
Public Notice



**US Army Corps
of Engineers**
Louisville District ®

Public Notice No.
LRL-2016-00006

Expiration Date:
18 MAR 2022

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Ms. Meagan Knuckles, CELRL-RDS
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6709

PUBLIC NOTICE ANNOUNCING REGIONAL CONDITIONS AND WATER QUALITY CERTIFICATIONS FOR NATIONWIDE PERMITS

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) published a notice in the *Federal Register* (82 FR 1860) announcing the reissuance of all 50 existing Nationwide Permits (NWP), general conditions, and definitions with some modifications. The Corps also issued two new NWPs, one new general condition, and five new definitions. The NWPs became effective on March 19, 2017, and will expire on March 18, 2022.

On March 17, 2017, the Great Lakes and Ohio River Division (LRD) Engineer approved Regional Conditions for the NWPs in Kentucky. These conditions apply to all activities authorized by NWPs. Regional Conditions provide additional protection for the aquatic environment by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. The Regional Conditions for Kentucky are attached to this public notice. Additionally, the Louisville District has posted the Regional Conditions for the NWPs on its Internet home page at: <http://www.lrl.usace.army.mil/Missions/Regulatory/Obtain-a-Permit/Nationwide/>

The Kentucky Division of Water (KDOW) denied the 401 Water Quality Certification (WQC) for NWPs 16, 17, 32, 38, 43, 44, 52, 53 and 54. An individual 401 WQC from KDOW will be required for any project authorized by one of the NWPs with a 401 WQC denial. The KDOW conditioned the 401 WQC for NWPs 3, 5, 7, 12, 13, 14, 15, 18, 19, 21, 23, 25, 27, 29, 30, 31, 33, 36, 37, 39, 42, 45, 46, 49, 50, and 51. An individual 401 WQC will be required by KDOW under certain conditions. The full text of the Water Quality Certifications issued by KDOW is available on the Louisville District website at the link listed above.

Questions concerning implementation of the new and modified NWPs and conditions or the Corps Regional Conditions should be sent to the Louisville District, Corps of Engineers, ATTN: Ms. Meagan Knuckles, CELRL-RDS, P.O. Box 59, Louisville, Kentucky 40201-0059.

2017 Nationwide Permits Regional and Permit-Specific Conditions COMMONWEALTH OF KENTUCKY

These regional conditions are in addition to, but do not supersede, the requirements in the Federal Register (Volume 82, No. 4 of January 6, 2017, pp 1860).

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

1. For activities that would impact Outstanding State or National Resource Waters (OSNRWs), Exceptional Waters (EWs), Coldwater Aquatic Habitat Waters (CAHs) under the Endangered Species Act for the NWP 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 NWP (Section 404 activities), 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 7 (Outfall Structures and Associated Intake Structures)

NWP 12 (Utility Line 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 21 (Surface Coal Mining Activities)

NWP 22 (Removal of Vessels)

NWP 23 (Approved Categorical Exclusions)

NWP 25 (Structural Discharges)

NWP 27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities)

NWP 29 (Residential Developments)

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 36 (Boat Ramps)

NWP 37 (Emergency Watershed Protection and Rehabilitation)

NWP 38 (Cleanup of Hazardous and Toxic Waste)

NWP 39 (Commercial and Institutional Developments)

NWP 40 (Agricultural Activities)

NWP 41 (Reshaping Existing Drainage Ditches)

NWP 42 (Recreational Facilities)

NWP 43 (Stormwater Management Facilities)

NWP 44 (Mining Activities)

NWP 45 (Repair of Uplands Damaged by Discrete Events)

NWP 46 (Discharges in Ditches)
NWP 48 (Commercial Shellfish Aquaculture Activities)
NWP 49 (Coal Remining 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 53 (Removal of Low-Head Dams)
NWP 54 (Living Shorelines)

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 7 (Outfall Structures and Associated Intake Structures)
NWP 12 (Utility Line Activities)
NWP 14 (Linear Transportation Projects)
NWP 29 (Residential Developments)
NWP 39 (Commercial and Institutional Developments)
NWP 40 (Agricultural Activities)
NWP 41 (Reshaping Existing Drainage Ditches)
NWP 42 (Recreational Facilities)
NWP 43 (Stormwater Management Facilities)
NWP 44 (Mining Activities)
NWP 51 (Land-Based Renewable Energy Generation Facilities)
NWP 52 (Water-Based Renewable Energy Generation Pilot Projects)
NWP 53 (Removal of Low-Head Dams)

3. For activities 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 21 (Surface Coal Mining Activities)
NWP 27 (Aquatic Habitat Restoration, Establishment & Enhancement Activities)
NWP 49 (Coal Remining Activities)
NWP 50 (Underground Coal Mining Activities)

4. 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 at each crossing. Road crossings with permanent losses greater than 500 linear feet of intermittent or perennial stream associated with new alignments or realignments will be evaluated as an individual permit (i.e., a Letter of Permission or as a Standard Individual Permit).

- (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 feet of ephemeral, intermittent and perennial stream of all “waters of the U.S.” (See General Condition 32 and the definition of "loss of waters of the United States" in the Nationwide Permits for further information.)
5. Notification in accordance with General Condition 32 is required to the Corps for all activities which are subject to jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 6. All applications are required as both a paper copy and in an electronic media format, including electronic mail or compact disc.
 7. 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/>

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 32 in the Federal Register (Volume 81, No. 105 of June 1, 2017, pp 35211).

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, Kentucky 40601

Commissioner
Department of Fish and Wildlife Resources
#1 Game Farm Road
Frankfort, Kentucky 40601

Executive Director and State Historic Preservation Officer
Kentucky Heritage Council
300 Washington Street
Frankfort, Kentucky 40601

**ADDITIONAL COORDINATING RESOURCE AGENCY
FOR NWPS 21, 49, AND 50**

Kentucky Department for Natural Resources
Division of Mine Permits
300 Sower Boulevard
Frankfort, Kentucky 40601