



US Army Corps of Engineers

Omaha District

ISSUE DATE: November 16, 2011
EXPIRATION DATE: January 17, 2012

COMPLIANCE WITH EXECUTIVE ORDER 13563 FOR COMMENTS

On November 16 2011, the U.S. Army Corps of Engineers published in the Federal Register its request for comments regarding our proposal under Executive Order 13563, "Improving Regulation and Regulatory Review," issued on January 18, 2011.

The Regulatory Program of the U.S. Army Corps of Engineers (USACE) is seeking public input on its plan to retrospectively review its Regulations implementing the USACE Regulatory Program at 33 CFR 320-332 and 334. Executive Order 13563, "Improving Regulation and Regulatory Review," issued on January 18, 2011, directs federal agencies to review existing significant regulations and identify those that can be made more effective or less burdensome in achieving regulatory objectives. The Regulations are essential for implementation of the Regulatory mission; thus, USACE believes they are a significant rule warranting review pursuant to Executive Order 13563. The Executive Order further directs each agency to periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. Section 404(e) of the Clean Water Act authorizes USACE to develop general permits, including nationwide permits (NWP), for minor activities in waters of the U.S. for a period of five years. Accordingly, every five years, USACE undergoes a reauthorization process for the NWP program and includes public notice and provides an opportunity for public hearing. Comments for the NWP program are submitted during the reauthorization process. Therefore, USACE is currently complying with the Executive Order 13563 direction to periodically review its existing significant regulations. Other regulations will be reviewed on an as-needed basis in accordance with new laws, court cases, etc.

National Issues Concerning the Proposed Reviews: The Federal Register notice is the public's opportunity to comment on the proposed retrospective review of the Regulations and the continued periodic review of the NWP program for compliance with Executive Order 13563. Responses to the questions posed in the Federal Register, as well as additional issues or suggestions, are encouraged. The request for information will inform the USACE's decision on whether adjustments to the regulations are necessary and appropriate, and whether additional guidance, education, or outreach would better

assist the Regulation users, agencies, and the public to address critical issues. Comments on national issues relating to these reviews should be submitted to docket number COE-2011-0028 at <http://www.regulations.gov>, or by email to regulatory.review@usace.army.mil or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the November 16, 2011 Federal Register notice. Comments on the proposed reviews are due by January 17, 2012.

The URL for a website that includes the Regulations, as well as all of the USACE's Regulatory Program's current regulations and supporting program data and information is http://www.usace.army.mil/CECW/Pages/reg_materials.aspx. Furthermore, each of the 38 USACE districts has issued local public notices announcing the publication of the Federal Register notice and the request for comments. The USACE will evaluate all comments received to develop its list of review priorities, and will publish a notice in the Federal Register that summarizes the comments received and lists the review priorities. The website will be updated as proposal revisions and final revisions to its regulations occur.