



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

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PUBLIC NOTICE

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15-DAY PUBLIC NOTICE

SUSPENDING NATIONWIDE PERMITS IN NEW ENGLAND

The U.S. Army Corps of Engineers (Corps) 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 NWP take effect March 19, 2017, and replace the existing 2012 NWP. The new NWP were published in the Federal Register (<https://www.gpo.gov/fdsys/pkg/FR-2017-01-06/pdf/2016-31355.pdf>) on January 6, 2017 and were posted to the Corps website at www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx. A news release is located at <http://www.usace.army.mil/Media/News-Releases/News-Release-Article-View/Article/1043614/army-corps-of-engineers-revises-and-renews-nationwide-permits/>.

While nationally the Corps is reissuing these NWP, the Corps New England District proposes to again suspend the NWP in the six New England states and continue using regional general permits (GPs) in each New England state. The New England District most recently suspended all NWP in the six New England States on March 19, 2012. In their place, New England District has used highly effective regional GPs for over 20 years. The regional GPs are located at <http://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/>. The currently proposed suspension would remain in effect for five years unless rescinded by the North Atlantic Division Engineer.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 NWP 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. Project eligibility for permitting under a GP will fall into two categories defined using the regional criteria for (a) self-verification projects and (b) pre-construction notification (reporting) projects that will be reviewed by the Corps. Self-verified projects may proceed provided the proponent verifies that the terms and conditions of the GPs are met and the Self-Verification Notification Form is submitted to the Corps when applicable. Activities requiring pre-construction notification to the Corps will be reviewed by the Corps and Federal resource agencies (U.S. Fish Wildlife Service, U.S. Environmental Protection Agency and National Marine Fisheries Service), other Federal agencies, and state agencies such as wetland and waterway permitting agencies, when applicable. Through this coordination, the Corps will determine if individual and cumulative adverse environmental impacts are more than minimal or whether the project may proceed under the GPs. Projects that do not meet the

terms and conditions of the GPs or those which 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 GPs. Federal exemptions (which are not necessarily the same as the states' exemptions) are also not be altered by the GPs. 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, but allow the Corps, in coordination with the states and Federal resource agencies, to review projects to determine if project impacts are more appropriately reviewed under individual permit procedures. In some cases, lower limits than the NWP provide the Corps with the opportunity to review certain activities that could have greater environmental impacts, e.g., those occurring in environmentally sensitive areas. Additionally, the decision of ineligibility under the GPs 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 NWPs will continue to allow maximum use of the GPs and result in a greatly simplified, flexible and expedited regulatory program in New England. Suspension will also increase efficiency and eliminate redundancy when certain aspects of the GPs are synchronized with in-place state regulatory programs. State GPs can be individually conditioned, as can NWPs, 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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