



PUBLIC NOTICE

U.S. Army Corps of Engineers, Honolulu District

Regulatory Branch (CEPOH-RO)
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: September 16, 2020

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS Deadline 16-Nov-2020

HONOLULU DISTRICT REGIONAL CONDITIONS REQUEST FOR COMMENTS Deadline 30-Oct-2020

On September 15, 2020, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 52 existing nationwide permits (NWP) and issue five new NWP.

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, 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. 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 1)

lists the proposed regional conditions currently under consideration by the Pacific Ocean Division, Honolulu District Area of Responsibility (AOR) for the State of Hawaii, including the Northwestern Hawaiian Islands, the territories of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and the following U.S. Minor Outlying Islands: Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Island.

The Honolulu 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 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 Honolulu District. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to U.S. Army Corps of Engineers, Honolulu District Regulatory Office, ATTN: Linda Speerstra, CEPOH-RO, Building 230, Fort Shafter, Hawaii 96858-5540 or via email at CEPOH-RO@usace.army.mil. Comments relating to regional conditions are due by **October 30, 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 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. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP.

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

Enclosed is an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP 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
 - 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 1

**HONOLULU DISTRICT PROPOSED REGIONAL CONDITIONS
for the
PROPOSED 2020 NATIONWIDE PERMITS (NWP)**

The Honolulu District Regulatory Office has issued the following proposed Regional Conditions as a means to ensure that activities authorized by NWP in the Honolulu District cause no more than minimal adverse environmental effects, individually and cumulatively. The additional restrictions or requirements imposed by the Regional Conditions avoid and/or minimize adverse impacts to resources of concern in the Honolulu District's area of responsibility. Before the Honolulu District will verify an activity under one or more NWPs, the proposed activity must comply with the NWP terms and all applicable General and Regional Conditions.

APPLICABILITY: The Honolulu District's Area of Responsibility (AOR) consists of the State of Hawaii, including the Northwestern Hawaiian Islands, the territories of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and the following U.S. Minor Outlying Islands: Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Island.

RESTRICTIONS:

Regional Condition 1 – Revoked Permits

The following NWPs are revoked within the Honolulu District's AOR:

- NWP 21 - Surface Coal Mining Activities
- NWP 24 - Indian Tribe or State Administered Section 404 Programs
- NWP 30 – Moist Soil Management for Wildlife
- NWP 34 - Cranberry Production Activities
- NWP 44 - Mining Activities
- NWP 49 - Coal Remining Activities
- NWP 50 - Underground Coal Mining Activities
- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects

Regional Condition 2 – Acreage Limitation

The maximum acreage of permanent loss to wetlands and other special aquatic sites for a new project (excludes NWP-3 and NWP-27 activities) may not exceed 0.10-acre resulting from any discharge of dredged or fill material. Other special aquatic sites include coral reefs, riffle and pool complexes, vegetated shallows, mud flats, sanctuaries and refuges.

CONDITIONS APPLICABLE TO CERTAIN ACTIVITIES:

Regional Condition 3 - Revegetation

Native plants appropriate for current site conditions must be used for re-vegetation for the purposes of restoring areas temporarily disturbed by the authorized work.

Regional Condition 4 – Bank and Shoreline Stabilization Activities

- a. For new bank stabilization projects in streams with vegetated slopes and/or natural bed and bank, vegetative and environmentally sensitive stabilization practices must be used

whenever practicable. Documentation of consideration of environmentally sensitive bank stabilization practices must be included in the PCN to demonstrate whether the use of environmentally sensitive stabilization techniques is practicable given site-specific circumstances. Environmentally sensitive stabilization techniques incorporate organic materials to produce functional structure, provide wildlife habitat, and/or provide areas for re-vegetation. Examples of environmentally sensitive bank stabilization practices include, but are not limited to, the use of the following: adequate sized armoring keyed into the toe of the slope with native plantings, or other suitable vegetation, on the banks above; vegetated geogrids; coconut fiber coir logs; live woody vegetated cuttings; fascines or stumps; brush layering; soil lifts. In situations where the use of these stabilization techniques are not practicable (due to high stream flow velocities, for example) stream bank armoring should be designed to incorporate environmentally friendly natural features, if possible. Examples include: vegetated gabions, vegetated gabion mattresses, live cribwalls and joint plantings.

- b. For new shoreline stabilization projects, environmentally sensitive designs that provide wave dissipation, interstitial spaces for fish, crustacean and invertebrate habitat, and other environmental benefits must be used whenever practicable. Documentation of consideration of environmentally sensitive shoreline stabilization practices must be included in the PCN to demonstrate whether the use of environmentally sensitive stabilization techniques is practicable.