



US Army Corps  
of Engineers  
Tulsa District

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# Public Notice

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Reply To:  
U.S. Army Corps of Engineers  
Attn: CESWT-PE-R  
1645 S. 101 E. Ave.  
Tulsa, OK 74128-4306

Public Notice Date  
July 1, 1998

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**Postmaster Please Post Conspicuously Until:** August 31, 1998

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## INITIAL PUBLIC NOTICE

### NATIONWIDE PERMIT ISSUANCE / MODIFICATION REQUEST FOR COMMENTS AND PUBLIC HEARING / MEETING ANNOUNCEMENT STATE OF OKLAHOMA

On July 1, 1998, the U.S. Army Corps of Engineers published in Part II of the FEDERAL REGISTER (63 FR 36040-36078) its proposal to issue 6 new Nationwide Permits (NWP), modify 6 NWP conditions, and extend the expiration date of NWP 26 until March 28, 1999. In this FEDERAL REGISTER notice, the Corps is also suspending NWP 29 for single family housing activities that result in the loss of greater than 1/4 acre of non-tidal waters of the United States and proposing to modify NWP 29 to change the acreage limit from 1/2 acre to 1/4 acre. Enclosed is an index of the proposed NWP conditions (Enclosure 1). Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page or the Government Printing Office web page listed in the DOCUMENTATION SECTION below or the FEDERAL REGISTER. The new NWP will in part replace NWP 26.

#### ***NATIONAL ISSUES CONCERNING THE PROPOSED NWPs***

This is notice of the public's opportunity to comment on the proposed NWP conditions. Comments on all national issues relating to these NWP conditions should be sent to the Office of the Chief of Engineers, Regulatory Branch (ATTN: CECW-OR), Washington, D.C. 20314-1000. Comments on the proposed new and modified NWP conditions and the proposal to modify NWP 29 are due by August 31, 1998. Comments on the proposal to extend the expiration date of NWP 26 to March 28, 1999 are due by 31 July 1998.

#### ***PUBLIC HEARINGS***

In order to receive public comments on national issues regarding the aforementioned proposal to issue NWP conditions the Headquarters Office of the Corps is holding a public hearing in Washington, D.C., on August 19, 1998 at the National Guard Association Building auditorium, 1 Massachusetts Ave., N. W., Washington, D. C. between 10 a.m. and 4 p.m.. The intent of this hearing is to allow the public to submit comments, both oral and written, on the NWP Program as a whole or on individual proposed NWP conditions on a national level. The public record for this hearing will close at the close of business on August 31, 1998. This closing date is separate and distinct from the closing date of the FEDERAL REGISTER notice. For further information on the hearing in Washington, D.C., or the proposed NWP conditions and modifications, please contact Mr. David Olson or Mr. Sam Collinson, at (202) 761-0199.

CESWT-PE-R

In addition, in an effort to increase the opportunity for the public to comment on the proposed NWP's, regional public hearings will be held in the cities listed below. The purpose of these public hearings is twofold. One purpose is to obtain comments on the NWP's nationally. The other purpose is to obtain comments on regional conditioning, including recommended regional conditions, if the NWP's are issued.

Albany, New York  
Cincinnati, Ohio  
Honolulu, Hawaii

Jacksonville, Florida  
New York, New York

Raleigh, North Carolina  
Sacramento, California

For specific times and dates of the public hearings in the above cities, please contact the Corps district office in that area.

REGIONAL PUBLIC HEARINGS - DATES AND LOCATIONS

Southwestern Division Hearing

Date: July 31, 1998

Time: 6:00 p.m.

Location: Galveston District Office  
2000 Fort Point Road  
Galveston, TX 77553

Mississippi Valley Division Hearing

Date: August 18, 1998

Time: 6:00 p.m.

Location: Robert A. Young Building Auditorium  
1222 Spruce Street  
St. Louis, MO

Northwestern Division Hearing

Seattle District

Date: August 6, 1998

Time: 2:00 p.m. to 6 p.m.

7:00 p.m. to 11:00 p.m.

Location: Seattle District Office  
4735 East Marginal Way South  
Seattle, WA 98134

Omaha District

Date: August 18, 1998

Time: 1 p.m.

Location: Chalco Hills Recreation Area  
Papio-Missouri River Natural Resources  
District Building  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138-3621

**DISCUSSION**

NWP's are general permits issued on a nationwide basis to authorize minor activities with little or no paperwork. Most of the proposed NWP's will require notification to the district engineer prior to commencing the work. This notification is required where a review by the district engineer is necessary to ensure that activities authorized by these NWP's have minimal individual and cumulative adverse impacts on the aquatic environment.

## **REGIONAL ISSUES CONCERNING THE PROPOSED NWP's, INCLUDING REGIONAL CONDITIONING**

In addition to the NWP general conditions and proposed changes to six existing conditions, division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or State. Regional conditions are an important mechanism to ensure that impacts to the aquatic environment authorized by the NWP's are minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP's in certain geographic areas (e.g., States or watersheds) or high-value aquatic systems where impacts authorized by those NWP's may be more than minimal. Enclosed to this public notice (Enclosure 2) are the proposed regional conditions currently under consideration. The Tulsa District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWP's are minimal. In response to the comments received on regional conditions, an additional public notice announcing additional proposed regional conditions will be published in 90-120 days. When the Division Engineer approves the regional conditions, those regional conditions will become effective when the final NWP's are announced by public notice. Unless otherwise noted, the proposed regional condition listed in enclosure two is only applicable for activities within the Tulsa District. A public meeting will be held on August 11th from 4:00 p.m. till 7:00 p.m. in the second floor conference room (201) of the Tulsa District Office located at 1645 S. 101 E. Ave., Tulsa, OK 74128-4629, telephone (918) 669-7400. The purpose of this meeting is to solicit input on the proposed regional conditions or to suggest additional regional conditions for the proposed NWP's. Written comments on the regional condition can be sent to Tulsa District, USACE, CESWT-PE-R, 1645 S. 101 E. Ave., Tulsa, OK 74128-4629. Comments are due by August 12, 1998. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other Corps offices.

## **WATER QUALITY CERTIFICATION**

A State Section 401 Water Quality Certification or waiver is required for NWP's that may result in a discharge into waters of the United States. The Corps believes that, in general, these NWP's comply with State Water Quality Certification standards. However, the Corps districts are working individually with the appropriate State agencies to identify and resolve any issues prior to finalizing these NWP's.

## **DOCUMENTATION**

Provisional determinations, including environmental documents, have been prepared indicating that these NWP's comply with the requirements for issuance under general permit authority. These documents, as well as the proposed NWP's and public hearing information, are available for viewing at the Tulsa District Office, Regulatory Branch, 1645 S. 101 E. Ave., Tulsa, OK 74128-4629 or on the Internet at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>.

The Corps will prepare final decision documents when the NWP's are issued or modified. These documents will be available as indicated in the paragraph above. Furthermore, the NWP decision documents will be supplemented by Division Engineer, as necessary, based on his decision regarding adding regional conditions to NWP's.

# ENCLOSURE 1

## Index of Nationwide Permits, Conditions, Further Information, and Definitions

### *Proposed New Nationwide Permits*

- A. Residential, Commercial, and Institutional Activities.
- B. Master Planned Development Activities.
- C. Stormwater Management Facilities.
- D. Passive Recreational Facilities.
- E. Mining Activities
- F. Reshaping Existing Drainage Ditches.

### *Nationwide Permits Proposed to be Modified.*

3. Maintenance.
7. Outfall Structures and Maintenance.
12. Utility Activities.
14. Linear Transportation Crossings.
27. Stream and Wetland Restoration Activities
40. Agricultural Activities

### *Nationwide Permit Conditions*

#### *General Conditions:*

1. Navigation
2. Proper Maintenance
3. Soil Erosion and Sediment Controls
4. Aquatic Life Movements
5. Equipment
6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality\*
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification\*
14. Compliance Certification
15. Multiple Use of Nationwide Permits.

16. Subdivisions\*
17. Water Supply Intakes
18. Shellfish Production
19. Suitable Material\*
20. Mitigation\*
21. Spawning Areas\*
22. Management of Water Flows\*
23. Adverse Effects from Impoundments
24. Waterfowl Breeding Areas
25. Removal of Temporary Fills

(\* Indicates conditions proposed to be changed.)

### *Further Information*

### *Definitions*

1. Aquatic Bench
2. Best Management Practices
3. Channelized stream
4. Contiguous wetland
5. Drainage ditch
6. Ephemeral stream
7. Farm
8. Intermittent stream
9. Loss of waters of the United States
10. Noncontiguous wetland
11. Non-tidal wetland
12. Perennial stream
13. Riffle and pool complexes
14. Stormwater management
15. Stormwater management facilities
16. Tidal wetland
17. Vegetated shallows
18. Waterbody

## ENCLOSURE 2

### **Proposed regional condition for the Tulsa District.**

For discharges of dredged or fill material into waters of the United States that are listed below, the permittee must notify the District Engineer in accordance with the Notification general condition found at 33 CFR 330, Appendix C, Subparagraph 13. The District Engineer will, upon receipt of a notification, provide immediately, *e.g.*, facsimile transmission, overnight mail or other expeditious manner, a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource, water quality agency, EPA, State Historic Preservation Officer (SHPO), and State Archeologist. These agencies will then have 5 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

The following locations and waters are subject to the Notification requirements stated above:

#### **Flint Creek** (all)

**Illinois River** – North from the confluence with the Barren Fork River in Cherokee, Adair, and Delaware Counties to the state line.

**Barren Fork River** – In Adair and Cherokee Counties from the present alignment of U.S. Highway 59 west to the Illinois River.

**Mountain Fork River** – Above 600-foot m.s.l. elevation level of Broken Bow Reservoir in McCurtain and LeFlore Counties.

**Little and Big Lee Creek** – Above 420-foot m.s.l. in Adair and Sequoyah Counties.

Waters designated as **Outstanding Resource Waters** in the Oklahoma Water Quality Standards 1994.

Waters afforded special protections in **Appendix B** of the Oklahoma Water Quality Standards 1994.