



American
Petroleum
Institute



February 2, 2024

The Honorable Sam Graves
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves and Ranking Member Larsen,

The Natural Gas Council, on behalf of the individuals and companies who produce, transport, and deliver natural gas across the nation, writes in support of H.R. 7023, Creating Confidence in Clean Water Permitting Act. This proposal would ensure the continued availability of the Nationwide Permit (NWP) program for the construction of new natural gas infrastructure projects and the maintenance of existing infrastructure to ensure safety and reliability.

Natural gas infrastructure is reliable, built in compliance with exacting safety regulations and engineering standards. The North American Electric Reliability Corporation indicated in a [summer assessment](#) that “natural gas supply and infrastructure is vitally important to electric grid reliability...” Moreover, the U.S. Energy Information Administration calculates that natural gas-fired generation accounts [for nearly 40 percent](#) of the kilowatt hours produced in the United States in 2022 and that the U.S. will need [more natural gas fired generation capacity](#) in 2050 across nine different scenarios.

The U.S. Army Corps of Engineers’ NWP program has been an essential component of modernizing natural gas infrastructure networks since its inception under the Clean Water Act (CWA) Section 404, allowing streamlined reviews of discharges of dredged or fill material into waters of the U.S. when effects to the aquatic environment from those discharges are no more than minimal. When the discharge activities meet these specific criteria, NWPs allow the applicant to utilize general permits rather than pursuing the more cumbersome process of obtaining an individual permit. Despite the agency’s well-established, effective oversight process, the Corps continues to be subject to litigation over both its Nationwide Permit 12 and issuance of project-specific nationwide permits. These permitting challenges frustrate linear infrastructure development and maintenance, burden the agency by increasing the need for individual permits for activities that have only minimal impact, and delay service to the public.

H.R. 7023 would reaffirm the NWP program for linear infrastructure by codifying longstanding, historical Corps interpretation and practice and by extending the period of reissuance for general permit holders from five to ten years. The measure would clearly define discharge activities within the Corps’ CWA Section 404 authority, which facilitates the Corps’ effective administration of the NWP program. Furthermore, H.R. 7023 stipulates that for the reissuance of NWPs, National Environmental

Policy Act (NEPA) requirements shall be satisfied by preparing an environmental assessment and confirms, consistent with past Army Corps practice, that Endangered Species Act (ESA) consultation is not required. This commonsense provision recognizes that an overly long, burdensome environmental review is unnecessary for projects in the NWP program, that, by definition, have no more than minimal environmental impacts.

To address litigation over NWPs, H.R. 7023 would also establish reasonable judicial review timelines and ensure that any court challenge of a Section 404 general or individual natural gas infrastructure permit must be filed within 60 days of its issuance. If a court deems that the Secretary of the Army did not comply with the underlying statute in issuing a permit, this proposal would require the court to remand back to the Secretary, who must take any action the court may order within 180 days of the remand.

The Natural Gas Council and the companies we represent urge Congress to work in a bipartisan manner to enact these measures, which would promote certainty and predictability in the NWP process and enable development of the energy infrastructure necessary to continue delivering the benefits of natural gas to the American people.

Sincerely,



Amy Andryszak
President & CEO
Interstate Natural Gas Association of America



Karen Harbert
President & CEO
American Gas Association



Jeff Eshelman
President & CEO
Independent Petroleum Association of America



Dustin Meyer
Senior Vice President
American Petroleum Institute



Dena Wiggins
President & CEO
Natural Gas Supply Association

CC: Representative David Rouzer, Chairman, Water Resources and Environment Subcommittee
Representative Eric Burlison