



# PUBLIC NOTICE

## U.S. Army Corps of Engineers, Honolulu District

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

Public Notice Date: March 3, 2021

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### ANNOUNCING THE HONOLULU DISTRICT'S REGIONAL CONDITIONS TO THE SIXTEEN 2021 NATIONWIDE PERMITS

On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of 12 existing nationwide permits (NWP) and four (4) new NWP, as well as the reissuance of the 2021 NWP general conditions and definitions with some modifications. The January 13, 2021, *Federal Register* notice is available for viewing at <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits>

These 16 NWP will go into effect on March 15, 2021, and will expire on March 14, 2026:

- NWP 12 – Oil or Natural Gas Pipeline Activities
- NWP 21 – Surface Coal Mining Activities (Revoked in Honolulu District)
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater Management Facilities
- NWP 44 – Mining Activities (Revoked in Honolulu District)
- NWP 48 – Commercial Shellfish Mariculture Activities
- NWP 50 – Underground Coal Mining Activities (Revoked in Honolulu District)
- NWP 51 – Land-Based Renewable Energy Generation Facilities
- NWP 52 – Water-Based Renewable Energy Generation Pilot Projects (Revoked in Honolulu District)
- NWP 55 – Seaweed Mariculture Activities
- NWP 56 – Finfish Mariculture Activities
- NWP 57 – Electric Utility Line and Telecommunications Activities
- NWP 58 – Utility Line Activities for Water and Other Substances

Subsequent to the January 13, 2021, *Federal Register* notice, the Honolulu District finalized 4 regional conditions for the new and reissued NWP. The regional conditions

will provide additional protection for the aquatic environment and will help ensure that the NWP's authorize only those activities with no more than minimal adverse environmental effects.

The Honolulu District prepared supplemental decision documents to the Corps' final decision documents for the new and reissued NWP's. These supplemental decision documents address regional conditioning of the NWP's. This public notice announces the approval of 4 regional conditions by the Pacific Ocean Division Commander.

The Honolulu District has the following information pertaining to Water Quality Certifications (WQC) for the 16 NWP's that will go into effect on March 15, 2021:

- State of Hawaii, Department of Health, Clean Water Branch (accepted)
- American Samoa Government, Environmental Protection Agency (ASG-EPA) (procedurally waived)
- Guam Environmental Protection Agency (GEPA) (procedurally waived)
- CNMI Bureau of Environmental and Coastal Quality, Division of Environmental Quality (BECQ-DEQ) (denied)

The Honolulu District has the following information pertaining to the Coastal Zone Management Act Consistency Determinations (CZMA) for the 16 NWP's that will go into effect on March 15, 2021:

- State of Hawaii, Hawaii Office of Planning (conditional concurrence),
- American Samoa Government, Department of Commerce (presumed concurrence)
- Guam Coastal Management Program Bureau of Statistics and Plans (review attached matrix)
- CNMI Bureau of Environmental and Coastal Quality, Division of Environmental Quality (review attached matrix)

There are 40 existing NWP's that were not reissued or modified by the January 13, 2021 final rule. Those 40 NWP's were published in the January 6, 2017, issue of the Federal Register (82 FR 1860). The 40 existing 2017 NWP's and regional conditions remain in effect until the Corps issues a final rule reissuing those NWP's or March 18, 2022, whichever comes first.

The Corps will be hosting a virtual meeting for prospective applicants on March 24, 2021, 2:00–3:30 pm Hawaii-Aleutian Standard Time to discuss the 2021 NWP's and answers questions in regard to the NWP program. Please RSVP via email to [linda.speerstra@usace.army.mil](mailto:linda.speerstra@usace.army.mil) with the subject: NWP Meeting RSVP by March 19, 2021 if you wish to attend.

Attached are the Honolulu District's 2021 regional conditions and WQC & CZMA matrix by geographic region.

**HONOLULU DISTRICT REGIONAL CONDITIONS**  
for the  
**2021 NATIONWIDE PERMITS (NWP)**  
**(12, 29, 39, 40, 42, 43, 48, 51, 55, 56, 57, 58)**

The Honolulu District Regulatory Office has issued the following Regional Conditions to ensure that activities authorized by NWPs in the Honolulu District cause no more than minimal adverse environmental effects, individually and cumulatively. 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.

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**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 Limit**

The maximum acreage of permanent loss to 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. Special aquatic sites include wetlands, coral reefs, riffle and pool complexes, vegetated shallows, mud flats, sanctuaries and refuges as defined in 40 CFR 230.3.

**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.

Honolulu District Water Quality Certification Information 2017 & 2021 NWP				
NWP #	Is Individual WQC Required?			
	Hawaii	Guam	CNMI	American Samoa
1	No	Maybe	Yes	No
2	No	No	Yes	No
3	No	Yes	Yes	No
4	No	Maybe	Yes	No
5	No	No	Yes	No
6	No	Yes	Yes	No
7	No	Yes	Yes	No
8	No	No	Yes	No
9	No	Maybe	Yes	No
10	No	Yes	Yes	No
11	No	Yes	Yes	No
12	Yes**	No	Yes	No
13	No	Yes	Yes	No
14	No	Yes	Yes	No
15	Yes	Maybe	Yes	No
16	Yes	Yes	Yes	No
17	Yes	Maybe	Yes	No
18	No	Yes	Yes	No
19	No	Yes	Yes	No
20	Yes	No	Yes	No
22	Yes	No	Yes	No
23	Yes	No	Yes	No
25	Yes	Maybe	Yes	No
27	Yes	Maybe	Yes	No
28	No	No	Yes	No
29	No	No	Yes	No
31	No	Maybe	Yes	No
32	Yes	No	Yes	No
33	Yes	Yes	Yes	No
35	No	Yes	Yes	No
36	Yes	Yes	Yes	No
37	Yes	No	Yes	No
38	Yes	Maybe	Yes	No
39	No	No	Yes	No
40	No	No	Yes	No
41	Yes	Maybe	Yes	No
42	No	No	Yes	No
43	No	No	Yes	No
45	Yes	No	Yes	No
46	Yes	Maybe	Yes	No
48	No	No	Yes	No
51	No	No	Yes	No
53	Yes	Maybe	Yes	No
54	Yes	Yes	Yes	No
(A) 55	No	No	Yes	No
(B) 56	No	No	Yes	No
(C) 57	No	No	No	No
(D) 58	No	No	No	No

2021 NWP

\*\* Discuss

Honolulu District CZMA Consistency Determination Information 2017 & 2021 NWP				
Is Individual CZM Concurrence Required?				
NWP #	Hawaii	Guam	CNMI	American Samoa
1	No	Maybe	Maybe	No
2	No	Maybe	Maybe	No
3	No	Maybe	Maybe	No
4	No	Maybe	Maybe	No
5	No	Maybe	Maybe	No
6	No	Maybe	Maybe	No
7	No	Maybe	Maybe	No
8	Yes	Yes	Yes	No
9	No	Maybe	Maybe	No
10	No	Maybe	Maybe	No
11	No	Maybe	Maybe	No
12	Maybe	Maybe	Yes	No
13	Maybe	Maybe	Maybe	No
14	Maybe	Maybe	Maybe	No
15	No	Maybe	Maybe	No
16	No	Maybe	Maybe	No
17	Yes	Yes	Yes	No
18	No	Maybe	Maybe	No
19	No	Maybe	Maybe	No
20	No	Maybe	Maybe	No
22	No	Maybe	Maybe	No
23	No	Maybe	Maybe	No
25	No	Maybe	Maybe	No
27	No	Maybe	Maybe	No
28	No	Maybe	Maybe	No
29	Maybe	Yes	Yes	No
31	No	Maybe	Maybe	No
32	No	Maybe	Maybe	No
33	No	Maybe	Maybe	No
35	No	Maybe	Maybe	No
36	No	Maybe	Maybe	No
37	No	Maybe	Maybe	No
38	No	Maybe	Maybe	No
39	Maybe	Yes	Yes	No
40	Maybe	Maybe	Yes	No
41	No	Maybe	Maybe	No
42	Maybe	Yes	Yes	No
43	Maybe	No	Yes	No
45	Maybe	Maybe	Maybe	No
46	No	Maybe	Maybe	No
48	Maybe	No	Yes	No
51	Maybe	Yes	Yes	No
53	No	Maybe	Maybe	No
54	Yes	Maybe	Yes	No
(A) 55	Maybe	Yes	Yes	No
(B) 56	Maybe	Yes	Yes	No
(C) 57	Maybe	Maybe	No	No
(D) 58	Maybe	Maybe	No	No

2021 NWP