

# Final U.S. Army Corps of Engineers Nationwide Permits Rule: White House Regulatory Freeze?



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The February 6th edition (Vol. 25/No. 2) of the publication Field Notes discusses the application of the January 20th White House Regulatory Freeze (“Freeze”) ([See previous blog post here](#)) to the United States Corps of Engineers January 6th final rule that revised and modified the Clean Water Act Nationwide Permits (“NWP”) ([Download link here](#))

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An individual Clean Water Act General Permit authorizes specific activities of a case-by-case basis. In contrast, an NWP is a general permit to provide 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 NWPs do require some type of authorization after notice to the Corps prior to starting work.

NWPs 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.

Groups such as the construction industry have argued that it is important for the Corps to maintain a streamlined permit program that avoids duplication with other federal and state regulatory agencies. The NWP is cited as providing the kind of flexibility required for construction jobsites that are temporary and often changing.

Field Notes states:

Unless the Office of Management and Budget (OMB) grants the U.S. Army Corps of Engineers (Corps) an exclusion from the recently published new Nationwide Permits (NWPs) (/vol25no1-revised-nwps-announced), they could be delayed – which will cause a gap in the availability of NWPs since the current program expires on March 18, 2017.

Corps staff are working on obtaining an exclusion for this program – and indicators are positive that this unintended consequence will be avoided.