



PUBLIC NOTICE

**US Army Corps
of Engineers®**
New England District

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Comment Period Ends: March 14, 2012

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15-DAY PUBLIC NOTICE

PUBLIC NOTICE REVOKING NATIONWIDE PERMITS IN NEW ENGLAND

The U.S. Army Corps of Engineers (USACE) is reissuing 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. The new NWPs take effect March 19, 2012, and replace the existing 2007 NWPs. The new NWPs were published in the Federal Register (<http://www.gpo.gov/fdsys/pkg/FR-2012-02-21/pdf/2012-3687.pdf>) on February 21, 2012 and have been posted to the USACE Web site at www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx.

While nationally the U.S. Army Corps of Engineers is reissuing these NWPs, the Corps New England District proposes to again suspend the NWPs in the six New England states and continue using regional general permits in New England. The New England District most recently suspended all NWPs in the six New England States effective July 31, 2007 and in their place has used highly effective and successful state-specific general permits for over 15 years. You may view the general permits at www.nae.usace.army.mil/regulatory. The currently proposed suspension would remain in effect for five years unless rescinded by the North Atlantic Division Engineer.

Multiple goals will be realized as a result of again suspending the NWPs in New England:

(1) To provide consistency, simplification and streamlining in the regulatory process. Projects with minimal individual and cumulative effects on the aquatic environment will be approved administratively under the GPs. Projects with the potential for more than minimal effects are not eligible for the GP and will be subjected to individual review. Project eligibility for permitting under a GP will fall into two categories defined using the regional criteria for 1) self-certifying projects and 2) reporting projects that will be screened. Self-certifying projects may proceed provided the proponent certifies that the terms and conditions of the GP are met and the Category 1 Notification Form is submitted to the Corps (required in most New England states). Activities requiring reporting to the Corps will be reviewed by the Corps, and potentially the state wetland permitting agency and the Federal resource agencies (U.S. Fish Wildlife Service, U.S. Environmental Protection Agency and National Marine Fisheries Service). Through this interagency screening, the Corps will determine if individual and cumulative adverse environmental impacts are more than minimal or whether the project may proceed under the GP. Projects that do not meet the terms and conditions of the GP or those which, after screening, are determined to have potential for greater than minimal adverse impact will require an Individual Permit. The Individual Permit review procedures are not altered by the GP. Federal exemptions (which are not

necessarily the same as the states' exemptions) are also not be altered by the GP. In addition, GP authorizations are not valid until all other required Federal, State, and local permits and/or certifications are obtained.

(2) To continue broad coverage and increased environmental sensitivity. The GPs have broader upper limits and are impact based, thereby allowing the Corps, in concert with the Federal resource agencies, to screen many more projects to determine if project impacts are more appropriately reviewed under Individual Permit procedures. Additionally, the decision of ineligibility under the GP will be much simpler and require less staff time than the discretionary authority procedures. However, the Corps retains the right to implement discretionary authority for any project when it determines it is necessary and in the public interest to do so. The suspension of the new NWP's will continue to allow maximum use of the GPs and result in a greatly simplified, flexible and expedited regulatory program in New England. Suspension of the new NWP's will also eliminate redundancy since state and Federal programs are administered jointly and the GPs are partly based on in-place state specific programs. State GPs can be individually conditioned, as can NWP's, should it be necessary to restrict activities in order to protect the environment.

If you have any questions or comments on this proposed NWP suspension, or would like to obtain copies of the NWP regulations, decision documents or fact sheets, please contact Greg Penta at (978) 318-8862 or gregory.r.penta@usace.army.mil.


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