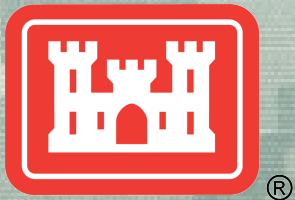


2012 Nationwide Permit Changes

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Workshop Objectives

2012 Nationwide Permit Changes

- To provide an overview of the changes from the 2007 to 2012 Nationwide General Permits (NWP) and national & regional conditions



2012 NWP's - Highlights

- Reissued 48 NWP's
- 2 new NWP's
- 4 new National General Conditions
- 11 Specific Colorado Regional Conditions



What is a PCN?

- Pre-construction notification (PCN) is required for the majority of NWP's

Note: Applicants must submit a PCN & must **wait until notified** by the Corps that the permit requirements are met and the activity is authorized before work can begin in waters of the U.S. (**unless 45 day lapse for most...**)

- National General Condition (NGC) 31 = the required contents of a PCN



2012 NWP's with No Changes

- 1, Aids to Navigation
- 2, Structures in Artificial Canals
- 9, Structures in Fleeting and Anchorage Areas
- 11, Temporary Structures
- 16, Return Water From Upland Contained Disposal Areas
- 17, Hydropower Projects
- 18, Minor Discharges
- 22, Removal of Vessels
- 23, Approved Categorical Exclusions
- 25, Structural Discharges
- 28, Modification of Existing Marinas
- 30, Moist Soil Management for Wildlife
- 32, Completed Enforcement Actions
- 33, Temporary Construction, Access and Dewatering
- 34, Cranberry Production Activities
- 35, Maintenance Dredging of Existing Basins
- 41, Reshaping Existing Drainage Ditches



New National General Conditions

- NGC 19, Migratory Bird and Bald and Golden Eagle Permits
- NGC 21, Discovery of Previously Unknown Remains and Artifacts
- NGC 24, Safety of Impoundment Structures



Modified NGCs with Substantive Changes

- NGC 2 (Aquatic Life Movements): added language to emphasize water crossings must **maintain low flows**
- NGC 18 (Endangered Species) and NGC 20 (Historic Properties): added language to emphasize that the applicant **must wait for written approval** from the Corps, even if 45 days have past
- NGC 23 (Mitigation): added language to emphasize that a detailed mitigation plan, approved by the Corps, and **meeting the required components** of a Mitigation Plan per the **Federal Mitigation Rule** is required before work can begin in waters of the U.S.



New National Definitions

- Direct effects
- High tide line
- Indirect effects
- Single and complete linear and non-linear project



2012 NWP with Substantive Changes

NWP 3, Maintenance

National Changes

- (a) Repair rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill

Any stream channel modification must be **immediately adjacent** to the project or **within the boundaries** of the structure or fill

- (b) Removal of accumulated sediments and debris in the vicinity of existing structures

May occur in waters **not** immediately adjacent to the structure or fill

Regional Change: None



2012 NWPs with Substantive Changes

NWP 5, **Scientific Measurement Devices** National Changes

Added meteorological stations, current gages, and biological observation devices to the list of examples

Added requirement that devices and any associated structures or fills be removed upon completion of the use and restored to pre-construction elevations to maximum extent practicable.

Regional Change: None



2012 NWP with Substantive Changes

NWP 6, **Survey Activities** National Changes

Added language stating the backfilling of exploratory trenches must not drain a water of the U.S.

Added sample plots or transects for wetland delineations to list of examples

Replaced the 25 cubic yard limit for temporary work pads with a 1/10-acre limit

Regional Change: None



2012 NWP with Substantive Changes

NWP 12, **Utility Line Activities** National Changes

Redefined linear project

Regional Changes

PCN required if open trenching in perennial streams or water transmission purpose

PCN required for NWP12 and 14 (Linear Transportation Projects) crossing perennial streams and/or special aquatic sites in Colorado River Basin



Notes and Reminders for NWP12

- Single and Complete **Linear** Project
 - “**Linear project**” defined as a project with the purpose of getting people, goods or services from a point of origin to a terminal point which often involves multiple water crossings
 - Does **not** need to have independent utility
 - While they may be single and complete, they must be looked at for the **cumulative effects** of those crossings to determine if they qualify for a NWP



Notes and Reminders for NWP12

- Each **separate** and **distant** crossing of a waterbody as well as each crossing of other waterbodies may be permitted by **separate** NWP authorizations.
- The acreage and other applicable limits would be applied to **each** crossing, as long as they are far enough apart to be considered separate and distant



2012 NWP with Substantive Changes

NWP 13, Bank Stabilization

National Changes

Added language authorizing temporary structures, fills and work necessary to construct the activity (**no need to issue a NWP 33**)

Added language: Invasive plant species may not be used for bioengineering or vegetative bank stabilization

Regional Changes

PCN required if >250 linear feet or stream width <20 feet

Small streams of <20' wide are limited to <1/4 cy/ft fill, unless waived by Corps



2012 NWP with Substantive Changes

NWP 20, Response Operations for Oil and Hazardous Substances

National Changes

- Changed name of NWP
- Also authorizes approved regional or local contingency plans, as well as temporary structures and fills for spill response **training exercises**

Regional Change: None



2012 NWP with Substantive Changes

NWP 23, **Categorical Exclusions**

National Changes: None

Regional Changes

- PCN required for all projects



2012 NWP with Substantive Changes

NWP 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities National Changes

Authorizes discharges to restore stream channels after removing water control structures or fills

Authorize the re-establishment of submerged aquatic vegetation and tidal wetlands in areas where those habitats previously existed

Activities subject to the reporting provision must include information on baseline ecological conditions, such as a delineation of wetlands, streams, and other aquatic habitats

Regional Changes

Revoked for fishery enhancements – use RGP12



2012 NWP with Substantive Changes

NWP 29 & 39, Residential & Commercial and Industrial Developments

National Changes: None

Regional Changes

- Copy of FEMA/locally approved floodplain map must be submitted with the PCN



New CO Regional Conditions

- For NWP 12, 13, 14, 23, 27, 29, and 39
- Fens – many permits revoked if w/i fens and all others require PCN
- Springs - require PCN if activity w/i 100'
- Suitable Fill – require PCN for use of broken concrete



2012 **New** Nationwide Permit

NWP 51, Land-Based Renewable Energy Generation Facilities

- Discharges of dredged or fill material into non-tidal waters of the United States for the construction, expansion, or modification of land-based renewable energy production facilities, including attendant features
- Such facilities include infrastructure to collect solar (concentrating solar power and photovoltaic), wind, biomass, or geothermal energy
- Attendant features may include, but are not limited to roads, parking lots, and stormwater management facilities within the land-based renewable energy generation facility



2012 New Nationwide Permit

NWP 51, Land-Based Renewable Energy Generation Facilities

- The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States, including the loss of no more than 300 linear feet of stream bed. This permit does not authorize discharges into non-tidal wetlands adjacent to tidal waters.



2012 New Nationwide Permit

NWP 52, Water-Based Renewable Energy Generation Pilot Projects

- Structures and work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States for the construction, expansion, modification, or removal of water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features
- Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, roads, parking lots, and stormwater management facilities
- For the purposes of this NWP, the term “pilot project” means an experimental project where the renewable energy generation units will be monitored to collect information on their performance and environmental effects at the project site



2012 New Nationwide Permit

NWP 52, Water-Based Renewable Energy Generation Pilot Projects

- The discharge must not cause the loss of greater than 1/2-acre of waters of the United States, including the loss of no more than 300 linear feet of stream bed
- For each single and complete project, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized
- Structures may not be placed in established danger zones or restricted areas, Federal navigation channels, or EPA or Corps designated open water dredged material disposal areas
- Upon completion of the pilot project, the generation units, transmission lines, and other structures or fills associated with the pilot project must be removed



Taking Discretionary Authority

If the District Engineer determines the adverse effects of the proposal are more than minimal:

- The project will be processed as an individual permit or
- Can only be processed as a NWP if:
- The project is modified or
- Mitigation is proposed to reduce the adverse effects to the minimal level



Questions?

- Click to edit Master text styles
 - Second level
 - Third level
 - Fourth level
 - ▷ Fifth level

