



Public Notice

U.S. Army Corps
of Engineers

Baltimore District
Pittsburgh District
Philadelphia District

Date: March 20, 2017

Special Public Notice # 17-14

Subject: Final Regional Conditions and Suspensions for the 2017 Nationwide Permits

The purpose of this special public notice is to inform the general public of the issuance of the final regional conditions applicable to Nationwide Permit (NWP) activities in the State of Maryland, the Commonwealth of Pennsylvania, the District of Columbia, and Fort Belvoir, Fort Myer, and the Pentagon in Virginia. Furthermore, this special public notice announces the suspension of various nationwide permits in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia.

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) announced the reissuance, with some modifications, of nationwide permits (NWPs) authorizing work in streams, wetlands, and other waters of the United States under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 in the *Federal Register* (82 FR 1860). The 2017 NWPs will take effect March 19, 2017, and replace the existing permits, which expire on March 18, 2017.

More information on the 2017 Nationwide Permits and the January 6, 2017 *Federal Register* notice is available on the Corps Headquarters website at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

The Baltimore, Pittsburgh, and Philadelphia Districts proposed suspensions and regional conditions for the 2017 NWPs, and solicited public comments thereon, in Special Public Notice #16-37, dated June 15, 2016. Regional conditions ensure that projects result in no more than minimal adverse impacts to the aquatic environment and address local resource concerns. In addition, the suspension of various 2017 NWPs eliminates redundancy with the Maryland State Programmatic General Permit-5 and Pennsylvania State Programmatic General Permit-5, which are administered jointly by the Corps and state agencies in Maryland and Pennsylvania. Some NWP activities are suspended due to lack of use or impracticality (e.g., NWP 34, *Cranberry Production Activities*, in the District of Columbia).

If the SPGPs become void, enjoined, suspended, revoked, or removed from effect for any reason, the Corps will consider reinstating some or all of the suspended NWPs for the purposes of efficiency and effectively protecting the aquatic environment, while maintaining an acceptable level of responsiveness to the regulated public.

The North Atlantic Division Commander and, where applicable, the Great Lakes and Ohio River Division Commander, have approved the 2017 NWP suspensions and regional conditions for the State of Maryland, the Commonwealth of Pennsylvania, the District of Columbia, and Fort Belvoir, Fort Myer, and the Pentagon in the State of Virginia. These suspensions and regional conditions will be effective on March 19, 2017.

The following enclosures to this special public notice provide the final suspensions and regional conditions by State for the 2017 NWPs:

Enclosure 1 - Suspensions to the 2017 NWPs for the State of Maryland, the Commonwealth of Pennsylvania, the District of Columbia, and for Fort Belvoir, Fort Myer, and the Pentagon in Virginia

Enclosure 2 - Regional Conditions to the 2017 NWPs for the State of Maryland

Enclosure 3 - Regional Conditions to the 2017 NWPs for the Commonwealth of Pennsylvania

Enclosure 4 - Regional Conditions to the 2017 NWPs for the District of Columbia and for NWP 14 and NWP 29 at Fort Belvoir, Fort Myer, and the Pentagon in Virginia. *Please note, the Baltimore District has adopted the Norfolk District's regional conditions for all 2017 NWPs (except NWP 14 and NWP 29) at Fort Belvoir, Fort Myer, and the Pentagon in Virginia.*

The final suspensions and regional conditions to the 2017 NWPs are also posted on the Baltimore District regulatory webpage at: <http://www.nab.usace.army.mil/Missions/Regulatory/Permit-Types-and-Process/>.

Concurrences and Certifications: Publication of the notice in the *Federal Register* announcing the reissuance of the 2017 NWPs began the 60-day Clean Water Act Section 401 Water Quality Certification (WQC) process and the 90-day Coastal Zone Management Act (CZMA) consistency determination process.

The Maryland Department of the Environment (MDE) has issued WQC for Section 404 discharges in the State of Maryland, subject to the condition that the applicant obtain all State permits, licenses, and approvals necessary for the proposed project. MDE has also determined that all activities in Maryland regulated under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act authorized by the 2017 NWPs are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the CZMA, subject to the same condition.

The District of Columbia Department Energy and Environment (DOEE) has denied WQC under Section 401 of the Clean Water Act for all NWPs and requires an applicant to obtain an individual, project-specific WQC or project-specific WQC waiver from DOEE. The District of Columbia has no Coastal Zone Management program. For work in Washington, D.C., a WQC can be obtained by submitting a joint permit application form (see the Baltimore District regulatory webpage at: <http://www.nab.usace.army.mil/Missions/Regulatory/Permit-Types-and-Process/>) and all supporting documents to:

Jennifer Dietzen
Water Resource Protection and Mitigation Branch
Department Energy and Environment
1200 First Street, N.E., 5th Floor
Washington, DC 20002

At the present time, we have not received WQC or CZMA consistency determinations from the Commonwealth of Pennsylvania or the Commonwealth of Virginia.

Final positions must be taken on WQC and CZMA consistency for the 2017 NWP's within 60 and 90 days, respectively, following publication of the final NWP's in the January 6, 2017 *Federal Register*. After the 60-day period, the latest version of any written position taken by a state, Indian tribe, or Environmental Protection Agency (EPA) on its WQC for any of the NWP's will be accepted as the state's, Indian tribe's, or EPA's final position on those NWP's. If the state, Indian tribe, or EPA takes no action by March 7, 2017, the Corps will consider WQC waived for those NWP's. After the 90-day period, the latest version of any written position taken by a state on its CZMA consistency determination for any of the NWP's will be accepted as the state's final position on these NWP's. If the state takes no action by April 6, 2017, the Corps will presume CZMA consistency concurrence for those NWP's.

The proposed WQC published in the Pennsylvania Bulletin dated February 25, 2017 is considered the final position for the 2017 NWP's in the Commonwealth of Pennsylvania. Additional information on the proposed WQC can be found at the Pennsylvania Bulletin Online at: <http://www.pabulletin.com/secure/data/vol47/47-8/334.html>. The Virginia Department of Environmental Quality's Notice of Intent to issue conditional WQC for NWP 14 and 29 is considered the final position for the 2017 NWP's at Fort Belvoir, Fort Myers, and the Pentagon in Virginia. Additional information on the proposed Section 401 and Water Quality Certification for the Corps of Engineers 2017 Nationwide Permits, dated February 15, 2017, can be found at the Virginia Department of Environmental Quality website at: <http://www.deq.virginia.gov/Portals/0/DEQ/Water/WetlandsStreams/DEQ%20401%20Cert%20Public%20Notice%20for%202017%20NWP's.pdf?ver=2017-02-15-114452-147>.

While Pennsylvania and Virginia complete their CZMA consistency determination processes, the use of a NWP to authorize any activity within a state's coastal zone, or outside a state's coastal zone that will affect land or water used or natural resources of that state's coastal zone, is contingent upon obtaining an individual CZMA consistency determination, or a case-specific presumption of CZMA concurrence.

FOR THE DISTRICT ENGINEER

Beth E. Bachur
Acting Chief, Regulatory Branch