

2021 KENTUCKY REGIONAL GENERAL CONDITIONS

These regional conditions are in addition to, but do not supersede, the requirements in the Federal Register (See volume 86, date January 13, 2021, pp 2867-2874 for the text of Section C, General Conditions).

Notifications for all Nationwide Permits (NWP) shall be in accordance with General Condition No. 32.

1. For activities that would result in a loss of Outstanding State or National Resource Waters (OSNRWs), Exceptional Waters (EWs), Coldwater Aquatic Habitat Waters (CAHs) and waters with Designated Critical Habitat (DCH) under the Endangered Species Act for the NWPs listed below, a Pre-Construction Notification (PCN) will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWPs for impacts to these waters.

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 12 (Oil or Natural Gas Pipeline Activities)

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 25 (Structural Discharges)

NWP 30 (Moist Soil Management for Wildlife)

NWP 32 (Completed Enforcement Actions)

NWP 33 (Temporary Construction, Access, and Dewatering)

NWP 36 (Boat Ramps)

NWP 41 (Reshaping Existing Drainage Ditches)

NWP 51 (Land-Based Renewable Energy Generation Facilities)

NWP 57 (Electric Utility Line and Telecommunications Activities)

NWP 58 (Utility Line Activities for Water and Other Substances)

2. In addition to the notification and agency coordination requirements in the NWPs, for impacts greater than 0.25 acres in all “waters of the U.S.” for the NWPs listed below, a PCN will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWPs:

NWP 3 (Maintenance)
NWP 14 (Linear Transportation Projects)

3. Nationwide Permit No. 14 – Linear Transportation Projects.

- (a) New road alignments or realignments are limited to a permanent loss of 500 linear feet of intermittent or perennial stream length or the stream bed acreages listed in the table below at each crossing. Road crossings with permanent losses greater than 500 linear feet of intermittent or perennial stream or the stream bed acreages listed in the table below associated with new alignments or realignments will be evaluated as an individual permit (i.e., a Letter of Permission or Standard Permit).

Table of Acreages at Varying Stream Widths for 500 Linear Feet of Impact	
Stream Width (Feet)	Acres of Stream at Varying Widths for 500 Linear Feet of Stream
1	0.011
2	0.023
3	0.034
4	0.046
5	0.057
6	0.069
7	0.080
8	0.092
9	0.103
10	0.115

- (b) In addition to the notification requirements contained in NWP 14, the permittee must submit a PCN to the district engineer prior to commencing the activity for the permanent loss of greater than 300 linear feet of stream bed or the stream bed acreages listed in the table below. (See General Condition 32 and the definition of "loss of waters of the United States" in the Nationwide Permits for further information.)

Table of Acreages at Varying Stream Widths for 300 Linear Feet of Impact	
Stream Width (Feet)	Acres of Stream at Varying Widths for 300 Linear Feet of Stream
1	0.007
2	0.014
3	0.021
4	0.028
5	0.034
6	0.041
7	0.048
8	0.055
9	0.062
10	0.069

4. Notification in accordance with General Condition 32 is required to the Corps for all activities located in the following Section 10 waterways, to include the portion of their tributaries below the Ordinary High Water Mark or navigation pool, or otherwise subject to inundation, by the Section 10 waterway:

- Mississippi River
- Ohio River
- Licking River
- Kentucky River
- Salt River
- Green River
- Cumberland River
- Tennessee River
- Big Sandy River (from mouth to Louisa, KY)

5. All applications and requests should be submitted electronically. To submit applications or other requests electronically, all documents should be saved as a PDF document, and then submitted as an attachment in an email to the following email address:

CELRL.Door.To.The.Corps@usace.army.mil

Your email should include the following:

- a) Subject Line with the name of the applicant, type of request, and location (County and State). Example: RE: Doe, John, DA Permit Application, Jefferson County, KY
- b) Brief description of the request and contact information (phone number, mailing address, and email address) for the applicant and/or their agent.

c) Project Location: Address and Latitude/Longitude in decimal degrees (e.g. 42.927883, -88.362576).

All forms that require signature must be digitally signed or signed manually, scanned and then sent electronically.

Electronic documents must have sufficient resolution to show project details. In order to have the highest quality documents, the original digital documents should be converted to PDF rather than providing scanned copies of original documents.

The electronic application and attached documents must not exceed 10 megabytes (10MB).

6. For all activities, the applicant shall review the U.S. Fish and Wildlife Service's IPaC website: <http://ecos.fws.gov/ipac> to determine if the activity might affect threatened and/or endangered species or designated critical habitat. If federally-listed species or designated critical habitat are identified, a PCN in accordance with General Condition 18 and 32 would be triggered and the official species list generated from the IPaC website must be submitted with the PCN.

Further information:

Outstanding State or National Resource Water (OSNRWs), Exceptional Waters (EWs), and Coldwater Aquatic Habitat Waters (CAHs) are waters designated by the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet. The list can be found at the following link: <http://eppcapp.ky.gov/spwaters/>

Designated Critical Habitat (DCH) under the Endangered Species Act is determined within the Commonwealth of Kentucky by the U.S. Fish and Wildlife Service. The current list of Kentucky's Threatened, Endangered, and Federal Candidate Species can be found at the following link: <http://www.fws.gov/frankfort/EndangeredSpecies.html>

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 32 in the Federal Register (See volume 86, date January 13, 2021, pp 2867-2874 for the text of Section C, General Conditions).

COORDINATING RESOURCE AGENCIES

Chief, Wetlands Regulatory Section
U.S. Environmental Protection Agency
Region IV
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

Supervisor
U.S. Fish & Wildlife Service
JC Watts Federal Building, Room 265
330 West Broadway
Frankfort, Kentucky 40601

Supervisor
401 Water Quality Certification
Kentucky Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, KY 40601

Commissioner
Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, KY 40601

Executive Director and State Historic Preservation Officer
Kentucky Heritage Council
410 High Street
Frankfort, KY 40601