



Special Public Notice

**U.S. Army Corps
Of Engineers
Fort Worth District**

Proposal for a New Regional
Condition to Nationwide
Permit 12 for the State of
Texas

Date Issued: July 28, 2017

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

On January 6, 2017, the U.S. Army Corps of Engineers (Corps) published notice in the *Federal Register* announcing the reissuance of Nationwide Permits (NWP), general conditions, and definitions with some modifications. The NWPs became effective on March 19, 2017, and will expire on March 18, 2022. On March 28, 2017, the Southwestern Division Engineer approved regional conditions for the NWPs in Texas. Regional conditions provide additional protections for the aquatic environment by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. The Districts in Texas have posted the regional conditions for NWPs on their Regulatory webpages:

<http://www.swf.usace.army.mil/>; <http://www.swg.usace.army.mil/>;
<http://www.swt.usace.army.mil/>; and <http://www.spa.usace.army.mil/>

A proposed regional condition to NWP 12 for just the Fort Worth District was initially published for comment as regional condition 11. It was withdrawn. After additional evaluation, the Division Engineer modified his decision and proposes a statewide regional condition requiring notification to the Corps prior to construction of new water intake structures that include discharges of fill into waters of the United States.

Goal of the Regional Condition: Removal of water via a regulated activity has the potential to result in more than minimal impacts to the aquatic environment by reducing/modifying in-stream flows, entrainment of aquatic species, transfer of invasive species, modification of reservoir control plans, etc. A regional condition that requires reporting to the Corps would enable assessment of potential impacts and ensure that intake structures authorized by NWP 12 would have no more than minimal impacts individually or cumulatively on aquatic resources and the public interest.

This Public Notice is intended to gather comments on the following regional condition which is being proposed for the entire state of Texas. The proposed regional condition to NWP 12 is:

“For discharges into waters of the United States that are associated with the construction of new, modified, or expanded water intake structures, the applicant shall notify the appropriate District Engineer in accordance with Nationwide Permit General Condition 32 (Pre-Construction Notification). For purposes of this regional condition, examples of water intake structures which must be reported include new, modified, or expanded industrial, recreational, municipal, commercial and other water intakes with the potential to alter water levels in either the water body in which an intake is located or in the receiving water body. This regional condition does not require reporting of water intakes involving the discharge of dredge and/or fill material into waters of the United States which utilize small hoses, pipes or similar devices placed in waters of the United States and provide water in small quantities for personal use and do not exceed the maximum withdrawal requirements and exemptions of the Texas Commission on Environmental Quality (TCEQ) as explained in Section 11.1422 and 11.303(l) of the Texas Water Code and TCEQ Water Rights Chapter 297.21(a).”

NOTE: This regional condition does not obviate the need to obtain authorization under Section 10 of the Rivers and Harbors Act for water intake structures which would be constructed in navigable waters of the United States.

With this notice, the Fort Worth District is soliciting comments on behalf of all the districts in Texas on the proposed regional condition. All comments pertaining to this proposed regional condition must be submitted to this office on or before August 28, 2017, which is the close of the comment period.

Questions regarding this matter should be directed to the Regulatory Division by telephone at 817-886-1744 or by email at darwin.messer@usace.army.mil. Comments concerning the proposed regional condition should be sent by email to darwin.messer@usace.army.mil or by postal mail to:

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