



Public Notice

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

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SPECIAL PUBLIC NOTICE

IMPLEMENTATION OF REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN TEXAS AND

STATUS OF SECTION 401 WATER QUALITY CERTIFICATION AND COASTAL ZONE MANAGEMENT ACT CONSISTENCY FOR THE NATIONWIDE PERMITS IN TEXAS INCLUDING INDIAN COUNTRY

On March 12, 2007, in Part II of the *Federal Register* (72 FR 11092), the U.S. Army Corps of Engineers (Corps) announced the reissuance of all existing Nationwide Permits (NWP), general conditions, and definitions with some modifications. The Corps also issued six new NWPs, two new general conditions, and 13 new definitions.

Concurrent with the public interest review conducted for the NWPs, the Galveston District, as lead district for the Corps Regulatory Program in Texas and on behalf of the Albuquerque District, the Fort Worth District, and the Tulsa District, solicited public comment on proposed regional conditions for the new and reissued NWPs in Texas. The regional conditions are intended to provide additional protection of the aquatic environment by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions help ensure protection of high value waters within the districts. The NWP regional conditions for Texas have been finalized, and the Corps decision documents for implementation of the regional conditions for Texas are available for public viewing at the Fort Worth District, Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. The final NWP regional conditions for Texas and a map of the Corps district boundaries in Texas are attached to this public notice.

The U.S. Environmental Protection Agency has issued Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) and Coastal Zone Management Act Consistency (Consistency) for all Section 404 NWP activities in Indian country in Texas. The provisions/conditions of this certification and consistency are posted at:
<http://www.swf.usace.army.mil/pubdata/environ/regulatory/index.asp>.

The Texas Commission on Environmental Quality (TCEQ) has issued conditional WQC and Consistency with the Texas Coastal Management Program for the NWP's and the proposed regional conditions in Texas (excluding Indian Country). The provisions/conditions of this certification are posted at: <http://www.swf.usace.army.mil/pubdata/environ/regulatory/index.asp>. The Corps Southwestern Division considers WQC for NWP 16 denied in all waters of the state since the TCEQ condition requiring return water effluent from confined dredged material disposal areas not to exceed 300 milligrams/liter of total suspended solids is not reasonably implementable or enforceable. The Southwestern Division has also determined that it cannot comply with TCEQ's request to modify NWP General Condition 20, Mitigation. Additionally, the Corps has not included the TCEQ's request for a regional condition prohibiting the permanent sidescasting of excavated materials into waters of the U.S., or a limit on the amount of waters of the U.S. that can be impacted by the sidescasting for NWP 41. However, the TCEQ conditional 401 WQC of NWP 41 is that the area impacted by the sidescasting should not exceed 3 acres or 1500 feet, and for the purpose of calculating the threshold, one acre of impact is considered equal to 500 linear feet. The Corps has not included the TCEQ's request for a regional condition for NWP 46 that contains an upper limit of area impacted by discharges in ditches of no greater than 1,500 linear feet. However, the inclusion of a limit no greater than 1,500 linear feet under NWP 46 is a condition of the 401 TCEQ certification.

The Railroad Commission of Texas (RRC) issued conditional WQC and Consistency for the NWP's and proposed regional conditions in Texas that include activities related to exploration, development, and production of oil and gas and geothermal resources, including pipeline transportation. The RRC has reviewed the Corps' NWP 2, 3, 6, 7, 8, 12, 14, 16, 18, 19, 20, 25, 38, 43, 46, and 47. The TCEQ has certified that the activities authorized by NWP's 2, 8, and 20, unconditionally, and by the remaining NWP's with conditions, should not result in a violation of the established Texas Surface Water Standards as required by Section 401 of the Federal Clean Water Act and pursuant to 30 TAC Chapter 279, and the RRC concurs with the TCEQ's certification determination for activities to be performed under these NWP's that are associated with oil and gas activities under the jurisdiction of the RRC. The RRC's May 10, 2007, letter is posted at: <http://www.swf.usace.army.mil/pubdata/environ/regulatory/index.asp>.

If you have any questions on this public notice, please contact:

Fort Worth District
Regulatory Branch, CESWF-PER-R
U.S. Army Corps of Engineers
P.O. Box 17300
Fort Worth, Texas 76102-0300
817-886-1731 Phone

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