

Attachment D - TDEC 401 Water Quality Certification



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Water Pollution Control
6th Floor Life and Casualty Annex
401 Church Street
Nashville, Tennessee 37243

August 17, 2009

Mr. Ron Gatlin
Chief, Regulatory Branch
Nashville District, Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214-2260

**SUBJECT: §401 Water Quality Certification
Reissuance of Nationwide Permits**

Dear Mr. Gatlin:

Pursuant to §401 of *The Clean Water Act* (33 U.S.C. §1341), the state of Tennessee is required to certify whether the activities authorized by the proposed nationwide general permits (NWP), will violate applicable water quality standards. Accordingly, the Division requires reasonable assurance that activities conducted under the NWP will not violate provisions of *The Tennessee Water Quality Control Act of 1977* (T.C.A. § 69-3-101 et seq.) or of §§ 301, 302, 303, 306 or 307 of *The Clean Water Act*.

The proposed NWP were published in the Federal Register Vol. 72, No. 47 Monday, March 12, 2007, part II. On March 4, 2007, the state denied water quality certification for the nationwide general permits in waters of the U. S. within the state of Tennessee.

The Tennessee Water Quality Act requires permits for activities also regulated by § 404 and authorized by the proposed NWP. The state has general permits pursuant to that act which authorize activities that generally correspond with the activities authorized by the NWP. Most of the state's general permits require written notification to the division along with written authorization. Where notification to the division *is not* required, the activity may commence without written authorization.

In order to allow persons covered by the state's general permits to proceed without individual certification in certain cases, the division has determined to issue certification for specific NWP.

The division hereby issues §401 water quality certification for the following nationwide general permits:

13. Bank Stabilization
25. Structural Discharges
36. Boat Ramps

Reissuance of Nationwide Permits
August 17, 2009

Effective Date August 17, 2009

Expiration Date August 16, 2014

Conditions:

1. The activity must be located within water resource development project lands and waters, including flowage easement, managed by the Tennessee Valley Authority or the U. S. Army Corps of Engineers.

2. Agency Coordination shall be conducted in accordance with Item 27, Pre-Construction Notification, of the Nationwide Permit General Conditions, in any case where a pre-construction notification is prescribed by the NWP.

We understand that subsequent to your receipt of this certification, persons who qualify for the subject NWPs under the above conditions would no longer need to provide the Corps of Engineers or the Tennessee Valley Authority with an individual certification.

The state's general permits expire June 30, 2010 and the NWPs are set to expire on March 18, 2012. The state reserves the right to modify or revoke this certification should the expiration or reissuance of general permits substantively affect its application.

Thank you for your consideration. If we can be of assistance please contact Daniel Eagar at 532-0708.

Sincerely,



 Paul E. Davis
Director

Cc. Larry Watson, Memphis District Corps of Engineers, Memphis TN
Lee Barclay, U.S. Fish and Wildlife Service, Cookeville, TN
Rob Todd, Tenn. Wildlife Resources Agency, Nashville, TN
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