

Summary of 2021 Nationwide Permits Reissuance - Final 16

Twelve NWP's reissued with modifications and four new NWP's

March 31, 2021

Webinar Etiquette:

- Keep your microphone on MUTE at all times
- Turn off your video at all times to increase the bandwidth
- Enter questions and comments in the Chat



US Army Corps
of Engineers®

Presentors

Rory Lee, Project Manager

Jess Jordan, Project Manager

Tina Tong, Section Chief

Objectives for Public Outreach

1. To inform the public of major changes to 12 re-issued NWPs
2. To inform the public of 4 new NWPs
3. To explain the expiration dates of previously verified NWPs and new expiration dates
4. To answer questions about the Final 16 2021 NWPs

Presentation Outline

1. National Conditions
2. Regional Conditions
3. 401 Water Quality Certification Conditions
4. Coastal Zone Management Consistency Determinations
5. Expiration Dates
6. Q & As

NWP Reissuance Overview

For the 16 NWPs included in this final rule, the Corps is also reissuing the general conditions and definitions, with some changes. The Final 16 are effective on March 15, 2021 and expire on March 14, 2026.

The Corps is not reissuing or modifying the remaining 40 NWPs or taking any action on the proposed new NWP E at this time. The general conditions and definitions published in the January 6, 2017, final rule ([82 FR 1860](#)) continue to apply to the 40 existing 2017 NWPs that continue to remain in effect.

NWP Reissuance Overview

Details on the NWP national, regional, Water Quality Certification, and Coastal Zone Management consistency determinations are contained in the Corps Special Public Notice dated March 22, 2021. Located on our webpage at: www.nws.usace.army.mil, select News and Updates, then select 2021 Nationwide Permit Reissuance

The screenshot shows the US Army Corps of Engineers Seattle District Website. The navigation bar includes links for About, Business With Us, Missions, Locations, Careers, Media, Library, Contact, and Coronavirus. A search bar is located on the right. The main content area is titled 'Missions / Civil Works / Regulatory / News and Updates'. There are three main sections: 'Electronic Permit Guidebook', 'Regulatory Quick Links', and 'News and Updates'. A blue arrow points from the 'Electronic Permit Guidebook' section to the '2021 Nationwide Permit Reissuance' link in the 'News and Updates' section. Another blue arrow points to the 'Regulatory Quick Links' section.

Electronic Permit Guidebook

[Click here for permit information](#)

Regulatory Quick Links

- [401 Final Rule ...](#)
- [Section 408 Information](#)
- [News and Updates](#)

News and Updates

[Collapse All](#) [Expand All](#)

- Special Public Notices**
- 2021 Nationwide Permit Reissuance**
- 22 March 2021:** This Special Public Notice (SPN) supersedes the SPN dated March 9, 2021 with revisions. The Washington State Department of Ecology Water Quality Certification Determination for NWP 55 and 56 was incorrectly listed in Enclosure 1. Individual WQC is required from the appropriate certifying agency for both NWPs. Also, in Ecology's WQC General Condition 2, the word "that" was changed to "and".
- 9 March 2021:** This Special Public Notice (SPN) supersedes the SPN dated March 5, 2021 with a revision. The Washington State Department of Ecology Water Quality Certification General Condition 4 was incorrectly listed in Enclosure 1. The reference to marine waters with eelgrass is corrected (bolded text) as follows: [Individual WQC] is required for activities in or affecting "marine waters with eelgrass (*Zostera marina*) beds (except for NWP 48)".
- 5 March 2021:** Final Regional Conditions for Seattle District 2021 Nationwide Permits - Final 16 and Public Outreach Event Announcement. 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 (NWPs) and four new NWPs, as well as the reissuance of NWP general conditions and definitions with some modifications. 16 NWPs will go into effect on March 15, 2021, and will expire on March 14, 2026. You must RSVP to attend the Public Outreach Event. See SPN for details.
- Special Public Notice - The Special Public Notice dated January 13, 2021.** announces the publication of a final rule in the

Permit Types (Changes are in red)

2017 NWP Re-Issued

- 12. Utility Line Activities
- 21. Surface Coal Mining Activities
- 29. Residential Developments
- 39. Commercial and Institutional Developments
- 40. Agricultural Activities
- 42. Recreational Facilities
- 43. Stormwater Management Facilities
- 44. Mining Activities
- 48. Commercial Shellfish Aquaculture Activities
- 50. Underground Coal Mining Activities
- 51. Land-Based Renewable Energy Generation Facilities
- 52. Water-based Renewable Energy Generation Pilot Projects

2021 NWPs

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

*** NWP 12 has been split into three NWPs (12, 57 and 58)**

NWP 12- *Oil or Natural Gas Pipeline Activities*

Activities required for the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Activities are broken down into four categories:

1. Oil or natural gas pipelines
2. Oil or natural gas pipeline substations
3. Foundations for above-ground oil or natural gas pipeline
4. Access roads

The 2021 NWP 12 language is similar NWP 2017. The language has been modified to oil or natural gas pipeline activities rather than "Utility Line."



Summary of 2021 NWP 12 - *Oil or Natural Gas Pipeline Activities*

- 1 Major change is the removal of PCN requirement for:
 - activities that involve mechanized land clearing in a forested wetland for a utility line right-of-way;
 - utility lines in waters of the U.S., excluding overhead lines, that exceed 500 feet;
 - utility lines placed within a jurisdictional area, that run parallel to or along a stream bed that is within jurisdictional area;
 - permanent access roads constructed above grade in waters of the U.S. for a distance of more than 500 feet; or
 - permanent access roads are constructed in waters of the United States with impervious materials
- 2 Major change is the addition of PCN requirement for new oil or natural gas pipelines more than 250 miles in length.

Same Major Change for Certain 2021 NWP

- 21-Surface and Coal Mining Activities*
- 29-Residential Developments*
- 39-Commercial and Institutional Developments*
- 40-Agricultural Activities*
- 42-Recreational Facilities*
- 43-Stormwater Management Facilities*
- 51-Land-Based Renewable Energy Generation Facilities*
- 52-Water-Based Renewable Energy Generation Pilot Projects*

1

Major change is the removal of the 300 linear foot limit for losses of stream bed and removal of requiring a written verification from the Corps.



Summary of 2021 NWP 44 - *Mining Activities*

1 Major change is the removal of the 300 linear foot limit for losses of stream bed and removal of waiver provision.

2 Major change is the limit to mining in non-tidal navigable waters of the U.S. to ½ acre.

Summary of 2021 NWP 48 - *Commercial Shellfish Mariculture Activities*

- 1 Major change is the removal of the prohibition against new commercial shellfish mariculture activities affecting more than 1/2 acre of SAV.
- 2 Major change is the removal of the definition of “new commercial shellfish aquaculture operation” as operating in an area where such activities have not occurred during the past 100 years.
- 3 Major change is the addition of a PCN requirement for activities directly affecting greater than 1/2- acre of submerged aquatic vegetation.

Summary of 2021 NWP 50 - *Underground Coal Mining Activities*

- 1 Major change is the removal of the 300 linear foot limit for losses of stream bed and removal of waiver provision.
- 2 Major change is the removal of the reference to integrated permit processing procedures and note stating that coal preparation and processing outside the mine site may be authorized by NWP 21.

Summary of 2021 NWP 55 - *Seaweed Mariculture Activities*

1 This is a new NWP.

Structures in marine and estuarine waters, including structures anchored to the seabed in waters overlying the outer continental shelf, for seaweed mariculture activities. This NWP also authorizes structures for bivalve shellfish mariculture if shellfish production is a component of an integrated multi-trophic mariculture system (*e.g.*, the production of seaweed and bivalve shellfish on the same structure or a nearby mariculture structure that is part of the single and complete project).

This NWP authorizes the installation of buoys, long-lines, floats, anchors, rafts, racks, and other similar structures into navigable waters of the United States. Rafts, racks and other floating structures must be securely anchored and clearly marked. To the maximum extent practicable, the permittee must remove these structures from navigable waters of the United States if they will no longer be used for seaweed mariculture activities or multi-trophic mariculture activities.



Summary of 2021 NWP 56 - Finfish *Mariculture* Activities

1 This is a new NWP.

Structures in marine and estuarine waters, including structures anchored to the seabed in waters overlying the outer continental shelf, for finfish mariculture activities. This NWP also authorizes structures for bivalve shellfish mariculture and/or seaweed mariculture if the structures for bivalve shellfish and/or seaweed production are a component of an integrated multi-trophic mariculture structure (*e.g.*, the production of bivalve shellfish or seaweed on the structure used for finfish mariculture, or a nearby mariculture structure that is part of the single and complete project).

This NWP authorizes the installation of cages, net pens, anchors, floats, buoys, and other similar structures into navigable waters of the United States. Net pens, cages, and other floating structures must be securely anchored and clearly marked. To the maximum extent practicable, the permittee must remove these structures from navigable waters of the United States if they will no longer be used for finfish mariculture activities or multi-trophic mariculture activities.



Summary of 2021 NWP 57 - Electric Utility Line and Telecommunications Activities

1 This is a new NWP.

Activities required for the construction, maintenance, repair, and removal of electric utility lines, telecommunication lines, and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Activities are broken down into four categories:

1. Electric utility lines and telecommunications lines
2. Electric utility line and telecommunications substations
3. Foundations for overhead electric utility line or telecommunication line towers
4. Access roads



Summary of 2021 NWP 57 - Electric Utility Line and Telecommunications Activities

Electric utility lines and telecommunication lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of electric utility lines and telecommunication lines. There must be no change in pre-construction contours of waters of the United States. An “electric utility line and telecommunication line” is defined as any cable, line, fiber optic line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication.

Electric utility line and telecommunications substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with an electric utility line or telecommunication line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States.

Foundations for overhead electric utility line or telecommunication line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead electric utility line or telecommunication line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of electric utility lines or telecommunication lines, including overhead lines and substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States.

Summary of 2021 NWP 58 - Utility Line Activities for Water and Other Substances

1 This is a new NWP.

Activities required for the construction, maintenance, repair, and removal of utility lines for water and other substances, excluding oil, natural gas, products derived from oil or natural gas, and electricity. Oil or natural gas pipeline activities or electric utility line and telecommunications activities may be authorized by NWPs 12 or 57, respectively. This NWP also authorizes associated utility line facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Activities are broken down into four categories:

1. Utility lines
2. Utility line substations
3. Foundations for above-ground utility line
4. Access roads



Summary of 2021 NWP 58 - Electric Utility Line Activities for Water and Other Substances

Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines for water and other substances, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. Examples of activities authorized by this NWP include utility lines that convey water, sewage, stormwater, wastewater, brine, irrigation water, and industrial products that are not petrochemicals. The term “utility line” does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground utility lines: This NWP authorizes the construction or maintenance of foundations for above-ground utility lines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States.

Definitions that have been removed

1 Ephemeral Stream

The Corps is removing the definitions of intermittent stream and ephemeral stream because they are no longer used in the text of the NWP. The Corps does not believe it is necessary to copy the entire definition of “waters of the United States” into the NWP because that definition is available at [33 CFR 328.3](#).

2 Intermittent Stream

3 Protected Tribal Resources

The definition of “protected tribal resources” has been removed because that phrase is no longer in the text of general condition 17, tribal rights. The term “protected tribal resources” continues to be applied in the Corps' implementation of the 1998 Department of Defense American Indian and Alaska Native Policy.

Definitions that have been Modified

1 Loss of waters of the United States

The Corps has removed the 300 linear foot limit for losses of stream bed from NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52. Therefore, the Corps removed “linear feet” from this definition.

2 Ordinary High Water Mark

The Corps modified both definitions to be consistent with the definitions in the Navigable Waters Protection Rule defining “waters of the United States” (see [33 CFR 328.3\(c\)\(7\)](#))

3 Perennial Stream

Nationwide Permit General Conditions-Major Modifications

1 GC 17. Tribal Rights

"No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights."

Restored the text that was in the general condition for the 2012 NWP's and prior NWP's to eliminate any confusion about the applicable standards that apply when considering potential impacts to tribal treaty rights when consulting with tribes, and when determining the applicability of an NWP for a proposed activity.

2 GC 18. Endangered Species

Revised to address 2019 changes to [50 CFR part 402](#). Clarified PCN requirements for species proposed for listing and proposed critical habitat to be consistent with [33 CFR 330.4\(f\)\(2\)](#)

3 GC 23. Mitigation

Modified paragraph (d) of this general condition to establish a threshold of **3/100 of an acre for requiring compensatory mitigation for losses of stream bed** that is similar to the threshold for wetlands in paragraph (c) of this general condition unless the district engineer determines on a case-by-case basis that compensatory mitigation should not be required because other forms of mitigation would be more environmentally appropriate and issues an activity-specific waiver of this requirement.

4 GC 25. Water Quality

Clarified that if NWP activity does not comply with conditions of a general water quality certification, an individual certification is required, unless a waiver occurs. Require permittee to provide district engineer with copy of water quality certification for individual discharge authorized by an NWP

Nationwide Permit General Conditions - Major Modifications

5 GC 26. Coastal Zone Management

Clarified that if NWP activity does not comply with conditions of a general consistency concurrence, and individual consistency concurrence is required, unless presumption occurs.

6 GC 28. Use of Multiple Nationwide Permits

Modified general condition to clarify application to NWPs with different numeric limits.

All other modifications to the General Conditions are minor.

Regional General Conditions (RGC)

Applicable to only 2021 NWP's - Final 16

Removed 5 RGCs

Retained 9 RGCs

- 5 Modified

Retained 7 NWP Specific Regional Conditions

- 1 Modified

Regional General Conditions Removed and Rationale

Mitigation (Formerly RGC 8): Setting a threshold limit for compensatory mitigation was unnecessary as existing regulations require mitigation sequencing (avoid, minimize, compensate) for all NWPs and compensatory mitigation must meet the requirements of the 2008 Mitigation Rule.

Magnuson-Stevens Fishery Conservation and Management Act / Essential Fish Habitat (Formerly RGC 9): Redundant with existing regulations requiring MSA/EFH consultation.

Forage Fish (Formerly RGC 10): On a case-by-case basis the Corps can add a requirement to submit a forage fish spawning survey if proposing work outside of a designated work window.

Notification of Permit Requirements (Formerly RGC 11): Determined there were enforceability issues requiring contractors and sub-contractors to read and understand permit conditions.

Temporary Impacts and Site Restoration (Formerly RGC 13): Duplicative of existing NWP regulations that require all impacts (permanent and temporary) to be minimally impacting; special conditions requiring restoration of temporarily impacted waters of the U.S. can be added if appropriate

Regional General Conditions – Retained (and Modified)

RGC 1, Project Drawings - no change

RGC 2, Aquatic Resources Requiring Special Protection (ARRSP)

Change: PCN requirement for loss of ARRSP vs previous prohibition of use of a majority of NWPs for project resulting in a loss of ARRSP

ARRSP = mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, wetlands in coastal lagoons, and wetlands in dunal systems along the Washington coast

Rationale: Impacts to these resources will be reviewed on a case-by-case basis to ensure impacts are minimal.

Regional General Conditions - Retained and Modified

RGC 3, New Bank Stabilization in Tidal Waters of Puget Sound -

No change

RGC 4, Commencement Bay

Change: Permanent losses of wetlands or mudflats cannot be authorized by NWP vs prohibition on use of certain NWPs in Commencement Bay

Rationale: Due to high level of cumulative losses of wetlands and mudflats in Commencement Bay, any additional losses would not be minimal and should not be authorized by a NWP.

Regional General Conditions

RGC 5, Bank Stabilization

Change: The following language was included “where salmonid species are present or could be present,”

Rationale: Added to explain why this RGC was needed in the geographic region regulated by the Seattle District.



Regional General Conditions

RGC 6, Crossings of Waters of the US

Change: Removed monitoring plan requirement.

Rationale: The PM can still decide on a case-by-case basis if a monitoring plan is necessary and if so, can be added as a special condition.



Regional General Conditions

RGC 7, Stream Loss

Change: Removed linear foot restriction but retains a PCN requirement.

Rationale: Modified to be consistent with revised national language in the 2020 NWP (removal of the 300 linear foot language).

Note: New 3/100-acre threshold for stream compensatory mitigation



Regional General Conditions

RGC 8, Construction Boundaries - No change

RGC 9, ESA Report to NMFS

Change: New RGC.

Rationale: Added because for all projects that may affect listed ESA species, all Districts were required by Corps Headquarters to add this as a special condition to the permit. By adding this as a RGC it removes the need to add this as a special condition to each individual NWP verification.

Specific General Condition with Major Change

NWP 29 - Width of Driveways

Change: Removed 22 foot width and 200 foot length requirement because different government entities have different code requirements (for example for fire access) which could conflict with this requirement.

Section 401 Water Quality Certification

In Washington State, two agencies and 11 Tribes currently have Section 401 Water Quality Certification (WQC) authority. The Environmental Protection Agency (EPA) has WQC authority in Indian country for Tribes who do not have WQC authority. The Washington State Department of Ecology (Ecology) is authorized to make WQC decisions for activities on all other federal, public, and private lands in Washington State.



Section 401 Water Quality Certification

The Corps Project Manager will review your application to determine if you need individual WQC. Also, refer to our March 22, 2021 Special Public Notice on the 2021 NWP's and any subsequent updates or revisions for WQC requirements.

We have recently been alerted regarding a potential concern with the 401 WQC language from Ecology for the 2021 NWP's. We are in close contact with our HQ and Ecology and will provide additional information in the near future.

If you require an individual WQC, contact the appropriate certifying authority.


Ecology: ecyrefedpermits@ecy.wa.gov

EPA: R10-401-Certs@epa.gov

11 Certifying Tribes - contact the Corps County PM for contact information

Individual 401 WQC - General Steps and Timelines

1. Submit a pre-filing request to the Certifying Authority (in most cases, this will be Ecology)
2. After 30 days, submit a WQC Request to the Certifying Authority and the Corps and include your permit application materials (Pre-Construction Notification, application, drawings, etc). Submit electronically to the Corps at NWS-PermitApp@usace.army.mil.



Washington State Department of Ecology
Section 401 Water Quality Certification
Pre-Filing Meeting Request Form

AGENCY USE ONLY
Date Received:
Aquatics ID#:
County:
Team:

Why is this Pre-Filing Meeting Request Required?
The U.S. Environmental Protection Agency published its Clean Water Act Section 401 Certification Rule in the Federal Register on July 13, 2020.¹ It took effect on September 11, 2020. The federal rule requires all project proponents submit a *pre-filing meeting request* to the certifying authority at least 30 days prior to submitting a Section 401 Water Quality Certification request (certification request). The Department of Ecology has prepared this pre-filing meeting request form to help project proponents comply with the federal rule requirements.

Next Steps:
Ecology will review your request for a pre-filing meeting to determine whether it is necessary or appropriate for a specific project. Completing this form will help with Ecology's determination. Thank you for using this form.

1. Please submit this request form and, a project location map to Ecology's Federal Permit Unit at: ecvrefedpermits@ecv.wa.gov.
2. If a pre-filing meeting is scheduled, the meeting may be held in person or remotely. Please be prepared to discuss the project and potential water quality impacts.
3. If you do not receive a response to your request for a pre-filing meeting and at least 30 days have passed, you may submit the certification request to Ecology if a Section 401 certification is required for your project.

For more information:
EPA's 401 rule: <https://www.epa.gov/cwa-401/final-rule-clean-water-act-section-401-certification-rule>

Project Information

Project Name:		
Project Proponent Name:		
Organization:		
Phone #:	E-Mail:	
Project Location (Note: Please attach a project location map when submitting this form.)		
Address:	City:	County:
Land ownership (check all that apply): <input type="checkbox"/> Private <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Tribal		
Waterbody (including wetlands) that the project is in or adjacent to:		
Brief Project Description and Scope: (Please include total quantities of fill and excavation in waters/wetlands, other direct and indirect impacts to waterbodies and wetlands, wetland habitat and habitat score, and whether adjacent to contaminated soil/sediment.)		

Individual 401 WQC - General Steps and Timelines, continued

The Corps must wait for Certifying Authority WQC decision (or waiver timeframe to pass) before proceeding with a NWP decision. Timelines can range from 60 - 180 days.

Waive

- Corps can then proceed with a NWP decision

Grant/Grant with Conditions

- Corps sends WQC to EPA for Neighboring Jurisdiction Determination
- Once determination is made or waiver timeframe has past, the Corps can proceed with a NWP decision

Deny

- Corps cannot authorize the proposed work

Individual WQC Certification - Resources

Contact the appropriate certifying authority directly to obtain detailed information on 401 Certification Rule and the process:

Ecology: <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/401-Water-quality-certification#:~:text=As%20the%20clean%20water%20certifying%20agency%2C%20Ecology%20has,activities%20directly%20affecting%20waters%20of%20the%20United%20States>

EPA: <https://www.epa.gov/cwa-401/final-rule-clean-water-act-section-401-certification-rule>

11 Certifying Tribes - contact your PM for contact information

See Corps Special Public Notice dated September 25, 2020 for additional information: <https://www.nws.usace.army.mil/Portals/27/docs/regulatory2/NewsUpdates/20200925-NewEPA401WQCRule-SPN-ECY.pdf?ver=8D9p-SObBeSmktx56bPxVA%3d%3d>

Coastal Zone Management Consistency Decisions

If the project Requires individual 401 WQC, it also requires individual CZMA from Ecology.

Ecology: ecyrefedpermits@ecy.wa.gov

Expiration Dates of 2017 Verifications

2017 NWP verifications of 12 re-issued NWPs were only valid until March 15, 2021

Specific NWPs verified:

- 12. Utility Line Activities (only Oil or Natural Gas Pipeline Activities)
- 29. Residential Developments
- 39. Commercial and Institutional Developments
- 40. Agricultural Activities
- 42. Recreational Facilities
- 43. Stormwater Management Facilities

However, if the authorized work has not been completed by that date and the permittee has commenced or are under contract to commence this activity before March 14, 2021, the permittee will only have until March 14, 2022, to fully complete the activity.

Expiration Dates of 2017 Verifications

2017 NWP verifications of the **40 NWPs not modified** or re-issued continue to be valid until March 18, 2022, unless the NWP is modified, reissued, or revoked prior to that date.

If the authorized work has not been completed by that date and the permittee has commenced or are under contract to commence this activity before March 18, 2022, the permittee will only have until March 18, 2023 to complete the work.

Expiration Dates of 2021 Verifications

Verification of projects under the 2021 NWP's for the Final 16 expire on March 14, 2026.

if the authorized work has not been completed by that date and the permittee has commenced or are under contract to commence this activity before March 14, 2026, the permittee will have until March 14, 2027 to complete the work.

Q & As



Submitted Questions

Question 1: How does the re-issued NWP 48 meet the requirements of the decision by Judge Lasnik regarding cumulative impacts and NEPA?

Answer: In response to the Court Order, Corps HQ has made substantial revisions to NWP 48 to address the Court's decision.

Submitted Questions

Question 2: How does the Letter of Permission (LOP) process meet the requirements of the decision by Judge Lasnik?

Answer: LOPs are a form of Individual Permit issued pursuant to long-standing Corps regulations and comply with applicable Federal laws. Individual permits are subject to different statutory and regulatory standards than general permits, such as nationwide permits. Judge Lasnik's decision concerned the 2017 NWP 48 in Washington.

Submitted Questions

Question 3: What are the changes to NWP 12?

Answer: As discussed in this presentation, the main change was dividing the Utility Line NWP into 3 different NWPs; NWP 12 for oil and gas, NWP 57 for electric and telecommunications and NWP 58 for water and other substances.

Submitted Questions

Question 4: If only directionally drilling underneath a water of the U.S. (WOTUS), is NWP 12, 57, or 58 coverage required even if there is only a small probability of an inadvertent return that could indirectly affect the WOTUS?

Answer: If you are directionally drilling underneath a Section 10 navigable water of the U.S., a permit from the Corps will always be required. If you are directionally drilling underneath a non-navigable water of the U.S. and there is no discharge of dredged or fill material into a WOTUS, then a permit will likely not be required.

Submitted Questions

Question 5: For RGC 7, PCN for Stream Loss, how is "stream" defined for this condition?

Answer: One of the categories of waters of the U.S. (WOTUS) are "tributaries" which includes rivers, streams, or ditches (if the ditch relocates a tributary or is constructed in a tributary). For this RGC, we consider "stream" to be any watercourse meeting the "tributary" definition of a WOTUS.

Q & As



More questions about 2021 NWP's - Final 16?

Please contact the NWP Team at NWP-SeattleTeam@usace.army.mil

For any project specific questions, speak to your Corps Project Manager.

