

**Section 401 Clean Water Act (CWA) Water Quality Certification (WQC)
For Nationwide Permits (NWP) Under Section 404 CWA In Oklahoma**
June 1, 2007

The Oklahoma Department of Environmental Quality (ODEQ) conditional WQC pursuant to Section 401 CWA dated May 11, 2007, was determined as follows:

The following five standard conditions are applicable to all issued NWPs

1. All spills of fuel or other pollutants in excess of 5 gallons shall be reported to the ODEQ, within 24 hours, to the pollution prevention hotline at 1-800-522-0206.
2. All fueling and servicing of vehicles and equipment shall be done above the Ordinary High Water Mark (OHWM).
3. Permittee shall provide access to the property for ODEQ inspection purposes.
4. Any material and fuels used in the project shall be stored and/or stockpiled above the OHWM and shall be removed from a likely flood zone prior to any predicted flood.
5. If a stormwater discharge permit for construction activities is required, one can be obtained from the ODEQ at (405) 702-8100.

NWPs 34 and 48 are denied in all waterways. NWP General Condition 19 does not allow discharges in Critical Resource Waters (CRWs) under NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, or 44. Tulsa District regional conditions require a PCN in all CRWs. See the back of this sheet for details.

Coordination of Pre-Construction Notifications (PCN): For activities under NWPs 19, 20, 23, 27, 33, or 37, located in CRWs; the PCN and other project information will be provided to the ODEQ for a 10-day review opportunity. If notified within the review period of ODEQs intent to comment, the Corps will wait an additional 5 days prior to verification of the NWP.

The Corps has determined that the ODEQ denial of WQC for NWPs 3, 13, 18, 41, 45, 46, 47, in CRWs; and 16, 49 and 50, in all waters, is **not** acceptable. Therefore, the Tulsa District will review requests for authorization of work under NWPs 3, 13, 18, 41, 45, 46, 47, in CRWs; and 16, 49 and 50, in all waters, and determine if issuance of a NWP is warranted. If so, a NWP will be issued provisionally. The permittee will be referred to ODEQ to obtain an individual WQC for the work. Work under the NWP could not begin until individual WQC is obtained from ODEQ.

Note 1: This WQC supersedes all previous WQCs for NWPs in the State of Oklahoma.

Note 2: Outstanding Resource Waters (ORWs), ORWs watersheds, and High Quality Waters as designated by Oklahoma have been designated as CRWs by the Corps and are thus subject to NWP General Condition 19. A complete list of CRWs is available on the Corps website:
<http://www.swt.usace.army.mil/permits/NPP.cfm>

Note 3: WQC is not required for the following NWPs issued under the sole authority of Section 10 of the Rivers and Harbors Act of 1899: 1, 2, 8, 9, 10, 11, 24, 28, and 35.

Tulsa District's Nationwide Permit (NWP) Regional Conditions

For all discharges and activities proposed for authorization under any NWP into the waters of the United States (U.S.) listed below, including adjacent wetlands; applicants shall notify the Tulsa District Engineer (DE) in accordance with NWP General Condition (GC) 27. The U.S. Army Corps of Engineers (Corps) will coordinate a Pre-Construction Notification (PCN) with the resource agencies as specified in NWP GC 27(d) even if there is less than ½-acre impact on waters of the U.S.

(a) **Pitcher Plant Bogs**: Wetlands that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.).

(b) **Cypress-Tupelo Swamps**: Wetlands comprised predominantly of bald cypress trees (Taxodium distichum), and water tupelo trees (Nyssa aquatica), that are occasionally or regularly flooded by fresh water. Common associates include red maple (Acer rubrum), swamp privet (Forestiera acuminata), green ash (Fraxinus pennsylvanica) and water elm (Planera aquatica). Associated herbaceous species include lizard's tail (Saururus cernuus), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis) and smartweed (Polygonum spp.). (Eyre, F. H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Bethesda, Maryland 20814-2198. Library of Congress Catalog Card No. 80-54185)

(c) **Designated Critical Resource Waters (CRW)** are Outstanding Resource Waters (ORW) and their watersheds; and High Quality Waters (HQW) designated by the State of Oklahoma in Appendix A of the Water Quality Standards (OAC 785, Chapter 45). The ORWs include those waters in the supporting watershed, HQW do not. Both ORW and HQW include adjacent wetlands. The current list of CRW is available on the Corps website: <http://www.swt.usace.army.mil/permits/NPP.cfm> (See GC 19 Designated CRWs). At this time, no CRWs have been designated by Tulsa District within its jurisdictional areas of Kansas or Texas.

NOTE THE FOLLOWING INFORMATION

The latest information on endangered species in Oklahoma can be obtained from the USFWS webpage: <http://www.fws.gov/southwest/es/oklahoma/spplist.htm> (See GC 17 Endangered Species).

The latest information on endangered species in Texas can be obtained from the USFWS webpage: <http://www.fws.gov/southwest/es/arlingtontexas/documents.htm#TE> (See GC 17 Endangered Species).

Under the specific terms of NWP 47 Pipeline Safety Program Designated Time Sensitive Inspections and Repairs, a PCN is not required for any activity that qualifies under the US Department of Transportation's, Pipeline and Hazardous Materials Safety Administration's Pipeline Safety Program.