

May 15, 2026

Submitted via regulations.gov

Ms. Katherine McCafferty
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Re: AGA Response to Notice of Solicitation of Input on Potential Future Changes to Nationwide Permits, 91 Fed. Reg. 12,591 (Mar. 16, 2026); Docket COE-2026-0001

Dear Ms. McCafferty,

The American Gas Association (“AGA”) is pleased to provide these comments responding to the U.S. Army Corps of Engineers’ (“Corps”) request for input on potential future changes to the Nationwide Permit (“NWP”) program. AGA and our member companies are dedicated to safely and responsibly transporting and supplying critical energy resources to the nation and are committed to doing so in a manner that protects our nation’s water resources. The Corps’ NWP program is essential for protecting the environment, expediting the permitting process for critical energy infrastructure, and reducing administrative and resource burdens on both the Corps and regulated entities. AGA and its members have long advocated for durable, common-sense improvements to the NWP program and commend the Corps for soliciting input on potential future improvements to the NWPs. We strongly support the Corps’ efforts to identify durable improvements that will strengthen, enhance, and improve the NWP program without compromising the protection of our nation’s water resources.

The AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 79 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent — more than 74 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets one-third of the United States' energy needs.

Natural gas and the extensive infrastructure network that supports it has been a cornerstone of America’s energy economy for over a century, and it will be needed in the future. Today, hundreds of millions of Americans rely on this infrastructure and the energy it delivers to heat their homes, power their businesses, provide healthcare, and manufacture goods. AGA members rely on the streamlined permitting process provided by the NWP program to facilitate their repair, maintenance, replacement, and construction of local gas utility pipeline infrastructure.

I. Natural Gas Utilities Rely on NWPs to Perform Critical Construction and Maintenance Required to Improve Pipeline Safety and Enhance Reliability

AGA and our member companies are dedicated to safely and responsibly transporting and supplying critical energy resources and are committed to doing so in a manner that protects our nation's water resources. Since the Corps first promulgated Nationwide Permit 12 ("NWP 12") in 1977,¹ AGA's member local gas distribution utility companies across the country have relied on NWP 12 for streamlined permitting under Clean Water Act section 404 for minor stream and wetland crossings for intra-state gas utility line projects where a crossing affects no more than ½ acre of a water feature subject to federal jurisdiction. Natural gas utilities construct and maintain natural gas distribution lines and intra-state pipelines in communities across the United States. These projects are essential for providing safe, reliable transportation of cleaner burning natural gas to millions of industrial, commercial, and residential customers across the country.

Gas distribution lines can be short and local, or they can cover many miles. Moreover, they often must cross streams, wetlands, or other waters of the United States ("WOTUS"). Gas utilities take steps to avoid stream and wetland crossings to the extent feasible. However, when a new pipe must be laid to serve a community, power plant, or commercial customer, there may be limited routes available. For example, projects that replace existing pipelines with new pipe must follow the existing route and utility rights-of-way.

When gas utility line projects must cross a stream or wetland, the impact is typically limited and temporary because these linear, narrow projects affect a work area only a few yards wide, each stream or wetland crossing is usually completed within a few days, and the area is restored to preexisting contours and re-vegetated leaving no permanent aboveground structures. NWPs, particularly NWP 12, enable timely completion of a wide range of pipeline projects that advance safety, resilience, and reliability. Examples of the types of projects for which AGA members use NWPs² include, but are not limited to:

- **Anomaly or Direct Assessments for Pipeline Integrity Programs:** These activities are critical to investigation of the integrity of assets and identification of potential corrosion or other abnormalities. These projects are conducted in accordance with PHMSA regulatory requirements that include compliance deadlines for completion of anomaly investigations. Impacts to water resources from these projects are temporary and include excavations of short segments of pipe to investigate existing pipeline systems. Depending on the results of an investigation, repairs may be required to maintain the safety and integrity of the natural gas pipeline and help ensure the continued safe and reliable operation of the pipeline. Many of these existing pipelines cross streams, wetlands, and other jurisdictional waters and, therefore, avoidance is not a viable option. NWPs, particularly NWPs 3 and 12, allow pipelines to finish this essential work on time.

¹ 42 Fed. Reg. 37146.

² Although natural gas utilities rely primarily on NWP 12, NWP 3 and NWP 13 are also used frequently for certain activities.

- **Pipeline Relocation or Replacement Projects:** Pipeline relocation or replacement activities may be driven by a variety of factors, including outside factors (e.g., road or public improvements), to maintain compliance with industry regulations, or for modernization programs to replace aging infrastructure. Pipeline replacement occurs within existing rights-of-way or may require a relocation of a pipeline to a new permanent right-of-way due to the age of infrastructure, current conditions and development within an area. The timelines for completion of these activities are typically dictated by customer need and applicable agency regulations and, therefore, provide limited flexibility for the natural gas utility. Replacement activities often result in improvements to the environment by installing new plastic or coated steel pipelines that significantly reduce methane emissions. Examples of relocation/replacement projects for which AGA member companies used NWP 12 include, but are not limited to:
 - A multi-year program focused on improving system safety and reliability, which involves replacing a total of 116 miles of one 22-inch diameter natural gas pipeline over an estimated 10-year period that began in 2017. Annually, portions of this existing pipeline are replaced (ranging from 8 to 10 miles) and additional valves and other appurtenances are installed to help support the pipeline's integrity and safety.
 - A replacement project to remediate exposed portions of an 8-inch diameter pipeline, originally installed in 1944-1946, located within a Section 10 navigable water. Portions of this pipeline were replaced at a new alignment that minimized impacts to jurisdictional waters to the extent feasible.
 - Installation of approximately 22,000 LF of 6-inch steel and an additional 12,000 LF of 4-inch plastic pipe to serve a new industrial customer. This project included use of a horizontal directional drill ("HDD") under a tidally influenced Section 10 navigable water.
 - Relocation of existing pipelines using HDD technology under jurisdictional waters due to various state DOT bridge replacement and road widening projects.
- **Repair and Maintenance of Aboveground Facilities:** Routine repair and maintenance to existing natural gas aboveground facilities located adjacent to jurisdictional wetlands is required periodically. These projects can include the installation of measurement or other integrity management appurtenances that are necessary for the continued safe operation of the pipeline system. Due to the proximity of these facilities to the jurisdictional wetlands, avoidance is not a viable option.
- **Installation of New Services to Meet Growing Demand:** AGA members also rely on NWP 12 to install new gas mains and service lines to new customers, which can result in temporary and minimal impacts to jurisdictional waters and wetlands. These projects provide critical energy resources to residential, commercial, and industrial customers,

including hospitals and medical facilities, power generation facilities, and military installations.

AGA members often design their projects to meet the NWP's requirements. For example, members may modify pipeline routes or employ certain construction techniques to ensure the activity does not result in the loss of more than 0.5 acres of WOTUS. Following construction, pipelines remove temporary fills in their entirety, return the affected areas to preconstruction elevation, and revegetate affected areas, as appropriate. Work must also adhere to conditions that protect a range of resources, including spawning areas, shellfish beds, water supply intakes, wild and scenic rivers, endangered species, migratory birds, bald and golden eagles, historic properties, and designated critical resource waters.

The environmental effects of AGA's members' work which relies on NWPs typically are temporary, impact relatively small areas, and generally do not result in a permanent loss of WOTUS because of the NWP's stringent conditions. In almost all cases, the impacts are limited to the pipeline right-of-way or, in the case of pipeline maintenance activities, the area previously disturbed during construction of the original pipeline.

II. The Corps Should Improve the NWP Program to Help Meet the United States' Urgent Need for Additional Energy and to Expedite the Construction of New Energy Infrastructure.

The United States needs more energy infrastructure, including natural gas pipelines, to effectively deliver the energy that Americans demand.³ In addition to the 189 million Americans and 5.8 million businesses that use natural gas because it is affordable, reliable, and safe, other industries that drive the need for more natural gas, include, but are not limited to:

- *Liquefied Natural Gas.* Since 2015, liquefied natural gas ("LNG") export volumes have grown from 28,381 Mcf to 5,508,175 Mcf.⁴ Growth in LNG export volumes will continue. The Energy Information Administration's Annual Energy Outlook 2026 forecasts that the United States' LNG exports will increase from 5.96 Tcf in 2026 to 11.22 Tcf in 2050 in its reference case.⁵
- *Electric Power Generation.* Natural gas-fired electric generation is an essential part of the United States' electric fleet, and interstate pipelines are an essential part of powering those generators.⁶ Natural gas-fired generation produces 43% of the country's electricity and

³ On January 20, 2025, President Trump signed Executive Order 14156, declaring a national energy emergency and seeking to respond to this emergency by expediting energy and infrastructure projects; facilitating the supply, refinement and transportation of energy; and assessing vulnerabilities in the domestic energy sector. This executive order directs agencies to use all available authorities, including emergency authorities, to expedite the completion of authorized and appropriated infrastructure, energy, environmental and natural resources projects.

⁴ EIA, Natural Gas, <https://tinyurl.com/2rpb2pfx>.

⁵ EIA, Annual Energy Outlook 2025, Table 61. Natural Gas Imports and Exports, <https://tinyurl.com/42xwys97>.

⁶ See EIA, *Pipeline companies deliver most of the U.S. electric power sector's natural gas* (Feb. 26, 2025), <https://tinyurl.com/mvf4tvxw>.

serves both as a baseload and as a “backstop” when electric demand spikes or other generation fails to perform.

The United States will continue to rely on natural gas-fired generation. The EIA forecasts that natural gas combined cycle generation will account for 537.9 GW of capacity in 2050, up from 265.2 GW in 2025.⁷ NERC concludes that “projected increases in net energy for load over the next 10 years indicate that natural-gas-fired generators will remain critical resources for [bulk power system] reliability in many areas.”⁸

- *Artificial Intelligence.* Data centers “for artificial intelligence and the digital economy account for most of the projected increase in North American electricity demand over the next 10 years.”⁹ Natural gas will likely meet much of this demand. S&P Global Ratings estimates that U.S. data centers’ increasing energy demands will lead to additional gas demand of between 3 billion cubic feet per day (“Bcf/d”) and 6 Bcf/d by 2030.¹⁰ Goldman Sachs estimated that the U.S. must add 6.1 Bcf/d in new pipeline capacity by 2030 to meet the anticipated demand from data centers alone.¹¹

Pipeline infrastructure remains a critical component to meeting our country’s growing and changing energy needs. The INGAA Foundation’s North American Midstream Infrastructure Report calculates that, to meet energy demand through 2052, North America needs:

- More than \$1 trillion in capital investment across natural gas, oil, natural gas liquids, hydrogen, and CO2 infrastructure, averaging \$40-\$48 billion annually.
- An estimated 12-24 million cumulative jobs¹² over 25 years, or roughly 414,000-828,000 jobs annually throughout the study period, varying with investment.
- A projected increase in natural gas transmission capacity of 70 billion cubic feet per day (Bcf/d), a 39 percent increase from 2022.
- At least 37,000 miles of additional natural gas transmission pipelines (33,800 of which will be in the U.S.) and 103,000 miles of gathering pipelines.
- An additional 8.6 to 12.4 million horsepower of compression associated with natural gas transmission, reflecting higher pipeline throughput and network expansion.¹³

⁷ EIA, Annual Energy Outlook 2025, Table 9 (citing counterfactual baseline case), <https://tinyurl.com/mtwbju4d>.

⁸ NERC, *2025 Long-Term Reliability Assessment* at 33 (Jan. 2026), <https://tinyurl.com/3vftvykf>.

⁹ *Id.* at 9.

¹⁰ Michael V. Grande, “Data Centers: More Gas Will Be Needed To Feed U.S. Growth” (Oct. 22, 2024), <https://tinyurl.com/8sdapxcc>.

¹¹ Goldman Sachs Equity Research, *Generational Growth: AI, data centers and the coming US power demand surge* at 27-28 (Apr. 28, 2024).

¹² The INGAA report’s cumulative jobs figure includes a range of between two and four million direct jobs, a range of four to eight million indirect jobs, and a range of six to 12 million induced jobs.

¹³ INGAA Foundation, *North American Midstream Infrastructure Report: Natural Gas Remains the Backbone of our Energy System* (Mar. 13, 2026), <https://tinyurl.com/bde46pzn>.

To meet these existing and emerging energy needs, it is imperative that the Corps maintain – and improve – a well-functioning NWP program. AGA offers the following opportunities for improving the NWP program for the Corps’ consideration and implementation.

(1) The Corps Should Remove the Pre-Construction Notification Requirement for Pipeline Projects Greater than 250 Miles in Length.

Section 10 of the Rivers and Harbors Act and CWA § 404 regulate discharges into WOTUS,¹⁴ not the size or scope of the activity or project giving rise to the discharge. Conditions attached to general permits authorizing “categor[ies] of activities involving discharges of dredged or fill material” therefore must relate to the *discharges* that Congress authorized the Corps to regulate. As currently constituted, NWP 12 fails this test by requiring a pipeline to submit pre-construction notification (“PCN”) if its “overall project is greater than 250 miles in length and the project purpose is to install new pipeline”¹⁵

The length of a pipeline project is a very imprecise proxy on the issue of whether and how the pipeline discharges dredged or fill materials into a WOTUS. Pipelines built in arid regions could cross distances greater than 250 miles without ever resulting in a discharge into a WOTUS. However, pipelines built in other regions could lead to discharges despite being significantly shorter than 250 miles in length. Simply put, the length of the pipeline is largely untethered and unrelated to potential discharges subject to the Corps’ jurisdiction.

Other conditions applicable to NWP 12 properly focus on the size of the discharge, not the length of the pipeline.¹⁶ Because of these other, appropriate conditions, the Corps may eliminate the PCN requirement for pipelines longer than 250 miles—and the associated delays and burden—without reducing the Corps’ ability to effectively regulate discharges under RHA § 10 or CWA § 404. AGA and its members strongly encourage the Corps to implement this reasonable and commonsense modification.

(2) The Corps Should Designate Permittees as Non-Federal Representatives under the Endangered Species Act.

The Corps should designate permittees as non-Federal representatives to conduct informal consultation or prepare a biological assessment.¹⁷ This change will promote more timely, efficient compliance with the Endangered Species Act (“ESA”) and reduce burden on Corps staff.

The Federal Energy Regulatory Commission’s (“FERC”) implementation of its blanket certificate program is instructive. Similar to NWPs, “[t]he blanket certificate program was

¹⁴ See 33 U.S.C. § 403 (prohibiting construction in WOTUS and excavation or fill of navigable waters except under specific circumstances); 33 U.S.C. § 1344 (establishing procedures for permitting discharges into navigable waters).
¹⁵ Army Corps of Engineers, *2026 Nationwide Permits: Nationwide Permits, Conditions, Further Information, and Definitions* at 9, <https://tinyurl.com/3zcf9xuh>.

¹⁶ See, e.g., *id.* at 7 (stating that NWP 12 does not apply to work that results in the loss of greater than 0.5 acres of WOTUS), *id.* at 9 (requiring PCN for NWP 12 projects that will result in a loss of greater than 0.1 acres of WOTUS).

¹⁷ See 50 C.F.R. §§ 402.02, 402.08

designed [to] provide streamlined procedures which increase flexibility and reduce regulatory burden for a generic class of routine activities with constraints for consistency with [FERC's] statutory obligations under the NGA and environmental statutes.”¹⁸ Blanket certificate holders act as non-Federal representatives to the U.S. Fish & Wildlife Service (“FWS”) and the National Marine Fisheries Service (“NMFS”) to conduct informal consultations with those services under the ESA.¹⁹ Blanket certificate holders *must* follow FERC’s procedures for consultation.²⁰ Designation as a non-Federal representative allows interstate pipelines in many instances to obtain “no effect” or “not likely to adversely affect” determinations from FWS/NMFS without burden on FERC Staff.

The Corps should adopt a similar approach by designating permittees as non-Federal representatives and only requiring a PCN if informal consultation produces a “may effect” determination. This would help shift the administrative burden from the Corps to permittees and reduce unnecessary delay by eliminating the need to provide a PCN for projects with “no effect” or “not likely to adversely affect” threatened or endangered species determinations. This change also furthers the Administration’s goal of “prioritiz[ing] efficiency and certainty over any other objectives” in energy permitting, consistent with applicable law.²¹

(3) The Corps Should Review Regional Conditions for Consistency

Delegated authority to modify NWP to account for specific regional conditions reflects the Corps’ efforts to appropriately balance the need to adapt and tailor NWPs to specific local conditions with the need for uniformity and consistency.²² However, certain Corps Regions’ exercise of delegated authority have curtailed the availability and usefulness of NWPs and undermined the “need” for “consistency of interpretation of Corps jurisdiction and policy.”²³ For example, Louisiana prohibits the use of NWP 12 when the regulated activity may lead to the “conversion” of more than 0.5 acres of certain wetland types, excluding many projects that create only temporary changes and no permanent loss of WOTUS.²⁴ The Great Lakes and Ohio River Division requires PCN in instances where NWP 12 does not, including for small or low-impact stream and wetland crossings.²⁵

¹⁸ *Blanket Certificate Cost Limitations*, 191 FERC ¶ 61,207, P 3 (2025) (internal quotation marks omitted).

¹⁹ 18 C.F.R. 157.206(b)(7), App’x I.

²⁰ *Id.*

²¹ Exec. Order 14154 § 5(c), 90 Fed. Reg. 8,353, 8,356 (Jan. 29, 2025); *see also* Memo from Katherine R. Scarlett, Chief of Staff, CEQ, *Implementation of National Environmental Policy Act* at 5 (Feb. 19, 2025) (“Agencies should develop transparent, clear, and predictable procedures for review of project sponsor-prepared environmental assessments and environmental impact statements. Project sponsor prepared environmental documents should be prioritized for expeditious review.”), <https://tinyurl.com/5br4krze>.

²² 33 C.F.R. § 330.1(d); 47 Fed. Reg. 31,794, 31,798 (Jul. 22, 1982) (“[M]ost believed that the Chief is too far removed from the local level and that the administrative process of seeking the Chief’s approval would be inefficient and would thereby unduly influence a district engineer to avoid seeking discretionary authority. On the other hand, some commenters pointed out and experience has shown a need to improve the consistency of interpretation of Corps jurisdiction and policy.”).

²³ 47 Fed. Reg. 31,794, 31,798 (Jul. 22, 1982)

²⁴ State of Louisiana 2026 Nationwide Permit (NWP) Regional Conditions (1 and 2)

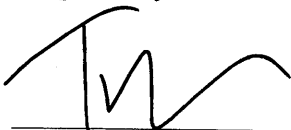
²⁵ Great Lakes and Ohio River Division Conditions 13, 14, and 15

Regional conditions like these render certain NWP's ineffective or unnecessarily burdensome for large swaths of the country. This Administration repeatedly recognizes the need for uniform implementation of federal law.²⁶ AGA encourages the Corps to review regional constraints on NWP's, particularly NWP 12, and to remove any conditions that unduly impede or limit the use of NWP's that the Corps determined to be in the national interest.

III. Conclusion

AGA commends the Corps' efforts to improve the critically important NWP program and appreciates the opportunity to provide our reasonable, commonsense, and durable recommendations on how to improve and enhance the NWP program. We look forward to further collaborating with the Corps on this important initiative.

Respectfully submitted,



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²⁶ See, e.g., Exec. Order 14215 § 1, 90 Fed. Reg. 10,447, 10,447 (Feb. 24, 2025) (opposing practices that “prevent a unified and coherent execution of Federal law”); Exec. Order No. 14365, 90 Fed. Reg. 58,499, 58,499 (Dec. 16, 2025) (discussing artificial intelligence; “State-by-State regulation by definition creates a patchwork of 50 different regulatory regimes that makes compliance more challenging[.] . . . My Administration must act with the Congress to ensure that there is a minimally burdensome national standard — not 50 discordant State ones.”).