



**U.S. Army Corps
of Engineers**
Baltimore District

Public Notice

**In Reply Refer to
Special Public Notice #02-07**

Date: May 7, 2002

Subject: Nationwide Permits Regional Conditions and Suspension

On 15 January 2002, the Corps published a notice in Part II of the *Federal Register* (67 FR 2020 - 2095). In that notice, the Corps announced the reissuance of all existing Nationwide Permits (NWP), General Conditions, and definitions with some modifications, and one new General Condition. The reissued NWPs became effective on 18 March 2002.

After the publication of this *Federal register* notice, Corps districts began finalizing their regional conditions for the reissued 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. Regional conditions will also help ensure protection of high value waters within the District. The Baltimore District has the lead responsibility for the development of regional conditions that would be applicable in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia. The regional conditions and suspension of some of the NWPs was approved on 24 April 2002 by the District Engineer, Baltimore District, for those States and the District of Columbia and are effective as of the date of this public notice. The Baltimore District initiated the development of these regional conditions in a public notice dated 17 August 2001. The regional conditions reflect a finalization of that effort in conjunction with the NWPs published in the *Federal Register* on 15 January 2002. These regional conditions are posted on the Baltimore District Internet home page. The URL address for these regional conditions is: http://www.nab.usace.army.mil/Regulatory/public_notices.htm. Unless otherwise noted, these regional conditions are applicable for NWP activities in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia.

The 15 January 2002 *Federal Register* notice is available on the Internet at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>. As an alternative, World Wide Web users can access the *Federal Register* through the U.S. Government Printing Office at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Publication of the *Federal Register* notice also began a 60-day process for States and Tribes to make their Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The enclosed table describes the decisions by the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia with regards to Section 401 water quality certification and coastal zone management consistency.

There are two types of regional conditions: Corps regional conditions and 401/CZM regional conditions. The 401/CZM regional conditions are developed by the State under Section 401 of the CWA and Section 307 of the Coastal Zone Management Act and become regional conditions to the NWPs. That is, the 401/CZM regional conditions are conditions of the NWPs.

The Water Quality Division (WQD) of the District of Columbia denied Section 401 Water Quality Certification (WQC) of all NWPs. This was done to insure that any NWP authorized projects comply with District of Columbia's Water Quality Standards and water pollution regulations, and also to insure that the WQD would be able to keep track of all Corps related activities occurring in the District of Columbia. The State of Maryland has issued WQC for NWPs: 1, 2, 4, 6, 8, 9,10,11, 18, 19, 20, 22, 23, 24, 25, 28, 30, 31, 32, 34, 35, 36, 37, and 38. For the remaining NWPs, Maryland issued WQC, subject to the condition that the applicant obtains all necessary permits and approvals from the Maryland Department of the Environment (MDE). The Commonwealth of Pennsylvania, Department of Environmental Protection (DEP), issued WQC for all NWPs, subject to the following special conditions:

1. Prior to commencing any activity covered by a Nationwide Permit, the applicant must obtain all necessary permits or approvals from the Department of Environmental Protection, including, but not limited to, those required by the Pennsylvania Clean Streams Law (35 P.S. §§ 693.1-693.27), the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.101-6020.1304), the Land Recycling and Remediation Standards Act (35 P.S. §§ 6026.101-6026.908), and the regulations promulgated

thereunder including 25 Pa. Code Chapters 75, 91-93, 95, 102, 105, and 260-299. All environmental assessments required under these regulations, in addition to other regulatory requirements, must be complied with as a condition of Section 401 Water Quality Certification for the NWP.

2. Fill material cannot contain wastes as defined in the Pennsylvania Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003).

3. For activities which impact on wetlands, a delineation shall be conducted in accordance with Pennsylvania’s procedures for wetland delineation. The present procedure is published at 25 Pa. Code § 105.451.

4. The Department retains the right, on an individual activity basis, to withdraw or modify 401 Water Quality Certification for an activity subject to a NWP which it determines may adversely impact water quality.

There are no Coastal Zone Management requirements in the District of Columbia. The State of Maryland has certified that the following NWP are consistent with the State’s CZMP and are issued WQC: 1, 2, 4, 6, 8, 9,10,11, 18, 19, 20, 22, 23, 24, 25, 28, 30, 31, 32, 34, 35, 36, 37, and 38. For the remaining NWP, Maryland certified CZMP consistency and issued WQC, subject to the condition that the applicant obtain all necessary permits and approvals from MDE. The Commonwealth of Pennsylvania, Department of Environmental Protection (DEP), certified that all NWP are consistent with the State’s CZMP, subject to the following special conditions:

1. Prior to commencing any activity covered by a Nationwide Permit, the applicant must obtain all necessary permits or approvals from the Department of Environmental Protection, including, but not limited to, those required by the Pennsylvania Clean Streams Law (35 P.S. §§ 693.1-693.27), the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.101-6020.1304), the Land Recycling and Remediation Standards Act (35 P.S. §§ 6026.101-6026.908), and the regulations promulgated thereunder including 25 Pa. Code Chapters 75, 91-93, 95, 102, 105, and 260-299. All environmental assessments required under these regulations, in addition to other regulatory requirements, must be complied with as a condition of Section 401 Water Quality Certification for the NWP.

2. Fill material cannot contain wastes as defined in the Pennsylvania Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003).

3. For activities which impact on wetlands, a delineation shall be conducted in accordance with Pennsylvania’s procedures for wetland delineation. The present procedure is published at 25 Pa. Code § 105.451.

4. The Department retains the right, on an individual activity basis, to withdraw or modify 401 Water Quality Certification for an activity subject to a NWP which it determines may adversely impact water quality.

Nationwide Permits 43 and 44 are suspended in the District of Columbia, while all others will remain in effect.

The Baltimore District has implemented State Programmatic General Permits (SPGPs) in the State of Maryland and in the Commonwealth of Pennsylvania. Because SPGPs are duplicative of some NWP and offer a more simplified and streamlined regulatory process, the Corps has suspended various NWP in each state. If the SPGPs become void, enjoined, suspended, revoked, or removed from effect for any reason, the Corps will consider reissuance of some or all of the suspended NWP for the purpose of efficiency and effectively protecting the aquatic environment, while maintaining an acceptable level of responsiveness to the regulated public.

The following NWP are suspended in the Commonwealth of Pennsylvania:

- NWP 4 Fish & Wildlife Harvesting, Enhancement & Attraction Devices and Activities
- NWP 5 Scientific Measurement Devices
- NWP 7 Outfall Structures and Maintenance
- NWP 12 Utility Line Activities
- NWP 13 Bank Stabilization
- NWP 14 Linear Transportation Projects
- NWP 15 U.S. Coast Guard Approved Bridges
- NWP 18 Minor Discharges (may be used *only* in Lake Wallenpaupack, Pennsylvania)
- NWP 25 Structural Discharges
- NWP 26 (Reserved)

- NWP 33 Temporary Construction, Access & Dewatering
- NWP 36 Boat Ramps
- NWP 37 Emergency Watershed Protection & Rehabilitation
- NWP 39 Residential, Commercial & Institutional Developments
- NWP 40 Agricultural Activities (exclusive of those circumstances described in paragraph “a” of the Federal Register for this NWP)
- NWP 41 Reshaping Existing Drainage Ditches
- NWP 42 Recreational Facilities
- NWP 43 Stormwater Management

The suspension of the NWP's is **not applicable** in the following water bodies in Pennsylvania:

- a. All of the Delaware River,
- b. The Schuylkill River downstream of the confluence with Mill Creek at Port Carbon, Pennsylvania,
- c. The Lehigh River downstream from the State Route 940 Bridge,
- d. All of the Ohio River,
- e. All of the Beaver River,
- f. All of the Little Beaver River,
- g. All of the Manoning River,
- h. All of the Monogahela River,
- i. The Youghiogheny River from its mouth at McKeesport, Pennsylvania to river mile 31.2 at West Newton, Pennsylvania,
- j. The Allegheny River, from its mouth in Pittsburgh, Pennsylvania to river mile 197.4 at Kinzua Dam, north of Warren, Pennsylvania,
- k. The Kiskiminetas River from its mouth near Freeport, Pennsylvania to river mile 26.8 at Saltsburg, Pennsylvania,
- l. Tenmile Creek from its mouth at Millsboro, Pennsylvania to river mile 2.7, and
- m. Activities within Lake Erie which require submittal of a Joint Permit Application or Environmental Assessment to the PADEP.

The following NWP's **are not** suspended in the Commonwealth of Pennsylvania:

- NWP 1. Aids to Navigation
- NWP 2. Structures in Artificial Canals
- NWP 3. Maintenance
- NWP 6. Survey Activities
- NWP 8. Oil and Gas Structures
- NWP 9. Structures in Fleeting and Anchorage Areas
- NWP 10. Mooring Buoys
- NWP 11. Temporary Recreational Structures
- NWP 16. Return Water From Upland Contained Disposal Areas
- NWP 17. Hydropower Projects
- NWP 19. Minor Dredging
- NWP 20. Oil Spill Cleanup
- NWP 21. Surface Coal Mining Activities
- NWP 22. Removal of Vessels
- NWP 23. Approved Categorical Exclusions
- NWP 24. State Administered Section 404 Program
- NWP 27. Stream and Wetland Restoration Activities
- NWP 28. Modifications of Existing Marinas
- NWP 29. Single-family Housing
- NWP 30. Moist Soil Management for Wildlife
- NWP 31. Maintenance of Existing Flood Control Facilities
- NWP 32. Completed Enforcement Actions
- NWP 34. Cranberry Production Activities
- NWP 35. Maintenance Dredging of Existing Basins
- NWP 38. Cleanup of Hazardous and Toxic Waste
- NWP 44. Mining Activities

The following NWP's are suspended in the State of Maryland:

- NWP 1. Aids to Navigation
- NWP 2. Structures in Artificial Canals
- NWP 3. Maintenance, except for repair, rehabilitation, or replacement work associated with storm or other discrete events
- NWP 4. Fish and Wildlife Harvesting, Enhancement & Attraction Devices and Activities
- NWP 5. Scientific Measurement Devices
- NWP 6. Survey Activities
- NWP 7. Outfall Structures and Maintenance
- NWP 8. Oil and Gas Structures
- NWP 9. Structures in Fleeting and Anchorage Areas
- NWP 10. Mooring Buoys
- NWP 11. Temporary Recreational 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. Oil Spill Cleanup
- NWP 21. Surface Coal Mining Activities
- NWP 22. Removal of Vessels
- NWP 24. State Administered Section 404 Program
- NWP 25. Structural discharges
- NWP 26 (Reserved)
- NWP 28. Modifications of Existing Marinas
- NWP 29. Single-family Housing
- NWP 33. Temporary Construction, Access and Dewatering
- NWP 34. Cranberry Production Activities
- NWP 35. Maintenance Dredging of Existing Basins
- NWP 36. Boat Ramps
- NWP 38. Cleanup of Hazardous and Toxic Waste
- NWP 39. Residential, Commercial, and Institutional Developments
- NWP 40. Agricultural Activities (exclusive of those circumstances described in paragraph "a" of the Federal Register for this NWP)
- NWP 41. Reshaping Existing Drainage Ditches
- NWP 42. Recreational Facilities
- NWP 43. Stormwater Management
- NWP 44. Mining Activities

The following NWP's **are not** suspended in the State of Maryland:

- NWP 23. Approved Categorical Exclusions
- NWP 27. Stream and Wetland Restoration Activities
- NWP 30. Moist Soil Management for Wildlife
- NWP 31. Maintenance of Existing Flood Control Facilities
- NWP 32. Completed Enforcement Actions
- NWP 37. Emergency Watershed Protection and Rehabilitation

The Corps' regional conditions for the reissued NWP's can be reviewed on our homepage at http://www.nab.usace.army.mil/Regulatory/public_notices.htm. If you wish to receive a copy of the regional conditions, please call Mr. George Harrison at (410) 962-6002.

For the District Engineer:

Enclosure

/s/
Linda A. Morrison
Chief, Regulatory Branch

Nationwide Permits

#	NWP Title ⁶	Section	Regional Conditions	Additional Conditions within a State	Suspended in the State of...	PCN	MD CZM/WQC	PA CZM/WQC
1	Aids to Navigation	10			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
2	Structures in Artificial Canals	10			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
3	Maintenance	10/404	y		MD ⁸	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	10/404	y		PA ⁴ , MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
5	Scientific Measurement Devices	10/404			PA ⁴ , MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
6	Survey Activities	10/404			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
7	Outfall Structures and Maintenance	10/404		PA	PA ⁴ , MD	Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
8	Oil and Gas Structures	10			MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
9	Structures in Fleeting and Anchorage Areas	10			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
10	Mooring Buoys	10			MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
11	Temporary Recreational Structures	10	y		MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
12	Utility Line Activities	10/404	y		PA ⁴ , MD	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
13	Bank Stabilization	10/404			PA ⁴ , MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
14	Linear Transportation Projects	10/404	y		PA ⁴ , MD	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
15	U.S. Coast Guard Approved Bridges	404			PA ⁴ , MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
16	Return Water From Upland Contained Disposal Areas	404			MD	N ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
17	Hydropower Projects	404			MD	Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
18	Minor Discharges	10/404	y	PA	MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
19	Minor Dredging	10/404			MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
20	Oil Spill Cleanup	10/404			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
21	Surface Coal Mining Activities	10/404			MD	Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
22	Removal of Vessels	10/404			MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
23	Approved Categorical Exclusions	10/404	y			Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
24	State Administered Section 404 Program	10			MD	N	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
25	Structural Discharges	404			PA ⁴ , MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
26	[Reserved]							
27	Stream and Wetland Restoration Activities	10/404	y			Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
28	Modifications of Existing Marinas	10	y		MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
29	Single-family Housing	10/404	y	PA	MD	Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
30	Moist Soil Management for Wildlife	404	y			Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
31	Maintenance of Existing Flood Control Facilities	10/404				Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
32	Completed Enforcement Actions	10/404				N/A	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
33	Temporary Construction, Access and Dewatering	10/404	y		PA ⁴ , MD	Y	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
34	Cranberry Production Activities	404			MD	Y	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
35	Maintenance Dredging of Existing Basins	10	y	PA	MD	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
36	Boat Ramps	10/404	y	PA	PA ⁴ , MD	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
37	Emergency Watershed Protection and Rehabilitation	10/404			PA ⁴	Y	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
38	Cleanup of Hazardous and Toxic Waste	10/404			MD	Y	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
39	Residential, Commercial, and Institutional Developments	10/404	y		PA ⁴ , MD	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
40	Agricultural Activities	404	y		PA ^{4,5} , MD ⁵	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
41	Reshaping Existing Drainage Ditches	404	y		PA ^{4,5} , MD ⁵	Y ³	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
42	Recreational Facilities	404	y		PA ⁴ , MD	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
43	Stormwater Management	404	y		PA ⁴ , MD, DC	Y ^{3,7}	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²
44	Mining Activities	10/404			MD, DC	Y ⁷	ISSUED ¹ /ISSUED ¹	ISSUED ² /ISSUED ²

NOTES:

(A) There are no CZM requirements in DC and WQC has been denied in DC for all NWPs (B) See attachment for superscripted items

¹WQC and CZM issued subject to the condition that the applicant obtain all necessary permits and approvals from MDE.

²This certification is subject to the following conditions:

1. Prior to commencing any activity covered by a Nationwide Permit, the applicant must obtain all necessary permits or approvals from the Department of Environmental Protection, including, but not limited to, those required by the Pennsylvania Clean Streams Law (35 P.S. §§ 693.1-693.27), the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.101-6020.1304), the Land Recycling and Remediation Standards Act (35 P.S. §§ 6026.101-6026.908), and the regulations promulgated thereunder including 25 Pa. Code Chapters 75, 91-93, 95, 102, 105, and 260-299. All environmental assessments required under these regulations, in addition to other regulatory requirements, must be complied with as a condition of Section 401 Water Quality Certification for the NWP.

2. Fill material cannot contain wastes as defined in the Pennsylvania Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003).

3. For activities which impact on wetlands, a delineation shall be conducted in accordance with Pennsylvania's procedures for wetland delineation. The present procedure is published at 25 Pa. Code § 105.451.

4. The Department retains the right, on an individual activity basis, to withdraw or modify 401 Water Quality Certification for an activity subject to; a NWP which it determines may adversely impact water quality.

³A PCN is required under certain circumstances. Review the terms of the specific NWP, general conditions 13 and 25⁶ to identify those circumstances, and the regional conditions.

⁴For PA, the suspension of the NWP is not applicable in certain water bodies in PA; see Special Public Notice #02-07 dated May 7, 2002 for a listing of the specific water bodies.

⁵Paragraph "a" of this NWP is not suspended.

⁶See the attached list of resource agencies to determine which one(s) to contact for a determination of the presence of "Designated Critical Resource Waters" on or near your proposed work site.

⁷See General Condition 25(a) to determine if your project can be authorized by this particular NWP.

⁸Except for repair, rehabilitation, or replacement of structures or fills destroyed or damaged by storms, floods, fire, or other discrete events.

**⁶List of Resource Agencies Concerning
Designated Critical Resource Waters**

Department of Health
Environmental Health Administration
Bureau of Environmental Quality
Water Quality Division
Water Quality Control Branch
51 N Street, NE, 5th Floor
Washington, DC 20002

National Marine Fisheries Service
Habitat Conservation Division
74 Magruder Road, Sandy Hook
Highlands, New Jersey 07732

National Marine Fisheries Service
Oxford Laboratory
Oxford, Maryland 21645

U.S. Department of the Interior
Fish and Wildlife Service
315 South Allen Street, Suite 322
State College, Pennsylvania 16801-4850

U.S. Department of the Interior
Fish and Wildlife Service
177 Admiral Cochrane Drive
Annapolis, Maryland 21401

Pennsylvania Fish & Boat Commission
Bureau of Fisheries & Engineering
450 Robinson Lane
Bellefonte, Pennsylvania 16823-9616
*(For fish, amphibians, reptiles, aquatic
invertebrates)*

Pennsylvania Department of
Environmental Protection
Bureau of Watershed Management
Division of Waterways, Wetlands & Erosion
Control
P.O. Box 8775
Harrisburg, Pennsylvania 17105-8775
(For birds and mammals)

Maryland Department of the
Environment
Water Resources Administration
Tidal Wetlands Division
2500 Broening Highway
Baltimore, Maryland 21224

Maryland Department of Natural
Resources
Environmental Review
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401