

Reference: RGL 84-14

Subject: NATIONWIDE PERMIT COMPLIANCE

Title: 33 CFR 330.8 DISCRETIONARY AUTHORITY

Issued: 09/18/84 Expires: 12/31/86

Originator: DAEN-CWO-N

Description: THE DIVISION ENGINEER MUST ASSERT DISCRETIONARY AUTHORITY BUT DETERMINING COMPLIANCE WITH THE CONDITIONS OF THE NATIONWIDE PERMIT IS THE DISTRICT ENGINEERS RESPONSIBILITY.

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1. The purpose of this RGL is to clarify the authority of division and district engineers as it pertains to the nationwide permit program.
 2. Division engineers may exercise discretionary authority as defined at 33 CFR 330.8. The decision to invoke discretionary authority should be based on an analysis which clearly demonstrates that the proposed activity may cause concern for the aquatic environment as expressed in the 404(b)(1) guidelines. RGL 84-10 discusses the considerations of fairness and equity in discretionary authority decisions.
 3. District engineers have full authority to determine compliance with the terms and conditions of a nationwide permit. District engineers should promptly notify prospective permittees when their proposed activities do not comply with nationwide permit terms and conditions and advise them of individual or regional permit procedures.

FOR THE CHIEF OF ENGINEERS: