariculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
54. Living Shorelines
  - A. Seaweed Mariculture Activities
  - B. Finfish Mariculture Activities
  - C. Electric Utility Line and Telecommunications Activities
  - D. Utility Line Activities for Water and Other Substances
  - E. Water Reclamation and Reuse Facilities

***Nationwide Permit General Conditions***

1. Navigation
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
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
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
25. Water Quality
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

**Enclosure 2 - Los Angeles District Proposed Regional Conditions for the 2020 NWP's**

1. Within the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California (USGS Hydrologic Unit Code (HUC) accounting units: Lower Colorado -150301; Northern Mojave-180902; Southern Mojave-181001; and Salton Sea-181002), Nationwide Permits (NWP) 3, 7, 12-15, 17-19, 21, 23, 25, 29, 35, 36, 39-46, 48-54, C, D and E, cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the loss\* of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45, in excess of 0.1 acre.
2. Within the Murrieta Creek and Temecula Creek watersheds in Riverside County NWP's 29, 39, 42 and 43, and NWP 14 combined with any of those NWP's, cannot authorize a loss\* of waters of the United States greater than 0.25 acre.
3. Individual Permits (Standard Individual Permit or 404 Letter of Permission) shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
4. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through discretionary authority has revoked the use of the following 26 selected NWP's within these SAMP watersheds: 03, 07, 12, 13, 14, 16, 17, 18, 19, 21, 25, 27, 29, 31, 33, 39, 40, 41, 42, 43, 44, 46, 49, 50, C, and D. Consequently, these NWP's are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority.
5. The permittee must submit a pre-construction notification (PCN) in accordance with General Condition 32 in the following circumstances:
  - a. All perennial waterbodies and special aquatic sites throughout the Los Angeles District as well as intermittent waters within the State of Arizona for any regulated activity that would result in a loss\* of waters of the United States.
  - b. All areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council (PFMC). For non-federal permittees, if the NWP activity might have the potential to adversely affect EFH as designated by the PFMC, the PCN must include an EFH assessment and analysis of the effects of the action on EFH, in accordance with 50 C.F.R. § 600.920 (e). If the site is in estuarine or marine waters and contains eelgrass (*Zostera marina* or *Z. pacifica*) the EFH assessment shall also include an eelgrass survey according to the methods described in the most recent version of the California Eelgrass Mitigation Policy published by the National Marine Fisheries Service. For NWP activities

that require pre-construction notification, Federal permittees must provide the documentation demonstrating compliance with the Magnuson-Stevens Fishery Conservation and Management Act. Adverse effects to EFH are defined at 50 C.F.R. § 600.910 (a).

- c. All watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south, for any regulated activity that would result in a loss\* of waters of the United States.
- d. The Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River, for any regulated activity that would result in a loss\* of waters of the United States.
- e. The Murrieta and Temecula Creek watersheds in Riverside County, California for any regulated activity that would result in a loss\* of waters of the United States.
- f. All waterbodies designated by the Arizona Department of Environmental Quality as Outstanding Arizona Waters (OAWs), within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated OAW, and on tributaries to OAWs within 1600 meters of the OAW (see <http://www.azdeq.gov/index.html>).
- g. All waterbodies designated by the Arizona Department of Environmental Quality as 303(d)-impaired surface waters, within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated impaired surface water, and on tributaries to impaired waters within 1600 meters of the impaired water (see <http://www.azdeq.gov/index.html>).
- h. Any regulated activities on or affecting tribal lands.\*\*
- i. Bank stabilization activities in excess of 300 linear feet, or that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel.
- j. Activities in waters of the United States involving the permanent channelization, realignment, or relocation of streams.

\* "Loss" means waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity.

\*\* "Tribal lands" refers to any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.