

Nationwide Permit Renewal

Briefing for the Office of Management and Budget, 12/15/16

American Petroleum Institute

The currently applicable Nationwide Permits (NWP) effectively address environmental impacts, and provide for rigorous National Environmental Protection Act (NEPA) review.

Further Revisions are Unnecessary

TOP LINE INDUSTRY MESSAGES

- The revisions should not attempt to incorporate any new Waters of the United States (WOTUS) definitions currently subject to the nationwide stay.
- The Corps should maintain current applicability as well as current waiver descriptions, acreage limits, and Preconstruction Notice (PCN) thresholds.
- The NWP process should not become more burdensome, and any changes should be in keeping with the Congressional intent to streamline permitting.
- Activities which have commenced or are under contract to commence in reliance upon the 2012 NWP should remain authorized.
- Final NWPs issued with fundamental substantive changes in applicability must satisfy the notice and comment requirements of the Administrative Procedure Act (APA).
- It is important for the NWPs to be issued by March 19, 2017 for maintaining continuity, providing certainty, and avoiding unnecessary disruptions for the regulated community. It is also important for avoiding unnecessary costs for consumers and additional burdens for the Corps.

CURRENT NWPs ARE EFFECTIVE CHANGES ARE UNWARRANTED

- The NWP process is thorough and protective for oil and natural gas activities and the environment, and the Corps should maintain the current framework.
 - The required NEPA cumulative effects and 404(b)(1) Guidelines cumulative effects analyses are conducted by Corps Headquarters in its decision documents for the issuance of the NWPs.
 - A nationwide permit is available only when individual and cumulative adverse environmental impacts are no more than “minimal” as required by Clean Water Act 33 USC §1344(e), impacting no more than ½ an acre.
 - The process includes multiple levels of environmental analysis and opportunities for public comment, all subject to scrutiny by the Corps of Engineers (Corps) through the stages of environmental analysis, Division Engineer review, and project-specific review by District Engineers.
 - Revisions to the NWPs to incorporate any of the new Waters of the U.S. definitions are inappropriate given pending litigation and the accompanying nationwide stay.



NWPs support the safe, efficient and affordable movement of energy to U.S. consumers

- **Upstream**

- Upstream development projects (well sites) rely on nationwide permits because they are time-sensitive. The current lease for oil and natural gas development is about 3 years, and it can be challenging even at the present to finalize permitting within that timeframe.

- **Downstream**

- From a downstream perspective, expansion and upgrading of facilities to meet future needs will be costly and already subject to lengthy permitting requirements.
- Examples include:
 - Dredging activities at marine ports
 - Repairs to wastewater systems injecting into waterways
 - Various expansion operations including lay down yards, access roads and new construction

- **Midstream**

- Midstream assets (e.g., pipelines) are carefully designed, inspected and maintained for minimal impacts to waters of the U.S.
- The loss of Nationwide Permits would impact execution schedules potentially compromising emergency response, the operation of existing and delaying the installation of new energy infrastructure.
- Such impairments would ultimately impact hydrocarbon supply to the consumer. Additionally, NWPs (in particular both NWP 12 and NWP 3) are critical to meeting Pipeline Hazardous Material Safety Administration (PHMSA) compliance requirements for maintaining system integrity such as:
 - Hazardous liquid integrity management required digs (195.452) repair criteria and safety requirements
 - Advisory bulletin on river crossing monitoring and mitigation measures

Impacts to Consumers if the NWP Process is altered

- Potential delays in delivering US energy.
- More expensive and time consuming permitting.
- Significant changes will impact every segment of the oil and gas industry and discourage development of new exploration and production sites, as well as necessary energy infrastructure.
- The same permitting difficulties experienced by the oil and natural gas projects could also apply to other energy or development projects in remote areas including renewable projects with larger footprints.

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Questions?

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