



**US Army Corps
of Engineers**
Philadelphia District
1650 Arch Street
Philadelphia, PA 19103-2004
Attn: CENAP-OPR

Special Public Notice

Comment Period Begins: June 11, 2024
Comment Period Ends: July 11, 2024
File Number: NAP-2024-00027-85
File Name: Delaware State Programmatic General Permit 20
Contact: Michael D. Yost
Email: michael.d.yost@usace.army.mil

Reference is made to Department of the Army Delaware State Programmatic General Permit-20 (SPGP-20), initially issued on March 23, 1984, authorizing certain existing and proposed piers, docks, mooring piles, boat lifts, breakwaters, and the replacement of existing serviceable bulkhead structures in navigable waters of the United States within the geographic boundaries of the Philadelphia District Corps of Engineers in the State of Delaware.

Notice is hereby given that the United States Army Corps of Engineers, Philadelphia District, proposes to reissue the above referenced Department of the Army General Permit. This General Permit, was previously reissued on January 2, 1990, reissued on January 2, 1995, reissued on January 2, 2000, reissued on January 25, 2004, reissued on December 31, 2009, modified on September 2, 2010, reissued December 31, 2014 and reissued on January 7, 2020. The current SPGP-20 expires on December 31, 2024.

General permits are developed for certain clearly described categories of structures or work that require Department of the Army permits. Such activities are considered for authorization by general permits because they are substantially similar in nature, they cause no significant adverse cumulative effects, and they are non-controversial activities.

This General Permit has been developed for certain clearly described categories of minor projects involving structures that require Department of the Army and State of Delaware authorizations. Typical activities authorized by this general permit include existing and proposed piers, docks, mooring piles, boat lifts, structural breakwaters and the replacement of existing serviceable bulkhead structures in navigable waters of the United States in the State of Delaware. The reissuance and extension of this General Permit is being coordinated with other interested Federal agencies, the State of Delaware, and the general public.

The proposed reissuance of SPGP-20 includes additional special conditions 17 through 20 and minor clarifications throughout the document. A sample of the proposed SPGP-20 Project Description and Special Conditions is attached.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed reissuance and extension of this General Permit. Any comments received will be considered by the Corps of Engineers

to determine whether or not to modify this general permit. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The decision whether to reissue this general permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property rights and, in general, the needs and welfare of the people. The Department of the Army General Permit will be reissued unless the District Engineer determines that it would be contrary to the public interest.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this General Permit reissuance.

No activity would be authorized by General Permit SPGP-20 which is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), or to destroy or adversely modify the critical habitat of such species. Consultation with NOAA, National Marine Fisheries has been completed for the previous 2014 SPGP-20 reissuance. On December 3, 2014, this office received concurrence that the activities authorized by the General Permit were not likely to adversely affect listed species under their jurisdiction. This office has determined that no new stressors that were not considered during the previous consultation are anticipated. In accordance with 50 CFR §402.16, re-initiation of consultation is not necessary. Furthermore, this office has determined that the reissuance of this general permit would have no effect on listed species under the jurisdiction of the US Fish and Wildlife Service. Therefore, consultation per the Endangered Species Act has been satisfied.

No activity would be authorized by General Permit SPGP-20 which may affect properties listed or properties eligible for listing in the National Register of Historic Places without complying with Section 106 of the National Historic Preservation Act. Special Conditions 13 and 14 address Section 106 of the National Historic Preservation Act (NHPA), and although the majority of the proposed permit actions are of limited nature and scope, it is the responsibility of the permittee to notify the USACE if the proposed action may impact a historic property eligible for or listed on the National Register of Historic Places (NRHP).

This General Permit will expire on December 31, 2029. At that time, this General Permit may be reissued/extended. In the event that this General Permit is reissued, any activity which has been authorized under the terms and conditions of this General Permit will remain authorized until such time that the required State permit/authorization issued with the General Permit expires, provided the authorized activity complies with any subsequent re-authorization or modification of this General Permit.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, any work proposed under this general permit must be consistent with the State's Coastal Zone Management Plan. No permit will be issued until the State has determined that the work is consistent with the Coastal Zone Management Plan or has waived its right to do so. Comments concerning the impact of the proposed reissuance of General Permit SPGP-20 on the State's coastal zone should be sent to this office, with a copy to the Delaware Department of Natural Resources and Environmental Control, Delaware Coastal Programs at 100 W. Water Street, Suite 7B, Dover, Delaware 19904.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate will be necessary for those activities involving a discharge of dredged or fill material into waters of the United States. The State of Delaware upon receipt of a permit application under this General Permit will determine the need for a Section 401 Water Quality Certificate. A separate permit application will not be required for this certification procedure. Any comments concerning this General Permit which relate to Water Quality considerations should be sent to this office, with a copy to the Delaware Department of Natural Resources and Environmental Control, Wetlands & Subaqueous Lands Section, 89 Kings Highway, Dover, Delaware 19901.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Comments on the work described above, should be submitted, in writing, within 30 days by mail to the above address. Should you have any questions regarding this notice, you may call Regulatory Project Manager, Mr. Michael D. Yost of this office at (267) 240-5278.

The processing of this Department of the Army General Permit reissuance and extension is under the statutory authority of Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act.

FOR THE DISTRICT ENGINEER:

Todd A. Schaible
Chief, Regulatory Branch