



U.S. Army Corps of Engineers Timely Reissues Nationwide Permits

The Nationwide Permit (NWP) Program offers critical scope and schedule predictability for eligible projects that require permitting under the Clean Water Act Section 404. The January 8, 2026, Final Rule issued by the U.S. Army Corps of Engineers (available [here](#)) concludes the renewal process initiated in June 2025, allowing the renewed and revised permits to go into effect on March 15, 2026, and avoiding any lapse in NWP coverage.

In the Fact Sheet to the Final Rule (available [here](#)) the Corps notes that the rulemaking included review and response to comments from more than 450 states, tribes, organizations, and individuals and that six federal agencies participated in interagency review of the final action. Ultimately the Corps is reissuing 56 of the existing 57 NWPs with only limited changes, and issuing one new NWP. New NWP 60, Activities to Improve Passage of Fish and Other Aquatic Organisms, has been added to authorize discharges of dredged or fill material and associated work to improve passage for fish and other aquatic organisms. This permit is intended to support habitat connectivity and aquatic organism passage improvements.

Notable Modifications

The 2026 NWPs include important modifications to the general conditions. Clarification was added about how acreage limits apply when more than one NWP is used for a single and complete project, preventing misinterpretation that limits could be cumulatively combined across permits. The revisions also explain what features are considered “waters of the United States,” how those waters must be identified and mapped through a delineation, and what level of detail the Corps expects in a pre-construction notice (PCN). For delineations, this means clearer

expectations for identifying jurisdictional wetlands and other waters, including methods, data sources, and documentation standards. For PCNs, the new regulations specify the information needed, such as project location, extent of impacts, avoidance and minimization measures, and mitigation proposals.

Several existing NWP's have been updated to clarify the types of activities and thresholds that qualify for coverage, including minor revisions to ensure consistency with minimal environmental impact standards. Most notably the following permits have been modified:

NWP 12 – Oil and Natural Gas Pipeline Activities

New notes encourage coordination with the U.S. Coast Guard and National Ocean Service for structures or work in navigable waters, including sharing location and dimensions prior to construction or PCN submittal.

NWP 13 – Bank Stabilization

The Corps modified this permit to clarify that it can be used to authorize regulated activities that incorporate nature-based solutions associated with bank stabilization activities and added a note to encourage permittees to use soft bank stabilization or nature-based solutions where appropriate. The note also provides factors to consider when planning bank stabilization activities, including whether a soft-bank stabilization approach is practicable.

NWP 39 – Commercial and Institutional Developments

The permit was updated to list examples of commercial developments, such as data centers, artificial and machine learning facilities, pharmaceutical manufacturing facilities, and storage facilities. The added clarification helps stakeholders and project managers better identify when NWP 39 is an appropriate general permit for modern facilities.

NWP 43 – Stormwater Management Facilities

The Corps removed references to “green infrastructure” and “low-impact development integrated management features” and replaced them with the term

“nature-based solutions.” Examples of nature-based solutions for stormwater management and reducing pollution loads to water and wetlands were also added. Features that are conducted to meet pollutant reduction targets established under TMDLs set under the Clean Water Act may also be authorized by this NWP.

NWP 57 and NWP 58 – Other Utility-Related NWPs

NWP 57, Electric Utility Line and Telecommunications Activities, and NWP 58, Utility Line Activities for Water and Other Substances, include added clarifications about coordination and information sharing with the U.S. Coast Guard and National Ocean Service for navigation and safety, similar to NWP-12.

Conclusion

The reissuance of the nationwide permits keeps in place a valuable tool for achieving regulatory compliance. Project proponents should review the new nationwide permits closely to confirm eligibility, understand any new or modified conditions, and assess potential impacts on timelines and permitting strategies. Early coordination with the Corps and experienced counsel can help ensure a smooth transition and reduce the risk of delays or compliance issues.

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