

July 18, 2025

The Honorable Lee Forstgren
Acting Assistant Secretary of the Army for Civil Works
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

RE: Proposal to Reissue and Modify Nationwide Permits (Docket No. COE-2025—0002)

Dear Assistant Secretary Forstgren:

On behalf of the more than 8,000 members of the American Road & Transportation Builders Association (ARTBA), we respectfully submit the following comments on the U.S. Army Corps of Engineers' (the Corps) proposal to reissue and modify its Nationwide Permits (NWP). ARTBA strongly supports the prompt reissuance of these permits to ensure continuity and avoid disruptions to project delivery, while also encouraging the Corps to pursue broader improvements through future draft modifications once the reissuance is complete.

Background

ARTBA represents all sectors of the transportation construction industry, including contractors, planning and design professionals, materials suppliers, state transportation departments, and safety and equipment manufacturers. ARTBA's membership is responsible for building and maintaining the nation's roads, bridges, ports, airports, and other critical infrastructure.

Nationwide permits play a vital role in enabling the timely and cost-effective delivery of transportation projects while ensuring compliance with environmental protection laws. These permits provide a predictable and efficient regulatory pathway for activities that have minimal individual and cumulative environmental impacts. When clearly defined thresholds are met, applicants may proceed without the delays and costs associated with individual permit reviews. This framework helps reduce permitting burdens, shortens project timelines, and allows agencies to focus resources on higher-impact proposals. In this way, nationwide permits achieve a practical balance between regulatory efficiency and environmental stewardship.

By statute, the Corps must reissue and finalize any modifications to existing nationwide permits every five years.¹ As a result, the rulemaking process may span multiple presidential administrations with differing policy priorities, creating uncertainty for permittees. ARTBA supports the Corps' goal of reissuing the permits swiftly to maintain program continuity and encourages the agency to begin working on targeted

¹ 33 U.S.C. § 1344(e)(2) (2024).

improvements to individual permits once reauthorization is complete. ARTBA offers the following additional comments in support of the reissuance and subsequent modifications.

ARTBA's Comments on the Proposal

I. The Corps should prioritize swift reauthorization of the permits, with broader reforms to follow once that process is complete.

While ARTBA supports targeted enhancements to the NWP program, the immediate priority should be the timely reissuance of the existing permits to ensure continued program coverage beyond the current March 2026 expiration. Prompt reauthorization will provide regulatory certainty for project sponsors and avoid disruptions to transportation project delivery. ARTBA encourages the Corps to pursue a two-step approach: first, reissue the permits to maintain continuity; and second, initiate a separate rulemaking process to consider broader reforms and updates informed by further stakeholder engagement.

II. Additional improvements to NWP 23 will support expedited project delivery while maintaining environmental safeguards.

Nationwide Permit 23 (NWP 23) is particularly relevant to ARTBA members because it allows the Corps to authorize activities that have already been categorically excluded under the National Environmental Policy Act (NEPA) by other federal agencies, such as the Federal Highway Administration (FHWA). Many routine, low-impact transportation projects fall under FHWA's categorical exclusions (CEs), which are designed to streamline environmental review while maintaining appropriate safeguards. When such activities still require Corps authorization under Section 404 of the Clean Water Act,² NWP 23 provides a path forward without the need for an individual permit, provided that the permit's terms and conditions are met. This framework helps avoid unnecessary costs and delays and supports efficient project delivery for time-sensitive infrastructure improvements.

To further enhance the utility of NWP 23, ARTBA encourages the Corps to explore improvements that would streamline implementation while maintaining appropriate environmental safeguards. In particular, the Corps should consider tools that would improve clarity and predictability for project sponsors—such as a reference list of previously approved FHWA CEs or a publicly available summary of activities that have historically qualified under the permit. Such measures could help reduce delays, promote consistency across Corps districts, and improve transparency regarding the scope and application of NWP 23.

ARTBA also encourages the Corps to consider whether certain categories of routine transportation activities—such as minor road maintenance or rehabilitation—could be addressed through more standardized verification procedures, where consistent with existing environmental thresholds. Any such refinements should preserve the Corps' oversight role while making the process more efficient for projects with minimal individual and cumulative environmental impacts.

² 33 U.S.C. § 1344 (2024).

III. The Corps should pursue additional program improvements as part of a second-phase rulemaking.

Following the reissuance of the current permits, ARTBA encourages the Corps to initiate a second phase of review focused on broader program enhancements. These efforts should aim to further streamline permitting without compromising environmental protections.

Potential improvements may include, but are not limited to:

- Raising mitigation thresholds to better reflect current construction practices and environmental outcomes; and
- Accelerating internal timelines for permit verification and issuance.

ARTBA welcomes continued dialogue with the Corps as it considers additional measures to improve the effectiveness and predictability of the nationwide permit program.

Conclusion

ARTBA appreciates the administration's efforts to ensure the timely reissuance of NWP's and to maintain continuity in permit coverage. Taking this step will provide much-needed predictability and certainty for permit holders across the transportation sector. At the same time, ARTBA encourages the Corps to build on this foundation by exploring additional enhancements to individual permits and to the overall program structure.

ARTBA stands ready to assist in these efforts. For questions or further information, please contact Prianka Sharma at psharma@artba.org.

Sincerely,

//s//

Prianka P. Sharma
Vice President and Counsel for Regulatory Affairs