



Public Notice

U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-R

Applicant: U.S. Army Corps
of Engineers; Buffalo District

Published: June 2, 2021
Expires: July 1, 2021

Regional Permits: 81-000-1, 86-000-1 and 87-000-1
Section: NY

All written comments should reference the above Application No. and be addressed to:
US Army Corps of Engineers, Buffalo District
Regulatory Branch
Attn: Margaret Crawford
7413 County House Road
Auburn, New York 13021

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

Application for Permit under Authority of
Section 10 of the Rivers and Harbors Act of 1899 and
Section 404 of the Clean Water Act (33 U.S.C. 1344).

The District Commander, U.S. Army Corps of Engineers District, Buffalo, New York, is considering, on behalf of the general public, minor modification and reissuance of Regional Permits 81-000-1 for minor recreational dredging activities, 86-000-1 for the construction of stone filled timber crib docks and 87-000-1 for the construction of open pile docks in waters of the United States within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo. This renewal action is being taken in accordance with Title 33 of the Code of Federal Regulations Parts 320 thru 330 as published in the November 13, 1986 Federal Register, Volume 51, No. 219.

Within the past five years, 62 projects have been approved by Regional Permit 81-000-1, 20 projects by Regional Permit 86-000-1 and 355 projects by Regional Permit 87-000-1.

The Corps is proposing a number of minor changes to the Regional Permits, some of which were made in attempt to make the document and procedures clearer to the general public. These minor changes have not been called out in this Public Notice, but the complete details of the proposed Regional Permits are described in the attached text.

Proposed changes to Regional Permit No. 81-000-1 include the following:

- 1) The USACE is considering adding authorization for 'return water' from a contained disposal area to the Regional Permit. This regulated discharge is generally authorized by Nationwide Permit No. 16.
- 2) Special Condition 11 was modified to require Pre-construction notification and written affirmation from this office of the applicability of this permit is required for any project that may adversely impact a barrier beach.
- 3) The USACE is considering the removal of Special Condition No. 12, which requires a Pre-construction notification, and states that this permit does not authorize work in areas designated as erosion hazard areas, unless a permit is obtained under the New York Coastal Erosion Hazard Area Act (Article 34 of the Environmental Conservation Law). Permits are administered by the New York State Department of Environmental Conservation (NYSDEC), municipality, or county.

Proposed changes to Regional Permit No. 86-000-1 include the following:

- 1) Special Condition 17 was modified to require Pre-construction notification and written affirmation from this office of the applicability of this permit is required for any project that may adversely impact a barrier beach.
- 2) The USACE is considering the removal of Special Condition No. 18, which requires a Pre-construction notification, and states that this permit does not authorize work in areas designated as erosion hazard areas, unless a permit is obtained under the New York Coastal Erosion Hazard Area Act (Article 34 of the Environmental Conservation Law). Permits are administered by the New York State Department of Environmental Conservation (NYSDEC), municipality, or county.

Proposed changes to Regional Permit No. 87-000-1 include the following:

- 1) The USACE is considering adding kayak/canoe launches to the list of authorized activities under this Regional Permit. The USACE has received numerous applications for these structures, and has permitted them under Letters of Permission. The USACE has not found situations where these structures are expected to result in more than minimal impacts. We are considering appropriate size limitations to include in the Regional Permit and welcome any recommendations.
- 2) Added clarification to Special Condition No. 7 that any step downs from a dock or deck are counted in the size of the dock or deck.
- 3) The USACE is considering the removal of Special Condition No. 19, which requires a pre-construction notification, and states that a permit does not authorize work in areas designated as erosion hazard areas, unless a permit is obtained under the New York Coastal Erosion Hazard Area Act (Article 34 of the Environmental Conservation Law). Permits are administered by the New York State Department of Environmental Conservation (NYSDEC), municipality, or county.

Complete details of the above-proposed Regional Permits can be found on our website at:

<http://www.lrb.usace.army.mil/Missions/Regulatory/ActionsandNotices/PublicNotices.aspx>.

Hard copies of the above-proposed Regional Permits are available upon request.

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Margaret Crawford who can be contacted at the above address, by calling (315) 835-0058 , or by e-mail at: Margaret.A.Crawford@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The Corps of Engineers has certified that the proposed activity complies with New York's approved Coastal Zone Management Program and that activities authorized by the Regional Permits will be conducted in a manner consistent with that program. The Corps has submitted its consistency determination to the NYSDOS.

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation for Regional Permits 81-000-1 and 86-000-1.

Due to the scope of the Regional Permit, a determination of effect to registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places has not been made. An effects determination for historic properties will be made on a project by project basis during the review process. Reference is made to Special Condition No. 17 and Exclusion No. 3 for Regional Permit No. 81-000-1, to Special Condition No. 23 and Exclusion No. 1 of the attached Regional Permit No. 86-000-1 and to Special Condition No. 22 and Exclusion No. 2 of the attached Regional Permit No. 87-000-1.

In addition, due to the scope of the Regional Permit, a determination of effect upon species proposed or designated by the U.S. Department of the Interior as threatened or endangered has not been made. An effects determination for endangered species will be made on a project by project basis during the review process. Reference is made to Special Condition No. 16 and Exclusion No. 8 of the attached Regional Permit No. 81-000-1, to Special Condition No. 22 and Exclusion No. 3 of the attached Regional Permit No. 86-000-1 and to Special Condition No. 21 and Exclusion No. 4 of the attached Regional Permit No. 87-000-1.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments,

that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That 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 proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

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 this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the 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.

SIGNED

Steven V. Metivier
Acting Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for **30** days from the date of issuance.