

Regional Conditions for all Nationwide Permits in Oklahoma
March 21, 2017

1. Unique Wetlands: For all discharges proposed for authorization under nationwide permits (NWP) 3, 6, 7, 12, 14, 18, 19, 21, 23, 25, 27, 29, 39, 40, 41, 42, 43, 44, 49, 51, 52, 53, and 54, into the following habitat types or specific areas, the applicant shall notify the Tulsa District Engineer in accordance with the NWP General Condition 32, Pre-Construction Notification (PCN). The Corps of Engineers (Corps) will coordinate with the resource agencies as specified in NWP General Condition 32(d) (PCN). The habitat types or areas are:

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

b. Bald Cypress-Tupelo Swamps: Wetlands dominated by bald cypress (*Taxodium distichum*) and/or water tupelo (*Nyssa aquatica*).

2. Designated Critical Resource Waters (CRWs): CRWs are Outstanding Resource Waters (ORWs) and their watersheds, and High Quality Waters (HQWs) designated by the State of Oklahoma in Appendix A of the Water Quality Standards (OAC 785, Chapter 45). The ORWs include all waters in the supporting watersheds, HQWs do not. Both ORWs and HQWs include adjacent wetlands. The current list of CRWs is available on the Corps website: <http://www.swt.usace.army.mil/portals/41/docs/missions/regulatory/wqc/crw.pdf> (See GC 22 Designated CRWs).

3. Upland Disposal: Except where authorized by Nationwide Permit 16, material disposed of in uplands shall be placed in a location and manner that prevents discharge of the material and/or return water into waters or wetlands unless otherwise authorized by the Tulsa District Engineer.

4. Major Rivers: The prospective permittee shall notify the Tulsa District Engineer for all NWP 14 verifications which cross major rivers within Tulsa District. For the purposes of this condition, major rivers include the following: Arkansas River, Canadian River, North Canadian River, Cimarron River, Grand-Neosho River, Illinois River, Red River, Verdigris River, and Washita River.

“Indian Country” WQC: In its letter dated March 2, 2017, EPA, Region 6 denied water quality certification (WQC) of the 2017 NWP for use in Indian Country¹ in the State of Oklahoma where a tribe has not received treatment in the same manner as a state for the Clean Water Act (CWA) Section 401 program. Rather, EPA is requiring anyone wanting to perform work, which may result in a discharge, on such Tribal land to obtain an activity-specific water quality certification or waiver from EPA before proceeding under the NWP. If the Corps receives a request for a NWP verification on Indian Country lands, for an activity which may result in a discharge, and the request is not accompanied by EPA’s WQC, we will review and, if applicable, issue a provisional NWP verification with instructions for the applicant to contact EPA Region 6 for a site-specific WQC. A request to the Corps for NWP verification on Indian Country lands, for an activity which may result in a discharge, should be accompanied with an individual 401 water quality certification from EPA or a copy of the application to EPA for such certification. Requests for Indian Country WQC may be directed to EPA Region 6 via the following address:

Chief Wetlands Section
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200 (6WQ-EM)
Dallas, TX 75202

Pawnee Nation WQC: Tulsa District requested water quality certification (WQC) from the water quality certifying agencies in January 2017. As of the date of this document, the Corps has not received WQC from the Pawnee Nation, which is authorized to address WQC for the Trust lands as it has received treatment in the same manner as a state for the water quality standards and 401 certification programs. In the absence of a WQC from the Pawnee Nation, when the Corps receives a request for a NWP verification on Pawnee Nation lands, for an activity which may result in a discharge, and the request is not accompanied by Pawnee Nation’s WQC, we will review and, if applicable, issue a provisional NWP verification with instructions for the applicant to contact the Pawnee Nation for a site-specific WQC. A request to the Corps for NWP verification on Pawnee Nation Trust lands, for an activity which may result in a discharge, should be accompanied with an individual 401 water quality certification from Pawnee Nation or a copy of the application to Pawnee Nation for such certification. Requests for Pawnee Nation WQC may be directed to the following address:

¹ “Indian Country”, as defined in 18 U.S.C. 1151, means: (1) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (2) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Pawnee Nation of Oklahoma
Division of Natural Resources and Safety
301 Agency Rd.
Pawnee, OK 74058

State of Oklahoma WQC: The Oklahoma Department of Environmental Quality (ODEQ) has denied WQC for NWP 3, 13, 18, 41, 45, 46, and 53 in Critical Resource Waters (CRWs); and 34, 48, 49, 50, and 54 in all waters. If the Corps receives a request for such a verification (without WQC), for an activity which may result in a discharge, and the request is not accompanied by ODEQ's WQC, we will review and, if applicable, issue a provisional NWP verification with instructions for the applicant to contact ODEQ for a site-specific WQC. Such a request to the Corps for NWP verification, for an activity which may result in a discharge, should be accompanied with an individual 401 water quality certification from ODEQ or a copy of the application to ODEQ for such certification.

Subject to the exceptions referenced above, ODEQ granted Water Quality Certification (WQC) to the NWPs subject to the following conditions. The Corps has determined the following WQC standard conditions issued by the ODEQ on February 24, 2017, pursuant to Section 401 of the CWA, are acceptable for CWA Section 404 NWPs.

1. All spills of fuel or other pollutants in excess of five gallons shall be reported to the ODEQ, within twenty-four (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
3. The 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 Ordinary High Water Mark 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) 702-6100.
6. If the project is located on or may affect water impaired for turbidity and/or sediment, Best Management Practices and other controls shall be selected and implemented in order to control soil erosion and maintain compliance with Water Quality Standards (Oklahoma Administrative Code, Chapter 45). The permittee shall maintain sufficient records to document the type of practices implemented to maintain compliance with this condition, during the term of the permit. A copy of the current EPA-approved list of impaired waters [303(d) list] can be viewed at http://www.deq.state.ok.us/wqdnew/305b_303d/index.html
7. For any project involving bank stabilization, the permittee shall consider installing bioengineering practices in lieu of structural practices (e.g. riprap) to minimize impacts to the aquatic resource and enhance aquatic habitat.

For Nationwide Permit 16, the ODEQ WQC is conditioned as follows: an ODEQ approved set of Best Management Practices (BMPs) for sediment control in return water shall be submitted to the ODEQ, approved, and implemented before commencing any discharge.

NOTE: Invasive Species - For all activities proposed for authorization under NWP, the applicant shall consider utilizing Best Management Practices (BMPs) to reduce the risk of transferring invasive plant and animal species to or from project sites. The following BMPs, as a minimum, shall be considered:

- a. Clean: Clean both the inside and outside of equipment and gear by removing all plants, animals, and mud and thoroughly washing the equipment using a high pressure spray nozzle. Equipment should be decontaminated in accordance with State of Oklahoma procedures prior to relocation.
- b. Drain: Drain all water from receptacles before leaving the area, including livewells, bilges, ballast, and engine cooling water on boats.
- c. Dry: Allow time for your equipment to dry completely before relocating in other waters. Equipment should be dried a minimum of 20 days prior to relocation. High temperature pressure washing (at least 140 degrees Fahrenheit) or professional cleaning may be substituted for drying time.

Expires: March 18, 2022