



INITIAL PUBLIC NOTICE

**US Army Corps
of Engineers®**

Albuquerque, Sacramento and Omaha Districts

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On June 1, 2016, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 50 existing nationwide permits (NWP) and issue two new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWP require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWP cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWP: The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2015-0017 at www.regulations.gov, or by email to NWP2017@usace.army.mil or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the June 1, 2016 Federal Register notice. Comments on the proposed NWP are due by August 1, 2016.

Regional Issues Concerning the Proposed NWP, Including Regional Conditioning: Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to ensure that the adverse environmental effects of activities authorized by the NWP are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWP may be more than minimal. An enclosure for this public notice (Enclosure 2) lists the proposed regional conditions currently under consideration by the South Pacific Division for the State of Colorado. The Albuquerque, Sacramento, and Omaha Districts are seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWP are no more than minimal, individually and cumulatively. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the State of Colorado. Comments on regional

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issues relating to the proposed NWP's and proposed regional conditions should be sent to U.S. Army Corps of Engineers, Albuquerque District, Regulatory Division, Southern Colorado Office, 200 South Santa Fe Avenue, Suite 301, Pueblo, CO 81003 or van.a.truan@usace.army.mil. Please contact the Albuquerque District, Southern Colorado Office at 719-543-6915 for questions regarding the regional conditions in the State of Colorado. Comments relating to regional conditions are due by August 1, 2016. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

After the final NWP's are issued, the final regional conditions will be issued after they are approved by the Division Commander. After the final NWP are issued, States and Tribes will make their Clean Water Act Section 401 (401) water quality certification and States will make their Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWP's. The final NWP's will go into effect on March 19, 2017.

Draft decision documents for each of the proposed NWP's, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP's with the requirements for issuance under the Corps general permit authority. These documents, as well as the proposed NWP's, are available for viewing at www.regulations.gov, docket number COE-2015-0017. Final decision documents will be prepared for the NWP's that are issued. In addition, the final national NWP decision documents will be supplemented by division engineers to address their decisions concerning regional conditions for the NWP's.

Enclosed is an index of the proposed NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through the Corps Home Page at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>, at www.regulations.gov in docket number COE-2015-0017, or at the Federal Register, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954 or call 202-512-1800.

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Enclosure 1

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Enclosure 2
Colorado Regional Conditions

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2017 Regional Conditions to Nationwide Permits in the State of Colorado

U.S. Army Corps of Engineers
Albuquerque District
Omaha District
Sacramento District

Regional Conditions Applicable to Specific Nationwide Permits within the State of Colorado

1. Nationwide Permit No. 12: Utility Line Activities. Notification to the District Engineer (DE) in accordance with General Condition (GC) No. 32, pre- construction notification (PCN) is required for utility line activities that propose open trenching in perennial waters or for the purpose of creating a water intake.
2. Nationwide Permit No. 13: Bank Stabilization. PCN is required for bank stabilization activities that are necessary for erosion prevention in streams with an average width of less than 20 feet (measured between the ordinary high water marks (OHWM)). Bank stabilization activities in these small streams are limited to the placement of no more than $\frac{1}{4}$ cubic yard of fill material per linear foot below the plane of the OHWM unless the Corps determines on a case-by-case basis that the use of larger or greater quantities of material is appropriate.
3. Nationwide Permit No. 23: Approved Categorical Exclusions. PCN is required for all projects utilizing Categorical Exclusions.
4. Nationwide Permit No. 27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities. This permit is revoked for activities in which the project purpose is fishery enhancement in perennial streams. These types of projects must be authorized by the Regional General Permit No. 12 for Aquatic Habitat Improvement for Stream Channels in Colorado.
 - a. Channel realignment is not authorized by this permit unless it is demonstrated that the realignment is consistent with the natural morphological evolution of the stream.
 - b. Structures authorized by this permit must allow for the upstream and downstream passage of aquatic organisms, including fish native to the reach, unless waived in writing by the DE.
 - c. Structures authorized by this permit must not impede waterborne navigation, including recreational watercrafts, unless waived in writing by the DE.
 - d. The use of concrete/grouting is not allowed in perennial streams unless waived in writing by the DE.
 - e. The construction of water parks (e.g. kayak courses) and flood control projects are not authorized by this permit.

Regional Conditions Applicable to All Nationwide Permits within the State of Colorado

5. Important Spawning Areas. GC No. 3 (Spawning Areas) is amended by adding the following: Activities are not authorized by any nationwide permit except after case-by-case review and consultation with Colorado Parks and Wildlife (CPW) if the activities would adversely modify important spawning areas or would be conducted in these waters during trout and Kokanee spawning seasons. Bio-engineering techniques, such as native riparian shrub plantings, are required for all bank protection activities that exceed 50 linear feet in important spawning areas. For activities located in these important spawning areas, PCN is required and consultation with CPW must be conducted in accordance with the timeframes established in GC 32 (Pre-Construction Notification). Important spawning areas are considered Gold Medal Waters in Colorado (Attachment 2).

NOTE: Pre-application consultation with the CPW, preferably on-site, is highly recommended. Providing documentation of pre-application consultation with CPW, stating that CPW has reviewed the proposed project and has no concerns, may result in quicker processing times. Please visit the following state website to determine the appropriate office for coordination: <http://cpw.state.co.us>.

6. Fens. All nationwide permits, with the exception of 3, 5, 6, 20, 27, 32, 37, and 38, are revoked for activities located in fens and wetlands adjacent to fens. PCN is required for activities proposed for authorization by Nationwide Permits. The PCN will demonstrate that the project will not adversely affect fen hydrology. The permittee may not begin the activity until the Corps determines the adverse environmental effects are minimal.

A fen is defined as a groundwater-fed wetland with saturated fabric organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United State (Version 7.0, 2010). A copy of the document can be obtained from the NRCS at http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_053171.pdf.

Note: A fen may be part of a larger aquatic system (fen complex) where wetlands and other waters adjacent to the fen may provide a critical source of hydrology necessary for sustaining the fen.

7. Springs. PCN is required for all Nationwide Permits if the activities occur within 100 feet of the discharge point of a spring. The Corps will determine if the proposed project will have more than a minimal effect to the site specific spring and may require an Individual Permit or project modification to reduce/eliminate the spring impacts. For the purposes of this regional condition, springs do not include seeps or other discharges that do not have a defined channel.

8. Suitable Fill. A PCN is required for the use of broken concrete as fill material within the State of Colorado. Permittees must demonstrate that soft engineering methods utilizing native or non-man made materials are not practicable (with respect to cost, existing technology, and logistics), before broken concrete is allowed as suitable fill. Use of broken concrete with exposed rebar is prohibited.

ADDITIONAL INFORMATION

The following additional information relates to minimization of impacts to jurisdictional waters of the United States and compliance with the General Conditions:

1. **Permittees are reminded** that appropriate erosion and sediment controls are required in accordance with GC No. 12 in order to properly stabilize the site and prevent erosion and siltation into wetlands and other waters downstream. Streambed material or other small aggregate material placed alone for bank stabilization will not meet GC No. 12.

2. **Permittees are reminded** that all compensatory mitigation is required prior to or concurrent with project construction to ensure compliance with the Final Compensatory Mitigation Rule. A complete copy of the Final Compensatory Mitigation Rule may be obtained at the following website:

http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx

3. **Permittee best management practices** for invasive aquatic species can be found at http://cpw.state.co.us/thingstodo/Pages/BoatInspection.aspx?utm_source=CPW-Web&utm_medium=Feature-2&utm_campaign=Boat-Inspections or call CPW for further information

4. **Designated Critical Resource Waters.** Within the State of Colorado, the waters listed in **Attachment 1** are designated as Critical Resource Waters. In accordance with GC 22, the discharge of dredged or fill material is not authorized by the following nationwide permits in these waters or their adjacent wetlands: NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, A and B. In addition, in accordance with GC 32, notification to the DE is required for the use of the following nationwide permits in these waters and their adjacent wetlands: NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37 and 38.

5. **Gold Medal Waters.** Within the State of Colorado, the waters listed in **Attachment 2** are designated as Gold Medal Waters. Requirements for projects located in these waters and their adjacent wetlands are set forth in RC 5 above.

4 2012 Nationwide Permit Regional Conditions in Colorado (Updated on September 5, 2014)

ATTACHMENT 1:

DESIGNATED CRITICAL RESOURCE WATERS

The Colorado Water Quality Control Division designates Critical Resource Waters within the State of Colorado. Please note that the following list is subject to change. For the most current list, or for more information on specific designations within these watersheds and their tributaries, please refer to the Colorado Water Quality Control Commission's website: <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251595703337>.

Animas and Florida River Basins. All tributaries to the Animas River and Florida River, including all wetlands, which are within the Weminuche Wilderness Area.
Hermosa Creek, including all tributaries, from the source to immediately below the confluence with Long Hollow, except for the East Fork of Hermosa Creek.
All lakes and reservoirs tributary to the Animas River and Florida River which are within the Weminuche Wilderness Area. This segment includes Lillie Lake, Castilleja Lake, City Reservoir, Emerald Lake, Ruby Lake, Balsam Lake, Garfield Lake, Vestal Lake, Eldorado Lake, Highland Mary Lakes, Verde Lakes, Lost Lake, and Crater Lake.

Bear Creek Basin. The main stem of Bear Creek and all tributaries, lakes, and reservoirs, including wetlands, within the Mt. Evans Wilderness Area.

Big Thompson River Basin. The main stem of the Big Thompson River, including all tributaries, lakes, reservoirs, and wetlands, located within Rocky Mountain National Park (RMNP).

Blue River Basin. North Fork of the Swan River, including all tributaries and wetlands, from the source to the confluence with the Swan River.
All tributaries to the Blue River, including wetlands within the Eagle Nest and Ptarmigan Peak Wilderness Areas.
All lakes and reservoirs within the Eagle Nest and Ptarmigan Peak Wilderness Areas.

Boulder Creek Basin. All tributaries to Boulder Creek, including lakes, reservoirs, and wetlands, located within the Indian Peaks Wilderness Area.

Cache la Poudre River Basin. All tributaries to the Cache La Poudre River, including lakes, reservoirs, and wetlands, located within RMNP and Rawah, Neota, Comanche Peak, and Cache La Poudre Wilderness Areas.

Clear Creek Basin. All tributaries to Clear Creek, including lakes, reservoirs, and wetlands, located within Mt. Evans Wilderness Area.

San Luis Valley (Closed Basin). All tributaries in the Closed Basin, including wetlands, lakes, and reservoirs, located within the La Garita Wilderness Area.
The main stem of Sand Creek, including all tributaries and wetlands, from the source to the mouth.
The main stem of Medano Creek, including all tributaries and wetlands, from the source to the mouth

Colorado River Basin. The main stem of the Colorado River, including all tributaries and wetlands, located within or flowing into RMNP.
All tributaries to the Colorado River and Frasier River within RMNP and within the Never Summer, Indian Peaks, Byers, Vasquez, Eagles Nest, and Flat Top Wilderness Areas.
Main stem of Northwater Creek and Trapper Creek, including all tributaries and wetlands, from their source to the confluence with the East Fork of Parachute Creek. East Middle Fork of Parachute Creek, including all tributaries and wetlands from the source to the confluence with Middle Fork of Parachute Creek.

Battlement Creek, including all tributaries and wetlands, from its source to a point immediately downstream boundary of BLM lands.

Main stem of Rapid Creek, including all tributaries and wetlands, from the source to a point immediately below the confluence with Cottonwood Creek including Kruzen Springs.

Dolores River Basin. All tributaries to the Dolores River and West Dolores River, including all wetlands, tributaries, which are within the Lizard Head Wilderness area.⁵ 2012 Nationwide Permit Regional Conditions in Colorado (Updated on September 5, 2014) Main stem of Rio Lado from the source to the confluence with the Dolores River. Main stem of Spring Creek from the source to the confluence with Stoner Creek. Main stem of Little Taylor Creek from the source to the confluence with Taylor Creek.

All lakes, and reservoirs tributary to the Dolores River and West Dolores River, which are within the Lizard Head Wilderness area. This segment includes Navajo Lake.

Eagle River Basin. All tributaries to the Eagle River system, including lakes, reservoirs, and wetlands, located within the Eagle Nest and Holy Cross Wilderness Areas of the Gore Range.

Abrams Creek, including all tributaries and wetlands, from the source to the eastern boundary of the BLM lands.

Fountain Creek Basin. Severy Creek, including all tributaries, from the source to a point just upstream of where the Forest Service Road 330 crosses the stream.

Bear Creek, including all tributaries, from the source to a point upstream of GPS coordinated N3847682, W10454917 (this location is at elevation 8,200 feet above sea level at a 250 degree angle and 3,000 feet from the trailhead of the Mount Buckhorn Trail off High Drive).

Upper Gunnison River Basin. All tributaries to the Gunnison River, including and wetlands, within the La Garita, Powderhorn, West Elk, Collegiate Peaks, Maroon Bells, Fossil Ridge, or Uncompahgre Wilderness Areas.

All tributaries and wetlands from North Beaver Creek to Meyers Gulch, from the West Elk Wilderness boundary to their confluences with Blue Mesa Reservoir, Morrow Point Reservoir, or the Gunnison River, excluding Steuben Creek, North Willow Creek, and Soap Creek.

All lakes and reservoirs that are tributary to the Gunnison River and within the La Garita, Powderhorn, West Elk, Collegiate Peaks, Maroon Bells, Raggeds, Fossil Ridge, or Uncompahgre Wilderness Areas.

Lower Gunnison River Basin. All tributaries to the Smith Fork, including all wetlands, which are within the West Elk Wilderness Area.

All lakes and reservoirs tributary to the Smith Fork, and are within the West Elk Wilderness Area.

North Fork of the Gunnison River Basin. All tributaries to North Fork of the Gunnison River, including all wetlands, within the West Elk or Raggeds Wilderness Areas.

All lakes and reservoirs that are tributary to the North Fork of the Gunnison River and within the West Elk or Raggeds Wilderness areas.

Laramie River Basin. All tributaries to the Laramie River system, including lakes, reservoirs, and wetlands, located within the Rawah Wilderness Area.

Los Pinos River Basin. All tributaries to the Los Pinos River, including all wetlands, which are within the Weminuche Wilderness Area.

All lakes and reservoirs tributary to the Los Pinos River which are within the Weminuche Wilderness Area. This includes Granite Lake, Divide Lakes, Elk Lake, Flint Lakes, Moon Lake, Rock Lake, Betty Lake, Lost Lake, Hidden Lake, Vallecito Lake, Eldorado Lake, Trinity Lake, Leviathan Lake, Sunlight Lake, Hazel Lake, Columbine Lake, and Emerald Lake.

Mancos River Basin. All tributaries of the Mancos River located within Mesa Verde National Park.

North Fork of the Gunnison River Basin. All tributaries to North Fork of the Gunnison River, including lakes, reservoirs, and wetlands, located within the West Elk and Raggeds Wilderness Areas.

North Platte River Basin. All tributaries to the North Platte River and Encampment Rivers, including lakes and reservoirs.
All wetlands located within the Mount Zirkle, Never Summer, and Platte River Wilderness Areas.

Piedra River Basin. All tributaries to the Piedra River, including all wetlands, which are within the Weminuche Wilderness Area.
All lakes and reservoirs tributary to the Piedra River which are within the Weminuche Wilderness Area. This segment includes Window Lake, Monument Lake, Hossick Lake, and Williams Lakes.⁶ 2012 Nationwide Permit Regional Conditions in Colorado (Updated on September 5, 2014) **Rio Grande Basin.** All tributaries to the Rio Grande, including lakes, reservoirs, and wetlands, located within the Weminuche Wilderness Area.

Roaring Fork River. All tributaries of the Roaring Fork River system, including lakes and reservoirs, located within the Maroon Bells/Snowmass, Holy Cross, Raggeds, Collegiate Peaks, and Hunter/Fryingpan Wilderness Areas.

San Juan River Basin. All tributaries to the San Juan River, Rio Blanco, and Navajo River including all wetlands which are within the Weminuche Wilderness area and South San Juan Wilderness Area.
All lakes and reservoirs which are tributary to the San Juan River, Rio Blanco, and Navajo River and located within the Weminuche Wilderness Area and South San Juan Wilderness Area.
This segment includes Archuleta Lake, Spruce Lakes, Turkey Creek Lake, Fourmile Lake, Upper Fourmile Lake, Crater Lake, Quartz Lake, Fish Lake, and Opal Lake.

San Miguel River Basin. All tributaries, including wetlands, to the San Miguel River, and within the boundaries of the Lizard Head, or Mount Sneffels Wilderness Areas.
All lakes and reservoirs tributary to the San Miguel River and within the boundaries of the Lizard Head, or Mount Sneffels Wilderness Areas.

South Platter River Basin. All tributaries to the South Platte River, including lakes, reservoirs, and wetlands, located within the Lost Creek and Mt. Evans Wilderness Areas.

St. Vrain Creek Basin. All tributaries to St. Vrain Creek, including lakes, reservoirs, and wetlands, located within the Indian Peaks Wilderness Areas and RMNP.

Uncompahgre River Basin. All tributaries to the Uncompahgre River, including all wetlands, which are within the Mt. Sneffels or Uncompahgre Wilderness Areas.
All lakes and reservoirs tributary to the Uncompahgre River and within the Mt. Sneffels or Uncompahgre Wilderness Areas.

White River Basin. All tributaries to the White River, including lakes, reservoirs, and wetlands, located within the Flat Tops Wilderness Area, including Trapper's Lake.

Yampa River Basin. All tributaries to the Yampa River, including lakes, reservoirs, and wetlands, located within Zirkle, Flat Tops, and Sarvis Creek Wilderness Areas.⁷ 2012 Nationwide Permit Regional Conditions in Colorado

ATTCHMENT 2:

GOLD MEDAL WATERS

The following list of important spawning areas has been defined as Gold Medal Waters by the State of Colorado. As a reminder, according to RC 5 above, PCN is required for all proposed nationwide permit activities in these waters; consultation with CPW must be conducted in accordance with the timeframes established in GC 32.

NOTE: This list of Gold Medal Waters is subject to change. For the most current list, please refer to the Colorado Parks and Wildlife (CPW) Colorado Fishing Brochure available on the CPW website (<http://cpw.state.co.us/aboutus/Pages/RegulationsBrochures.aspx>) Fishing Brochure or contact any CPW or Corps office in Colorado.

GOLD MEDAL LAKES:

North Delaney Butte Lake in Jackson County.

Spinney Mountain Reservoir in Park County.

Steamboat Lake in Routt County.

GOLD MEDAL STREAMS:

Animas River from Lightner Creek to Rivera Crossing Bridge.

Arkansas River from the confluence with the Lake Fork of the Arkansas, near Leadville, downstream to Parkdale at the Hwy. 50 bridge crossing above the Royal Gorge.

Blue River from Dillon Reservoir Dam to Green Mountain Reservoir inlet; and From Green Mountain Reservoir dam to Colorado River confluence.

Colorado River from Fraser River to Troublesome Creek confluence. Also, the 24 mile reach from the confluence with Canyon Creek, at the mouth of Gore Canyon, downstream to the confluence of Rock Creek, near the town of McCoy.

Fryingpan River from Ruedi Reservoir dam to Roaring Fork River Confluence.

Gore Creek from Red Sandstone Creek to Eagle River confluence.

Gunnison River from the upper boundary of the Black Canyon of the Gunnison National Monument downstream to the confluence with the North Fork of the Gunnison River.

North Platte River from the Routt National Forest boundary to the Wyoming border.

Rio Grande from Farmer's Union Canal upstream to the upper boundary of Collier State Wildlife Area.

Roaring Fork River from the confluence with the Crystal River downstream to the confluence with the Colorado River.

South Platte River: The **Middle Fork** of the South Platte River downstream from U.S. Highway 285, the **South Fork** of the South Platte River downstream from the outlet at Antero Reservoir, and from the

confluence of the **Middle and South Forks** of the South Platte River downstream to the inlet of Spinney Mountain Reservoir.