

RIN Data

DOD/COE

RIN: 0710-AA84

Publication ID: Fall 2019

Title: Reissuance and Modification of Nationwide Permits

Abstract:

The Corps issues nationwide permits to authorize specific categories of activities in jurisdictional waters and wetlands that have no more than minimal individual and cumulative adverse environmental effects. Since the submission and review of such nationwide permits can take significantly less time than individual permits, any changes to the program that increase the conditions under which the nationwide permits can be used could result in significant cost savings for the public. The issuance and reissuance of nationwide permits must be done every five years to continue the Nationwide Permit Program. The nationwide permits were last issued on December 21, 2016, and expire on March 18, 2022. On October 25, 2017, the Corps issued a report to meet the requirements of Executive Order 13783, Promoting Energy Independence and Economic Growth. In that report, the Corps recommended changes to nine nationwide permits that authorize activities related to domestic energy production and use, including oil, natural gas, coal, and nuclear energy sources, as well as renewable energy sources such as flowing water, wind, and solar energy. This rulemaking action would seek to review and, if appropriate, modify those nine nationwide permits in accordance with the opportunities identified in the report in order to reduce burden on the public. In addition, the Corps is considering modifying several other nationwide permits to provide consistency with the proposed modifications of the nine nationwide permits identified under Executive Order 13783. The Corps is also considering reissuing the remaining nationwide permits to keep all 52 nationwide permits on the same five-year cycle.

Agency: Department of Defense(DOD)

Priority: Other Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Proposed Rule Stage

Major: No

Unfunded Mandates: No

EO 13771 Designation: Deregulatory

CFR Citation: None (To search for a specific CFR, visit the [Code of Federal Regulations.](#))Legal Authority: [33 U.S.C. 1344\(e\)](#) [33 U.S.C. 403](#)

Legal Deadline: None

Statement of Need:

This proposed rule would propose executing the recommendations the Corps made in the report dated October 25, 2017, pursuant to Executive Order 13783, Promoting Energy Independence and Economic Growth. Under that Executive order, the Corps may propose to modify nine nationwide permits that authorize activities associated with energy production and distribution. In addition, the Corps may propose to modify other nationwide permits so that federal agencies that want to use these nationwide permits do not have to submit pre-construction notifications. The Corps may also propose to reissue the remaining nationwide permits to keep all of the nationwide permits on the same five-year cycle.

Summary of the Legal Basis:

The Corps has authority to issue nationwide permits under the following statutes: section 404 of the Clean Water Act (33 U.S.C. 1344) and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Alternatives:

Potential alternatives consist of: (1) conduct a rulemaking to make the proposed modifications or other modifications to nationwide permits prior to the expiration of the current nationwide permits, (2) conduct a rulemaking to modify a smaller number of the current nationwide permits prior to the expiration of the current nationwide permits, (3) conduct a rulemaking to reissue and modify all of the nationwide permits, and (4) take no action until the next scheduled rulemaking. The current nationwide permits went into effect on March 19, 2017, and expire on March 18, 2022. If the nationwide permits are not reissued before March 18, 2022, the nationwide permits will automatically expire and project proponents would be required to obtain individual permits to conduct regulated activities under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899, unless the applicable Corps district has regional general permits available to authorize similar categories of activities.

Anticipated Costs and Benefits:

Proposed changes to nationwide permits would be expected to reduce compliance costs for regulated entities by removing or changing certain terms of those nationwide permits to make them easier to use. According to the regulatory impact analysis prepared for the 2017 nationwide permits, a typical nationwide permit verification costs \$4,308 to \$14,358 to obtain, whereas a typical individual permit costs \$17,230 to \$34,460 to obtain. A more detailed cost/benefit analysis will be prepared when the proposed rule is developed.

Risks:

The nationwide permits reduce risks to public health, safety, and the environment by providing streamlined authorization for categories of activities that require Department of the Army authorization and result in no more than minimal individual and cumulative adverse environmental effects. The nationwide permits authorize the construction and maintenance of infrastructure that supports public health and safety. The streamlined authorization process provided by the nationwide permits reduces risks to the environment by giving incentives to project proponents to design their projects to reduce adverse environmental effects so that they are no more than minimal. Many of the nationwide permits have acreage and other terms that help regulated entities design their projects to qualify for nationwide permit authorization.

Timetable:

	Action	Date	FR Cite
NPRM		12/00/2019	
NPRM Comment Period End		02/00/2020	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: No

Included in the Regulatory Plan: Yes

RIN Data Printed in the FR: No

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