



US Army Corps
of Engineers
Rock Island District

PUBLIC NOTICE

Sponsor: US Army Corps of Engineers

Issued: October 02, 2020

Expires: November 16, 2020

DISTRICT PUBLIC NOTICE - PROPOSAL

REQUEST FOR COMMENTS ON 2020 NATIONWIDE PERMIT REISSUANCE - MISSOURI

Comments on the proposed **2020 NWP**s and Comments relating to **Regional Conditions** are all **due by November 16, 2020**.

1. 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 and issue five new Nationwide Permits.
2. Nationwide Permits (NWP)s 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)s require notification to the District Engineer before commencing those activities, to ensure that the activities authorized by those NWP)s cause no more than minimal individual and cumulative adverse environmental effects.
3. National Issues Concerning the Proposed NWP)s: The Federal Register Notice is the public's opportunity to comment on the proposed NWP)s, general conditions, and definitions. **Due by November 16, 2020**. Comments on national issues relating to these NWP)s should be submitted to docket number COE-2020-0002 at www.regulations.gov, or by email to 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.
4. Regional Issues Concerning the Proposed NWP)s, 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)s are no more than minimal, both individually and cumulatively. Division Engineers may also suspend or revoke specific NWP)s 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)s may be more than minimal.
5. Missouri is covered by five Corps of Engineers Districts (Kansas City, St. Louis, Little Rock, Memphis and Rock Island). The Kansas City District, as the lead district for Missouri, and in coordination with the other four Districts, is seeking comment on the proposed regional conditions

(listed below) and is also seeking comment 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. Comments on Missouri regional issues relating to the proposed NWP and proposed regional conditions should be sent to the **Kansas City District, Missouri State Regulatory Office, 515 East High Street, Suite 202, Jefferson City, Missouri 65101, or by email to james.s.reenan@usace.army.mil**. Comments relating to regional conditions are due by November 16, 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 is issued, the final regional conditions will be issued after they are approved by the Division Commander.

6. States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWP.

7. 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 draft decision documents, as well as the proposed NWPs, are available for viewing at **www.regulations.gov**, docket number COE-2020-0002. Final decision documents will be prepared for the NWPs that are issued.

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

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
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- 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 NWP's
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

Missouri Proposed Regional Conditions Nationwide Permits 2020

Applicable to All Nationwide Permits:

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

- Corps Districts may waive Regional Condition 1 when project site geomorphology (i.e. bedrock, gradient) or existing alterations (i.e. adjacent impoundment, as part of a dry detention basin) creates conflict with the guidelines. The applicant must provide preconstruction notification to the District Engineer for any waiver request.

2. Suitable Material. In addition to the specific examples in General Condition 6 of the NWP, the following materials are not suitable for fill activities in waters of the United States: garbage, tires, treated lumber products that do not comply with the Registration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act, and that are not in accordance with standards issued by American Wood Protection Association of the International Code Council: 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.

3. 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 <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2652>.

4. Sensitive Aquatic Species. The applicant must provide preconstruction notification to the District Engineer for any regulated activity in waters listed at:

<https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2657>.

The submitted preconstruction notification will be coordinated in accordance with General Condition 32(d) with the U.S. Fish and Wildlife Service as determined appropriate by the Corps.

For Specific NWPs:

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

6. Lake of the Ozarks: The applicant must provide a preconstruction notification to the District Engineer for any regulated activity associated with NWPs 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. NWPs 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 NWPs, may verify the activity under the provisions of Regional General Permit 38M, <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/7726>. Additional information on Ameren Missouri and Lake of the Ozarks permit requirements can be found at the following webpage: <https://www.ameren.com/missouri/lake-of-the-ozarks/forms-requirements>.

General Guidelines for Stream Crossings Regional Condition 1

For all Nationwide Permits (NWP) that involve the construction/installation of culverts and low water crossings, measures will be included in the construction, design, and installation that will allow for the passage of flows and promote the safe passage of fish and other aquatic organisms.

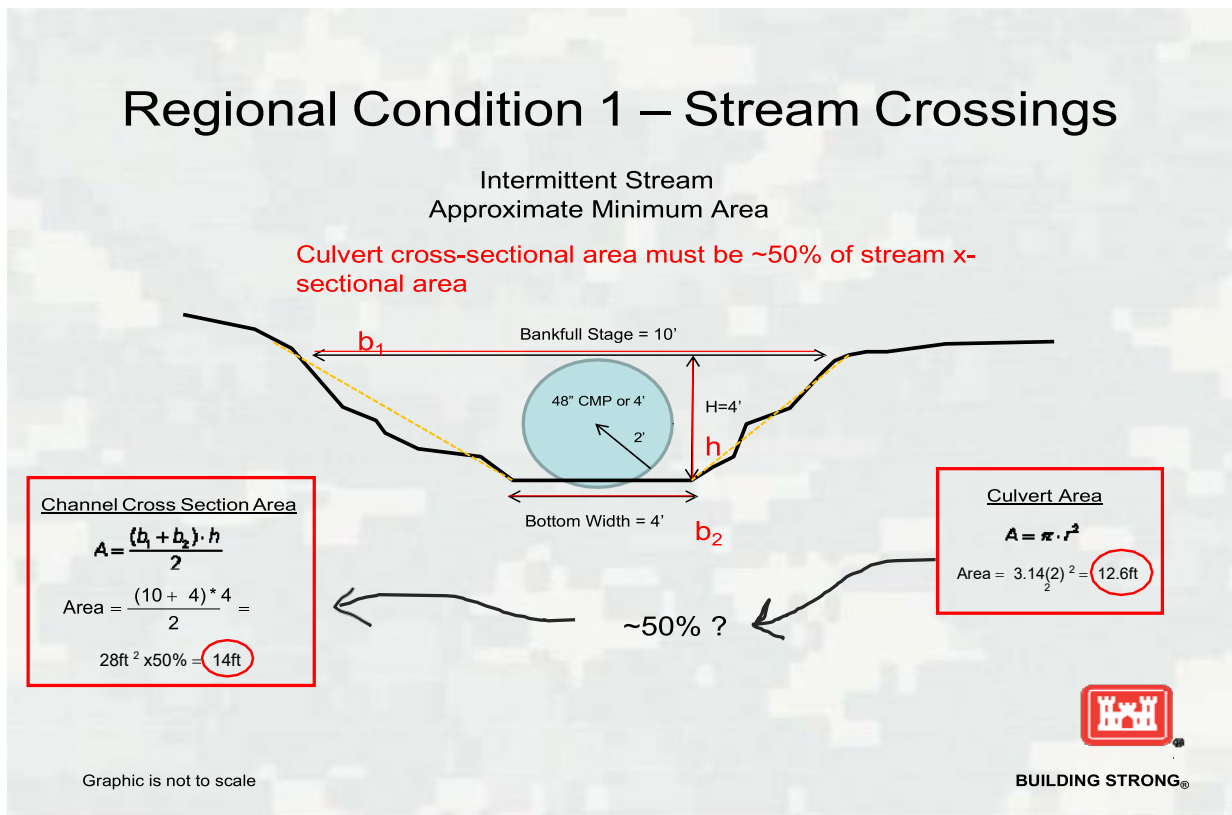
The following General Guidelines are required to supplement General Condition (2) Aquatic Life Movements and General Condition (9) Management of Water Flows.

Culverts:

- New or replacement culverts (e.g., box or tubular, pipes, etc.) must be designed, sized, and placed correctly. Culverts perched above the grade of the stream are not allowed. This includes other in-stream structures placed at the inlet with the purpose to reduce sedimentation within the stream crossing. It is acceptable for a portion of the water to pass over the structure if it is designed to be overtopped. Culverts must be the shortest length necessary to meet the project purpose, and a single culvert is encouraged.
- Drop boxes or other structures placed at the inlet with the purpose to reduce sedimentation within the stream crossing are not allowed. Culvert must be the shortest length necessary to meet the project purpose.
- New or replacement culverts, in conjunction with the associated fill material, shall have an appropriately sized opening that allows water flow through and over the crossing that is relative to the bankfull area (See Image 1). For purposes of this regional condition, bankfull area is defined as the height and width of the stream channel within the project to the top of the high bank(s). In addition, if elevations differ on both sides of the stream the lowest elevation shall be used as the height. The following basic guidelines shall be used when designing new or replacement crossing projects:

Stream Type	% of crossing profile that shall remain open
Perennial	Designed to allow an 85% opening to include the culvert(s) and area above the crossing up to the bankfull area.
Intermittent	Designed to allow a 50% opening to include the culvert(s) and area above the crossing up to the bankfull area.

Image 1



- For permanent crossings, the culvert must be embedded and backfilled below the grade of the stream on both the upstream and downstream sides ≥ 1 foot for culverts >48 inches. On culverts ≤ 48 inches the bottom of the culvert must be placed at a depth below or at the natural stream bottom to provide for aquatic organism passage during low flow conditions. Culverts in streams with non-erodible beds (i.e. bedrock or stable clay) must be constructed flush with the stream bed, but do not need to be embedded. Culverts in streams with highly erodible beds must be embedded deeper to lessen the chance of future perching due to downstream degradation and may be accompanied with other grade control measures to prevent erosion while maintaining General Condition (2) Aquatic Life Movements.

Low Water Crossings:

- The applicant must notify the District Engineer when repairing, rehabilitating or replacing low water crossings when discharges of dredged or fill material would raise or lower the lowest elevation of the crossing.
- When replacing or removing low water crossings the applicant must propose and employ measures to mitigate for and minimize the potential of streambed headcutting where channel incision has occurred downstream of the structure and the structure is providing grade control that is preventing channel incision from migrating upstream.