

Commission having jurisdiction over the subject matter and Schneitter Fireworks and Importing Company, Inc.; and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted; and it is

Further Ordered, that upon final acceptance of the Settlement Agreement Order, Schneitter Fireworks and Importing Company, Inc. shall pay to the Commission a civil penalty in the amount of SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00) in three (3) payments each. The first payment of TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000.00) shall be due within twenty (20) days after service upon Respondent of the Final Order of the Commission accepting the Settlement Agreement (hereinafter, the "anniversary date"). The second payment of TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000.00) shall be made within one (1) year of the anniversary date. The third payment of TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000.00) shall be made within two (2) years of the anniversary date. Upon the failure by Schneitter Fireworks and Importing Co., Inc. to make a payment or upon Schneitter Fireworks and Importing Co., Inc. making a late payment (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (c).

Provisionally accepted and Provisional Order issued on the 7th day of October, 1998.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98-27410 Filed 10-13-98; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents; Meeting

ACTION: Notice.

SUMMARY: The Board will conduct a two-day public meeting to discuss overview strategy, to solicit recommendations from veterans, veterans service organizations, and

other concerned groups, and to obtain information from the Office of the Special Assistant for Gulf War Illnesses and other Federal agencies regarding the causes of Gulf War Illnesses.

DATES: November 19-20, 1998.

ADDRESSES: Senate Hart Office Building, Room SH-216, 2nd Street and Constitution Avenue, NE, Washington, DC 20510.

FOR FURTHER INFORMATION: Contact Mr. Roger Kaplan, Deputy Executive Director, Special Oversight Board, 1401 Wilson Blvd, Suite 401, Arlington, VA 22209, phone (703) 696-9470, fax (703) 696-4062, or via Email at *Gulfsyn@osd.pentagon.mil*. Requests for oral comments must be sent in writing to Mr. Kaplan and be received no later than noon Eastern Time on Friday November 6, 1998. Written comments must be received no later than Thursday November 12, 1998. Copies of the draft meeting agenda can be obtained by contacting Ms. Becky Love at (703) 696-9464 or at the above fax number or above Email.

SUPPLEMENTARY INFORMATION: Seating in Room SH-216 is limited, and spaces will be reserved only for scheduled speakers. The remaining seating is available on a first-come, first-served basis. No teleconference lines will be available. The Special Oversight Board expects that public statements presented at its meetings will deal only with recommendations on how the Board can best oversee Department of Defense investigations of Gulf War chemical and biological incidents. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Written comments may be mailed to Board members if at least 20 copies are received in the Special Oversight Board Staff Office no later than November 5, 1998. Comments received during November 6-12 will be provided to Board members upon their arrival in Washington. Written comments received after November 12 will be mailed to Board members after the adjournment of the November 1998 meeting.

Dated: October 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98-27409 Filed 10-13-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board

AGENCY: Corps of Engineers, DoD.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act, Public Law (92-463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on November 4, 1998, in New Orleans, Louisiana, at the U.S. Army Corps of Engineers District Office Building, 7400 Leake Avenue, New Orleans, Louisiana, (Tel. 504-862-2288). Registration will begin at 12:30 PM and the meeting is scheduled to adjourn at 6:00 PM. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. Norman T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW-PD, Washington, DC 20314-1000.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98-27530 Filed 10-13-98; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal to Issue and Modify Nationwide Permits

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent and request for comments.

SUMMARY: To further ensure that the proposed nationwide permits (NWP) published in the July 1, 1998, **Federal Register** would only authorize activities that have minimal adverse environmental effects on the aquatic environment, the Corps is proposing additional changes to those proposed NWPs. For example, the Corps is announcing its decision to withdraw the proposed NWP B for master planned development and proposing the addition of a restriction on the use of certain NWP's in the 100 year Floodplain. We are proposing to exclude NWPs in designated critical resource waters and in impaired waters. In addition, the Corps has revised its

schedule for developing the NWP to provide for additional public comment. This will result in a delay in the schedule for issuing the new and revised NWPs. Consequently, the Corps is also announcing its decision to delay the expiration of NWP 26, so that it will not expire before the proposed new and revised NWPs are issued. The revised schedule provides for the new and revised NWPs to be issued and for NWP 26 to expire on September 15, 1999.

DATES: Comments on these proposed changes to the proposed nationwide permits must be received by November 30, 1998.

ADDRESSES: HQUSACE, CECW-OR, Washington, D.C. 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson or Mr. Sam Collinson, CECW-OR, at (202) 761-0199 or <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1998, the Army Corps of Engineers provided notice (FR Vol. 63, No. 126, p. 36040) of proposed changes to its Nationwide General Permit Program. The public comment period on the Corps proposal closed on August 31, 1998. That notice responded to the Corps 1996 commitment that it would phase out Nationwide permit 26 (NWP 26), which authorized discharges into headwaters and isolated wetlands, and replace it with a set of "activity based" NWPs. This decision is consistent with the Corps goal of providing necessary fairness and flexibility in the Regulatory Program while improving environmental protection. In its July 1, 1998 notice, the Corps proposed to replace NWP 26 by issuing six new NWPs and to modify six existing NWPs to become effective when NWP 26 expired.

One of the new NWPs initially proposed by the Corps was NWP B, which was designed to authorize discharges in waters of the United States associated with construction of Master Planned Developments. The proposed permit would apply to the construction of residential, commercial, and industrial developments that include plans for the complete long-term restoration and protection of aquatic resources. The Corps objective in proposing NWP B was to encourage comprehensive planning of developments that completely integrate restoration, enhancement and long term protection of the aquatic environment. As proposed, NWP B would authorize discharges associated with the construction or expansion of master

planned developments affecting up to ten acres of non-tidal waters, excluding non-tidal wetlands contiguous to tidal wetlands.

The July notice also announced the initiation of a process to develop regional conditions for the new NWPs. Consistent with the requirements of the Clean Water Act to effectively protect the Nation's water resources, the Corps designed this process to identify additional regional limitations and restrictions on the use of the new NWPs to ensure that adverse effects on the aquatic environment authorized by the replacement NWPs are minimal. Regional conditions, such as limits on the use of the new NWPs to protect environmentally sensitive waters or restrictions on the timing of permitted actions to avoid impacts to spawning fish or migrating waterfowl, are being developed by Corps Districts in coordination with other federal and state agencies and the public. The process to develop regional conditions is currently underway and is to be completed before the new and modified NWPs are made final.

Another major emphasis for the Corps is to ensure that the public is provided an effective opportunity to participate fully in the process to develop replacement permits for NWP 26, including the opportunity for involvement in the regional conditioning process. The original schedule provided for two National notices in the **Federal Register**, including the July 1, 1998, notice seeking public comment on the Corps proposal, and a scheduled December, 1998, notice to provide a response to public comments and to announce the Corps final package of new and modified NWPs to take effect in March, 1999. In addition, Corps Districts are also publishing public notices on a District-wide basis to facilitate public participation in the regional conditioning process. The Corps has conducted public hearings and public meetings nationwide to provide for additional public input and to answer questions regarding the proposal.

Supplement to the July 1, 1998 Nationwide Permit Proposal

Since the Corps published its July 1, 1998, notice and request for public comments on the proposal to issue new NWPs and modify existing NWPs to replace the expiring NWP 26, the Corps has decided to make several alterations to that original proposal and to seek comments on proposed new conditions limiting the applicability of the replacement permits in critical resource waters and in impaired waters. In

addition, the Corps has determined that the public should be provided an additional opportunity for participation in the process of developing replacement permits, and is providing the revised schedule in an appendix at the end of this document.

1. Withdraw Proposal to Issue Nationwide Permit B

After careful consideration of the initial public and agency comments, and our original goals and objectives in proposing NWP B for discharges associated with Master Planned Developments, the Corps has decided to withdraw this proposed nationwide permit. There are a number of factors relevant to this decision. The Corps is concerned, at this time, that without additional analysis regarding appropriate terms and conditions for this proposed NWP, that the 10-acre limit may be too high. While we continue to support the goal of encouraging development that is planned and designed for the long-term protection of the Nation's valuable aquatic resources, discussions to date with Corps field staff and public comments indicate that there is substantial confusion regarding NWP B. The Corps may, after further evaluation, consider reproposing, at a future date, a NWP that is more completely developed and conditioned.

2. Exclusion of Floodplains From the Replacement NWPs

The Corps is proposing to modify the applicability of the replacement NWPs by excluding their use in authorizing permanent above grade wetland fills in waters of the United States located within the 100-year floodplain as defined by the Federal Emergency Management Agency (FEMA) and identified on FEMA's Flood Insurance Rate Maps.

A fundamental aspect of the Corps mission is to protect public health and safety by reducing the loss of life and property caused by flooding, to safeguard sources of drinking water supplies, and to protect and restore the natural functions of the Nation's floodplains. The Corps Challenge 21 Initiative as well as Executive Order 11988 on Floodplains recognize the critical need to ensure that Federal agency actions emphasize efforts to reduce the potential for the loss of life and property by flooding and to increase opportunities for the restoration of historically altered floodplains.

FEMA has brought to the Corps attention the serious implications of further reductions of flood storage capacity within the 100-year floodplain.

The potential risks to life and property, as well as the economic implications for homeowners, businesses, and state and local governments, clearly indicate the importance of limiting the use of NWP for permanent above grade wetland fills in the 100-year floodplain.

Consistent with the shared goals and responsibilities that the Corps and FEMA have for reducing flood damages, the Corps believes that most activities in the 100-year floodplain should not be authorized by NWPs. This includes commercial and residential developments, and mining and stormwater detention pond activities that result in permanent above grade wetland fills. It is our belief that such activities do result in permanent above grade fills and will be subject to this limitation. The Corps recognizes, however, that other activities, such as boat ramps, mooring buoys and stream restoration projects must be by definition within the 100-year floodplain and generally will have little impact on flooding. Such activities will continue to be subject to authorization by NWP. The Corps is requesting public comment on this proposal, including recommendations on the applicability of this restriction on existing and proposed NWPs.

3. Exclusion for Designated Critical Resource Waters

The Clinton Administration's recently developed Clean Water Action Plan provides a blueprint for protecting the Nation's vital water resources and achieving the statutory goals that Congress has set forth in the Clean Water Act. The Corps is a full partner in implementing the Clean Water Action Plan, which fulfills the mandates of the Clean Water Act through a series of steps to reduce public health threats, improve the stewardship of natural resources, and strengthen polluted runoff controls. To ensure consistency of NWPs with this initiative and with the specific Clean Water Act requirement that activities permitted through NWPs have minimal adverse environmental effects, it is important to ensure that activities approved under the Nationwide Permit Program avoid, to the maximum practicable extent, potential adverse environmental effects on waters that are recognized as critical resource waters. Such waters may include, for example, Outstanding Natural Resource Waters, National Wild and Scenic Rivers, and State Ecological Reserves.

Accordingly, the Corps is proposing to exclude the use of NWPs in certain State or Federally designated critical resource waters and their adjacent

wetlands. The Corps is requesting public comments on this proposal and specifically solicits the public's input on which designated waters should be subject to the exclusion. Further, comments are requested on which, if any, NWPs should not be subject to this exclusion. For example, certain activities authorized by NWP, such as mooring buoys, may have no discernable effect on the designated critical resource waters. The public will have an opportunity, through the final **Federal Register** notice, to comment on any proposed exceptions and those waters proposed for exclusion.

4. Exclusion for Impaired Waters

A critical impetus for the development of the Administration's Clean Water Action Plan was the recognition that despite the efforts of 25 years of progress under the Clean Water Act, 40 percent of the Nation's surveyed waters do not meet the goals Congress set forth in the Act. The Plan promotes initiatives by the States to identify its impaired waters, and to develop, in coordination with Federal partners, including the Corps, unified assessments and response plans to restore the health of these waters.

In many cases, the impaired status of certain open waters like lakes, rivers and streams, is directly related to historic losses of wetlands in a particular watershed. Similarly, the impairment or loss of numerous drinking water aquifers is attributable to the loss of freshwater storage provided by wetlands. In these cases, the Corps believes that use of some of the NWPs may undermine efforts to restore impaired waters and aquifers to a healthy condition, particularly where the impairment can be related to historical loss of waters, including wetlands, from filling those waters in a watershed.

The Corps is proposing to limit the use of NWPs in wetlands identified with waters and aquifers that have been identified by the States as impaired. The Corps is requesting suggestions on the criteria for determining or identifying impaired waters. For example, waters identified as impaired through the Clean Water Act section 303(d) process may provide one such basis for exclusion. The Corps is requesting public comments on this proposal, particularly with regard to how such impaired waters or aquifers should be identified for purposes of this restriction on the use of the new NWPs. The Corps is also seeking comments on criteria the Corps would use to limit use of NWPs in certain impaired waters, including how this proposal could more effectively

respond to State prerogatives such as the section 401 water quality certification process. In addition, comments are requested on which, if any, NWPs should not be subject to this limitation. For example, NWP 27 may be used to restore impaired streams and wetlands.

5. Additional Opportunity for Public Participation

The Corps recognizes the critical role of the public in the development of the replacement NWPs and seeks to ensure that public involvement is effectively promoted throughout the development process. After the Corps has reviewed the comments on the proposed new and revised NWPs published in the July 1, 1998, notice, reviewed the comments on the proposed changes published in this notice, and upon completion of the draft regional conditions, the Corps will publish the final NWPs in the **Federal Register**. Based on these draft final NWPs, the states will have 60 days to make their Clean Water Act Section 401 Water Quality Certification and State Coastal Zone decisions, including state regional conditions.

The Corps believes it is important to provide the public with an opportunity to review and comment on a complete NWP package that includes: the final set of NWPs and national conditions, the final regional conditions, and the additional State conditions. Therefore, the Corps has decided to publish an additional **Federal Register** notice seeking public comment on the final version of the replacement NWPs, including the final Corps and state regional conditions. There will be a 45-day comment period, after which the Corps will publish the final NWPs, including any changes as a result of consideration of comments received on that **Federal Register** notice. Should the Corps make any changes that would materially affect the state 401 or CZM actions, the state would be provided an additional opportunity to modify its action.

The decision to add an additional **Federal Register** notice providing for additional public comment will extend the process to complete and implement the new and revised NWPs. Our goal remains to move this entire process forward in a timely manner so that final improvements to the NWP Program can be implemented as soon as possible. Further, the Corps remains committed to replacing NWP 26. It is, however, important that we continue the use of NWP 26 until the replacement permits are issued and in effect. To that end and based on our review of comments received in response to the proposed

extension of NWP 26 beyond December 13, 1998, as published in the July 1, 1998, **Federal Register**, we have decided to extend NWP 26 to September 15, 1999. Our decision document for this decision, including our response to the public comments, is available in the

Office of the Chief of Engineers at the address above and on the Corps homepage at the Internet address provided above.

Dated: October 7, 1998.

Approved:

Russell L. Fuhrman,

Major General, U.S. Army, Director of Civil Works.

Appendix—1999 Nationwide Permit Milestones

BILLING CODE 3710-92-P

