



**US Army Corps  
of Engineers®**  
Albuquerque District

# PUBLIC NOTICE

**SPA-2011-00006**  
**Nationwide Permit Reissuance**  
**Date: February 23, 2012**

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**PUBLIC NOTICE FOR FEDERAL REGISTER NOTICE  
ANNOUNCING THE REISSUANCE OF THE NATIONWIDE PERMITS  
U.S. ARMY CORPS OF ENGINEERS**

**AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
AND  
TEXAS RAILROAD COMMISSION**

**ANNOUNCING PUBLIC COMMENT ON SECTION 401 WATER QUALITY CERTIFICATION**

On February 21, 2012, the U.S. Army Corps of Engineers (Corps) published the notice in the *Federal Register* announcing the reissuance of all existing nationwide permits (NWP), general conditions, and definitions with some modifications. The Corps also issued two new NWPs, three new general conditions, and three new definitions. The NWPs will be effective on March 19, 2012, and will expire on March 18, 2017.

With the publication of this *Federal Register* notice, Corps districts will begin finalizing their regional conditions for the new and reissued NWPs. Regional conditions will provide additional protection for the aquatic environment, and will help ensure that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions will help ensure protection of high value waters within the Districts.

The publication of this *Federal Register* notice also begins the 60-day period for states, Indian Tribes, and the Environmental Protection Agency (EPA) to complete their water quality certification (WQC) process for the NWPs. The 60-day period for WQC will end on April 20, 2012.

While the states, Indian Tribes, and EPA complete their WQC processes, the use of an NWP to authorize a discharge into waters of the United States is contingent upon obtaining individual water quality certification or a case-specific WQC waiver.

The February 21, 2012, *Federal Register* notice is available for viewing at the Corps' Albuquerque District office located at 505 S. Main St. Suite 142, Las Cruces, NM 8800, or on the Internet at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx> . As an alternate,

Internet users can access the *Federal Register* through the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR> .

The Corps has also issued final decision documents for the new and reissued NWPs. These documents are also available on the Internet at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx> and Corps district offices. Furthermore, the NWP decision documents will be supplemented by Division Engineers to address decisions concerning the addition of regional conditions to the NWPs.

**News Release**

Concurrent with Corps processing of this notice, the Texas Commission on Environmental Quality (TCEQ) is reviewing this notice under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-279.13 to determine if the work would comply with State water quality standards. This public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this notice may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends **30 days** from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin office. The complete notice may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, notice title, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the notice, if granted, would adversely affect such interest.

Railroad Commission of Texas (RRC) certification is required for activities associated with the exploration, development, or production of oil, gas, or geothermal resources, as described in Tex. Nat. Res. Ann. §91.101. Concurrent with the processing of notice, the RRC is reviewing Section 401 of the Clean Water Act and Title 16, Texas Administrative Code, Section 3.93, to determine if the proposed work would comply with applicable water quality laws and regulations. By virtue of an agreement between the Corps and the RRC, this public notice is issued for the purpose of advising all known interested persons that there is pending before the RRC a decision on water quality certification under the above authorities. Written comments concerning the request for certification may be submitted to the Assistant Director, Environmental Services, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. The public comment period extends **30 days** from the date of publication of this notice. The RRC may also hold a public meeting on the request for certification if the RRC determines that a public meeting is in the public interest. If the RRC holds a meeting to receive public comment on a request for certification, the RRC will give notice of the meeting to the applicant, the USACE, and persons identified under 16 TAC §3.93(d)(2) at least ten days prior to the meeting.

The Texas draft regional conditions can be viewed at the Galveston District's Internet Site at <http://www.swg.usace.army.mil/reg/>. These conditions will be finalized within the Corps Southwest and South Pacific Divisions at a later date.

Also enclosed is a copy of the final NWP's, general conditions, further information, and definitions. They are also available through Corps Home Page or the *Federal Register*.

### Index of Nationwide Permits, Conditions, District Engineer's Decision, Further Information, and Definitions

#### Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization

14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects

## Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Bird and Bald and Golden Eagle Permits
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Pre-Construction Notification

## District Engineer's Decision

See Section D

## Further Information

See Section E

## Definitions

See Section F

Best management practices (BMPs)  
Compensatory mitigation  
Currently serviceable  
Direct effects  
Discharge  
Enhancement  
Ephemeral stream  
Establishment (creation)  
High Tide Line  
Historic property  
Independent utility  
Indirect effects  
Intermittent stream  
Loss of waters of the United States  
Non-tidal wetland  
Open water  
Ordinary high water mark  
Perennial stream  
Practicable  
Pre-construction notification  
Preservation  
Re-establishment  
Rehabilitation  
Restoration  
Riffle and pool complex  
Riparian areas  
Shellfish seeding  
Single and complete linear project  
Single and complete non-linear project  
Stormwater management  
Stormwater management facilities  
Stream bed  
Stream channelization  
Structure  
Tidal wetland  
Vegetated shallows  
Waterbody

DISTRICT ENGINEER  
ALBUQUERQUE DISTRICT  
CORPS OF ENGINEERS