

*****Information Update*****

CLARIFICATION ON 2017 NATIONWIDE PERMITS IN INDIANA

The attached document is an annotated copy of the U.S. Army Corps of Engineers (Corps) Detroit District's March 19, 2017 Public Notice for the 2017 Nationwide permits for the State of Indiana. On January 13, 2021, the Corps published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of 12 existing nationwide permits (NWP) and four new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications. These 16 NWP went into effect March 15, 2021 and expire March 14, 2026.

The 40 existing NWP not reissued or modified by the January 13, 2021 final rule remain in effect until the Corps issues a final rule reissuing those NWP, or March 18, 2022, whichever comes first. The 2017 general and regional conditions for the 40 NWP remain in effect.

The following copy of the Detroit District's March 19, 2017 Public Notice for Indiana is marked to clarify which of the existing 2017 NWP were reissued and which remain in effect. Please note that NWP 29, 39, 40, 42, 43 and 44 are no longer suspended in the State of Indiana. For more details regarding the reissued NWP in 2021, see the Detroit District's March 8, 2021 Public Notice on our Regulatory website.



US Army Corps
of Engineers

Detroit District

Public Notice



Corps File No. LRE-2016-00006-100

Date: March 19, 2017
Expires: March 18, 2022

PUBLIC NOTICE ANNOUNCING REGIONAL CONDITIONS AND WATER QUALITY CERTIFICATIONS FOR NATIONWIDE PERMITS IN INDIANA

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) published a notice in the *Federal Register* (82 FR 1860) announcing the reissuance of all existing 50 Nationwide Permits (NWP), general conditions, and definitions with some modifications. The Corps also issued two new NWPs, one new general condition, and five new definitions. The NWPs became effective on March 19, 2017 and will expire on March 18, 2022.

On March 17, 2017, the Great Lakes and Ohio River Division (LRD) Engineer approved Regional Conditions for the NWPs in Indiana. These conditions apply to all activities authorized by 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. The Regional Conditions for Indiana are attached to this public notice. Additionally, the Detroit District has posted its Regional Conditions on the following Internet page:

<http://www.lre.usace.army.mil/Missions/Regulatory-Program-and-Permits/> under Detroit District General Permit Types - Nationwide Permits with Indiana Regional Conditions.

There are eleven (11) suspended or revoked NWPs in the State of Indiana. They are NWPs 13, 14, 18, ~~29~~, 36, ~~39, 40~~, 41, ~~42, 43~~, and ~~44~~.

The Indiana Department of Environmental Management (IDEM) denied Section 401 Water Quality Certification (WQC) for NWPs 8, 16, 17, 20, 23, 31, 32, 34, 35, 38, 48, 53, and 54. An individual 401 WQC from IDEM will be required for any project authorized by one of the NWPs with a 401 WQC denial. The IDEM conditioned the 401 WQC for NWPs 3, 7, 12, 15, 25, 27, 37, 46, 51 and 52. An individual 401 WQC will be required by IDEM under certain conditions. The full text of the Water Quality Certifications issued by IDEM is available on our web site under the link listed above.

Replaced by
2021 NWP.
No longer
suspended.

Questions concerning implementation of the new and modified NWP's and conditions or the Corps Regional Conditions should be sent to the U.S. Army Corps of Engineers, Detroit District, Michiana Branch, Attn: Rebecca Hartman, 2422 Viridian Drive, Suite 200, South Bend, Indiana 46628-3561.

Charles Simon
Chief, Regulatory Office
Engineering & Technical Services

INDIANA REGIONAL CONDITIONS FOR THE STATE OF INDIANA

These regional conditions are in addition to but do not supersede the requirements in the Federal Register (Volume 82 No. 4 of January 6, 2017). Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 32 (Federal Register, Volume 82, No. 4 of January 6, 2017, pp 2003).

The following Nationwide Permits in the State of Indiana have been suspended:

- NWP 13 Bank Stabilization
- NWP 14 Linear Transportation Projects
- NWP 18 Minor Discharges
- ~~NWP 29 Residential Developments~~
- NWP 36 Boat Ramps
- ~~NWP 39 Commercial and Institutional Developments~~
- ~~NWP 40 Agricultural Activities~~
- NWP 41 Reshaping Existing Drainage Ditches
- ~~NWP 42 Recreational Facilities~~
- ~~NWP 43 Stormwater Management Facilities~~
- ~~NWP 44 Mining Activities~~

Replaced by
2021 NWP.
No longer
suspended.

REGIONAL CONDITIONS:

~~Nationwide Permit No. 12 – Utility Line Activities~~

Replaced by
2021 NWP

- ~~(a) Notification is required for all substations.~~
- ~~(b) Impacted wetlands outside of permanently maintained rights of way shall be restored to the same or more valuable wetland type (e.g. forested wetlands shall be restored to forested wetlands). Within permanently maintained rights of way, impacted wetlands shall be restored, unless otherwise authorized by the Corps.~~
- ~~(c) For utility lines placed across the channel of an authorized Federal navigation project, the following conditions apply: 1) the line must be embedded at least 6 feet below the authorized Federal channel depth; 2) existing and proposed elevation information on precise plan and section scale drawings are required; 3) within 60 days after construction, an as-built survey must be provided indicating the points of entry and exit of the installation.~~
- ~~(d) Notification is required for all stream crossings.~~

Nationwide Permit No. 33 - Temporary Construction, Access, and Dewatering

Notification in accordance with Nationwide General Condition 32 is required to the Corps for all activities which are subject to jurisdiction under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

Regional Conditions Applicable to all NWP's within Indiana:

1. Excavation/dredging from areas of known or suspected contamination requires:
 - (a) Placement of the material in a Confined Disposal Facility or Class II landfill; or
 - (b) Placement of the material by other Corps' approved method; or
 - (c) Testing to demonstrate that the material is not contaminated. If the material is determined to be contaminated, it must be disposed of in a. or b. above.
2. Notification in accordance with Condition 32 is required to the Corps for all activities affecting Designated Salmonid Waters, Outstanding State Resource Waters, Exceptional Use Streams, and Critical Wetlands and Critical Special Aquatic Sites (See Attachments 1 and 2).
3. Notification in accordance with Condition 32 is required to the Corps for all activities which would cause, alter, or affect diversion of water from the Great Lakes basin.
4. Notification in accordance with Condition 32 is required to the Corps for all activities which are subject to jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
5. All applications are required in a paper copy and an electronic media format, including electronic mail or compact disc.

ATTACHMENT 1

Designated Salmonid Waters

1. Trail Creek & tributaries downstream to Lake Michigan, LaPorte County.
2. East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Waterway (Ditch), Porter, and LaPorte Counties.
3. The Indiana portion of the open waters of Lake Michigan.
4. Salt Creek above (upstream of) its confluence with the Little Calumet River, Porter County.
5. Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan, Porter County.
6. Galena River and its tributaries, LaPorte County
7. The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line, St. Joseph County.
8. The Indiana portion of the open waters of Lake Michigan.
9. Those waters designated by the Indiana Department of Natural Resources (IDNR) for put-and-take trout fishing.

Waterbodies which have been designated all or partially as Outstanding State Resource Waters:

1. The Blue River in Washington, Crawford, and Harrison counties from river mile 57.0 to river mile 11.5.
2. The North Fork of Wildcat Creek in Carroll and Tippecanoe counties, from river mile 43.11 to river mile 4.82.
3. The South Fork of Wildcat Creek in Tippecanoe County, from river mile 10.21 to river mile 0.00.
4. Cedar Creek in Allen and DeKalb Counties, from river mile 13.7 to its confluence with the St. Joseph River.
5. The Indiana portion of the open waters of Lake Michigan.
6. All waters incorporated in the Indiana Dunes National Lakeshore.

Streams which have been designated all or partially as Exceptional Use Waters:

1. Big Pine Creek in Warren County downstream of the State Road 55 bridge near the town of Pine Village to its confluence with the Wabash River.
2. Mud Pine Creek in Warren County from the bridge on the County Road between Brisco and Rainsville to its confluence with Big Pine Creek.
3. Fall Creek in Montgomery County from the old C.R. 119 bridge in the NW quarter of Section 21, Township 22N, Range 8W downstream to its confluence with Big Pine Creek.
4. Indian Creek in Montgomery County from the County Road 650 West bridge

downstream to its confluence with Sugar Creek.

5. Clifty Creek in Montgomery County within the boundaries of Pine Hills Nature Preserve.
6. Bear Creek in Fountain County from the bridge on County Road 450 North to its confluence with the Wabash River.
7. Rattlesnake Creek in Fountain County from the bridge on County Road 450 North to its confluence with Bear Creek.
8. The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch.
9. Blue River from the confluence of the West and Middle Forks of the Blue River in Washington County downstream to its confluence with the Ohio River.
10. The South Fork of the Blue River in Washington County from Horner's Chapel Road bridge downstream to its confluence with Blue River.
11. Lost River and all surface and underground tributaries upstream from the Orangeville Rise (T2N, R1W, Section 6) and the Rise of Lost River (T2N, R1W, Section 7) and the mainstem of the Lost River from the Orangeville Rise downstream to its confluence with the East Fork of White River.

ATTACHMENT 2

Critical Wetlands and Critical Special Aquatic Sites

1. Acid bogs
2. Acid seeps
3. Circumneutral bogs
4. Circumneutral seeps
5. Cypress Swamps
6. Dune and swales
7. Fens
8. Forested fens
9. Forested swamps
10. Marl beaches
11. Muck flats
12. Pannes
13. Sand flats
14. Sedge meadows
15. Shrub swamps
16. Sinkhole ponds
17. Sinkhole swamps
18. Wet floodplain forests
19. Wet prairies
20. Wet sand prairies