



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Chapter II

Report on Potential Actions to Reduce Regulatory Burdens on Domestic Energy

Production

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps) has issued a report that examined actions it could take to modify existing regulations that potentially burden the development and use of domestically produced energy resources, such as oil, natural gas, coal, and nuclear energy, as well as renewable energy. The report was required by Executive Order 13783, Promoting Energy Independence and Economic Growth. The report identifies changes that could be made to several nationwide permits that authorize activities under section 10 of the Rivers and Harbors Act of 1899 and section 404 the Clean Water Act that are associated with domestic energy production and use.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO-R, 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson at 202-761-4922 or access the U.S. Army Corps of Engineers Regulatory Home Page at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> .

SUPPLEMENTARY INFORMATION:

Executive Order (E.O.) 13783, Promoting Energy Independence and Economic Growth, was published in the *Federal Register* on March 31, 2017 (82 FR 16093). That E.O. requires federal agencies to immediately review existing regulations that may burden the development or use of domestically produced energy resources. Section 2 of E.O. 13783 requires federal agencies to prepare and issue reports with specific recommendations to change their regulations that could reduce or eliminate burdens to domestic energy production.

On October 25, 2017, the Corps issued a report recommending changes to nine nationwide permits to reduce burdens on domestic energy producers. The report is available at: http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/NWP_13783_25sept2017_castle.pdf?ver=2017-10-25-092532-813

The Corps issues nationwide permits to authorize certain categories of activities that require Department of the Army permits under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899. Nationwide permits are general permits that authorize activities across the country that result in no more than minimal individual and cumulative adverse environmental effects. Nationwide permits can be issued for a period of 5 years, and the current nationwide permits were issued on December 21, 2016. Those nationwide permits were published in the *Federal Register* on January 6, 2017 (82 FR 1860) and went into effect on March 19, 2017. Those nationwide permits expire on March 18, 2022. There are 52 nationwide permits, and the report identifies 12 nationwide permits that authorize activities associated with domestic energy production and use. The report suggests modifications to nine of those nationwide permits to reduce burdens on domestic energy producers.

The nine nationwide permits (NWPs) recommended for changes include: NWP 3, Maintenance; NWP 12, Utility Line Activities; NWP 17, Hydropower Projects; NWP 21,

Surface Coal Mining Activities; NWP 39, Commercial and Institutional Developments; NWP 49, Coal Remining Activities; NWP 50, Underground Coal Mining Activities; NWP 51, Land-Based Renewable Energy Generation Projects; and NWP 52, Water-Based Renewable Energy Generation Pilot Projects.

The Corps will coordinate with the administration to determine if the recommended changes in the report will be pursued. Any modifications to the nine nationwide permits identified in the report would require rulemaking to change those nationwide permits. That rulemaking process requires publishing a proposed rule in the *Federal Register* to solicit comments on the proposed changes to the nationwide permits, evaluating the comments received, and issuing a final rule to modify those nationwide permits. Modification of those nationwide permits will also require, as applicable, water quality certifications under section 401 of the Clean Water Act and consistency determinations under the Coastal Zone Management Act.

Dated: November 17, 2017.

Thomas P. Smith,

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Directorate of Civil Works.

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