

Nationwide Permits/Clean Water Act: Field Notes (Wetland Studies and Solutions, Inc.) References Potential Early Reissuance



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The publication *Field Notes* stated in its November 21st edition that the United States Army Corps of Engineers (“Corps”) is:

... working on modifying several Nationwide Permits (NWP) ahead of their current expiration date of March 18, 2022 and probably will reissue all NWP to avoid reopening the NWP program again in 2022.

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An individual Clean Water Act permit authorizes specific activities on a case-by-case basis. In contrast, NWP is a general permit that provides standing permission for all activities that fit within the description of the permit. Such permits provide for preauthorized permission for activities that conform to the standards of the NWP. Certain NWP do require some type of authorization after notice to the Corps prior to starting work.

NWP are intended to provide expedited review of projects that have more limited impact on the aquatic environment. Examples include activities such as linear transportation projects, bank stabilization activities, navigation aids, and certain maintenance activities, etc.

The Corps is required to periodically renew expiring NWP. Renewal of NWP typically occurs every five years.

The November 21st edition of *Field Notes* states the current NWP are set to expire on March 18, 2022. Executive Order 13783 is stated to be driving the Corps’ consideration of reissuing certain NWP earlier than normal. The Corps Fall 2019 unified agenda is cited as providing this indication. The publication also notes that the Corps had “previously prepared a report identifying nine NWP relating to domestic energy production and use (oil, gas, coal, renewables, etc.) wherein changes are being proposed in accordance with EO 13783.”

The Corps is also stated to be considering modifying several other NWP to:

... provide consistency across the entire NWP program – including the potential of removing the 300 linear foot stream impact threshold and relying on the 1/2-acre limit to satisfy the no more than minimal adverse environmental effects requirement for NWP.

Field Notes provides three thoughts on what this potential development means:

1. NWPs expire early
2. Permitting strategy may change
3. Opportunity to re-open the State Program General Permit

A copy of the *Field Notes* publication can be downloaded [here](#).