



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.	Date
CENAP-OP-R-Final NWP	March 30, 2017

Application No.	File No.
Special Public Notice for NWP	

In Reply Refer to:
REGULATORY BRANCH

FINAL PUBLIC NOTICE ANNOUNCING THE REISSUANCE OF THE NATIONWIDE PERMITS AND PUBLICATION ON THE PHILADELPHIA DISTRICTS WEBSITE

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 Delaware, the Commonwealth of Pennsylvania, and the State of New Jersey. Furthermore, this special public notice announces the suspension of various nationwide permits located in certain waters for the Commonwealth of Pennsylvania that are located within the Philadelphia District.

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) announced the reissuance, with some modifications, of nationwide permits (NWP) 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 NWP took effect on March 19, 2017, and replace the existing permits, which expired 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 Philadelphia District has the lead responsibility for the development of regional conditions for NWP activities in the States of Delaware and New Jersey. The Baltimore District has the lead responsibility for the development of regional conditions that would be applicable in the Commonwealth of Pennsylvania. It should be noted that the State of New Jersey has assumed the permitting responsibilities within the State pursuant to Section 404 of the Clean Water Act. As such, the NWP actions described in this notice are restricted to those portions of the State that remain under Federal regulatory jurisdiction. The attached Finalized 2017 NWP Regional Conditions for activities located within the Philadelphia District that ensure projects result in no more than minimal adverse impacts to the aquatic environment and address local resource concerns have also been posted to the Philadelphia District's website and can be located at:

<http://www.nap.usace.army.mil/Missions/Regulatory/Permits/NWP.aspx>

In addition, the Baltimore, Pittsburgh, and Philadelphia Districts proposed suspensions and regional conditions for the 2017 NWP within the Commonwealth of Pennsylvania, and solicited public comments thereon, in *Special Public Notice #16-37*, dated June 15, 2016, and posted by the Baltimore District on their website at:

<http://www.nab.usace.army.mil/Missions/Regulatory/Public-Notices/>

As finalized, the suspension of various 2017 NWP's eliminated redundancy with the Pennsylvania State Programmatic General Permit-5, which is administered jointly by the Corps and Pennsylvania Department of Environmental Protection (PADEP). If the SPGP- 5 becomes void, enjoined, suspended, revoked, or removed from effect for any reason, the Corps will consider reinstating some or all of the suspended NWP's 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 have approved the 2017 NWP regional conditions for the State of Delaware, the State of New Jersey, and the Commonwealth of Pennsylvania (to include suspensions) for activities located within the Philadelphia District. Those regional conditions and suspensions became effective on March 19, 2017.

Concurrences and Certifications: Publication of the notice in the *Federal Register* announcing the reissuance of the 2017 NWP's 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.

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 has taken 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. Attached to this public notice is a table listing the concurrences and certifications rendered by the states as of this date.

The States of Delaware and New Jersey have completed their WQC processes and rendered their final positions on these certifications for the recently issued NWP's. In those cases where the State has denied the WQC for a particular NWP, an applicant must obtain an individual water quality certification for that activity prior to conducting any discharge of dredged or fill material into waters of the United States. Further, the States have also completed their CZMA consistency determination processes, and rendered their final position on these certifications for the recently issued NWP's. In those cases where the State has denied the CZM consistency for a particular NWP, an applicant must obtain an individual CZM consistency concurrence from the State for that particular activity prior to conducting any work in waters of the United States.

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

Attached to this public notice is a table listing the concurrences and certifications rendered by the states as of the date of this notice. Additional information concerning the nationwide permits and regional conditions can be obtained by contacting our office at (215) 656-6728 or writing this office at the above address.

Edward E. Bonner
Chief, Regulatory Branch

Enclosures:

1. Regional Conditions for Delaware
2. Regional Conditions for New Jersey
3. Regional Conditions for Pennsylvania
4. NWP Suspensions for Pennsylvania
5. CZM Concurrences and WQC Certification Table