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U.S. Army Corps of Engineers announces replacement nationwide permits

Washington, DC (March 6) — The U.S. Army Corps of Engineers' announced important changes to the agency's current nationwide permit program today. "The changes will benefit the nation's aquatic environment by increasing protection to critical resource waters and within the 100-year floodplain while continuing to authorize projects with minimal adverse effects," said John Studt, Chief of the Corps' Regulatory Branch. "This program can run at substantially less than the additional cost of our July 1999 proposal while providing increased environmental protection."

Nationwide permits are general permits used nationally to authorize discharges of dredged or fill material that will have minimal adverse effects on the aquatic environment. The Corps is replacing Nationwide Permit (NWP) 26, which was used to permit certain discharges in the nation's headwaters and isolated waters, and was the general permit most frequently involving potential impacts on wetlands.

To replace NWP 26, which expires in June 2000, the Corps is issuing five new nationwide permits and modifying six others. The Corps is also modifying nine NWP general conditions and adding two new general conditions. The replacement nationwide permits continue to authorize many of the same activities previously permitted under NWP 26, but they are activity-specific, with terms and conditions to ensure minimal adverse effects on the aquatic environment.

The maximum acreage limit under the new and modified NWPs is one-half acre, reduced from the previous maximum of three acres. In addition, most require that the Corps be notified of activities impacting more than one-tenth of an acre, reduced from the previous requirement to notify the Corps of impacts to more than one-third of an acre.

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2-2-2 New nationwide permits announced

“These changes to the nationwide permit program reflect the Administration’s, including the Army’s, commitment to protecting the nation’s wetlands and reducing damages to communities from flooding,” said Michael Davis, Deputy Assistant Secretary of the Army for Civil Works.

Corps regulators issue two types of permits: individual permits, and general permits. Standard individual permits, requiring public notice, pertain to individual situations and apply on a case-by-case basis. In the past, the Corps has averaged about 5,000 standard individual permits a year. General permits pertain to a group of similar activities, such as boat docks or shore protection. Two types of general permits are:

- regional general permits; Corps districts permit about 40,000 activities a year under these, and
- nationwide permits, issued by Corps headquarters; Corps district offices authorize about 40,000 activities per year.

The Corps is required to reissue general permits every five years.

On July 21, 1999, the Corps published a notice of intent in the *Federal Register* to replace NWP 26 when it expired with a series of new and modified permits. Subsequently, the Fiscal Year 2000 Energy and Water Development Appropriations Act required the Corps to complete a study of the probable change in permitting workload and compliance costs under the July 21 replacement package. The study, undertaken by the Corps’ Institute for Water Resources, is under review by the Office of the Assistant Secretary of the Army for Civil Works and being sent for review to the Office of Management and Budget. The agency also received more than 1,700 written comments and carefully considered each one.

“In contrast to the July, 1999 proposal, today’s package is a win-win,” said Studt. “We have been able to find a better overall solution. The final new nationwide permits reduce the costs substantially compared to the July, 1999 package. That means fewer costs to both the regulated public and the taxpayer. Further, because of the half-acre approach, the new nationwide permits provide a substantial increase in protection for the aquatic environment.”

Corps of Engineers regulators work under three program goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To enhance the efficiency of the Corps administration of its regulatory program.
- To ensure that the Corps provides the regulated public with fair and reasonable decisions.

The Department of the Army Regulatory Program is an important part of the Corps of Engineers’ mission, which includes providing quality, responsive engineering service to the Army and the nation.