



**US Army Corps  
of Engineers**®  
Fort Worth District

# Public Notice

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Nationwide Permit Reissuance Request for Comments

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Date: October 1, 2020

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## DISTRICT PUBLIC NOTICE - PROPOSAL

### NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On September 15, 2020, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 52 existing nationwide permits (NWP) and issue five new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWP require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWP cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWP: The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2020-0002 at [www.regulations.gov](http://www.regulations.gov), or by email to [nationwidepermits2020@usace.army.mil](mailto:nationwidepermits2020@usace.army.mil) or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the September 15, 2020 Federal Register notice. Comments on the proposed NWP are due by November 16, 2020.

Regional Issues Concerning the Proposed NWP, Including Regional Conditioning: 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 help ensure that the adverse environmental effects of activities authorized by the NWP are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWP may be more than minimal. An enclosure for this public notice (Enclosure #1) lists the proposed regional

conditions currently under consideration by the South Pacific Division and the Southwestern Division for Texas, including the Albuquerque District, the Tulsa District, the Fort Worth District, and the Galveston District. As the lead district for the Corps Regulatory Program within Texas, the Galveston District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWP's are no more than minimal, individually and cumulatively. Comments on regional issues relating to the proposed NWP's and proposed regional conditions should be sent to:

U.S. Army Corps of Engineers  
Galveston District  
Regulatory Division  
2000 Fort Point Road  
Galveston, Texas 77550  
Attn: Ms. Kristi McMillan  
[swg\\_public\\_notice@usace.army.mil](mailto:swg_public_notice@usace.army.mil)

A portion of the Galveston and Fort Worth Districts lies within the State of Louisiana. Enclosure #2 of this public notice lists the proposed regional conditions currently under consideration by the Mississippi Valley Division, including the New Orleans District for the State of Louisiana. Comments on issues relating to the Louisiana regional conditions are to be sent to:

U.S. Army Corps of Engineers  
New Orleans District  
Regulatory Branch  
Post Office Box 60267  
New Orleans, Louisiana 70160-0267  
Attn: Ms. Brenda Archer  
[Brenda.A.Archer@usace.army.mil](mailto:Brenda.A.Archer@usace.army.mil)

Enclosure #3 of this public notice is a map depicting the referenced District boundaries. Comments relating to regional conditions are due by November 15, 2020. Similar public notices proposing regional conditions in other regions or states are being published concurrently by other division or district offices. After the final NWP's are issued, the final regional conditions will be issued after they are approved by the respective Division Commander.

States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWP's. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP's.

Draft decision documents for each of the proposed NWP's, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP's with the requirements for issuance under the Corps' general

permit authority. These draft decision documents, as well as the proposed NWP, are available for viewing at [www.regulations.gov](http://www.regulations.gov), docket number COE-2020-0002. Final decision documents will be prepared for the NWP that are issued.

Below is an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>, at [www.regulations.gov](http://www.regulations.gov) in docket number COE-2020-0002, or at the following Federal Register address: <https://www.federalregister.gov/documents/2020/09/15/2020-17116/proposal-to-reissue-and-modify-nationwide-permits>.

### **Index of Proposed Nationwide Permits, Conditions, 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. Oil or Natural Gas Pipeline 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 or 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
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41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
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44. Mining Activities
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46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Mariculture 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
53. Removal of Low-Head Dams
54. Living Shorelines
  - A. Seaweed Mariculture Activities
  - B. Finfish Mariculture Activities
  - C. Electric Utility Line and Telecommunications Activities
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***Nationwide Permit General Conditions***

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3. Spawning Areas
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5. Shellfish Beds
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8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
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16. Wild and Scenic Rivers

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20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
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31. Activities Affecting Structures or Works Built by the United States
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### ***District Engineer's Decision***

### ***Further Information***

#### ***Definitions***

Best management practices (BMPs)  
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Vegetated shallows  
Waterbody



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**PROPOSED 2020 NATIONWIDE PERMIT  
(NWP) REISSUANCE  
REGIONAL CONDITIONS FOR THE  
STATE OF TEXAS**

**The following regional conditions only apply within the Albuquerque District.**

1. Dredge and Fill Activities in Intermittent and Perennial Streams, and Special Aquatic Sites: For all activities subject to regulation under the Clean Water Act Section 404 in intermittent and perennial streams, and special aquatic sites (including wetlands, riffle and pool complexes, and sanctuaries and refuges), Pre-Construction Notification (PCN) to the Albuquerque District Engineer is required in accordance with Nationwide Permit General Condition 32.
2. Suitable Fill. Use of broken concrete as fill or bank stabilization material is prohibited unless the applicant demonstrates that its use is the only practicable material (with respect to cost, existing technology, and logistics). Any applicant who wishes to use broken concrete as bank stabilization must provide notification to the Albuquerque District Engineer in accordance with Nationwide Permit General Condition 32 - PCN along with justification for such use. Use of broken concrete with rebar or used tires (loose or formed into bales) is prohibited in all waters of the United States.
3. NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities. For all proposed activities under NWP 27 that require pre-construction notification, a monitoring plan commensurate with the scale of the proposed restoration project and the potential for risk to the aquatic environment must be submitted to the Corps. (See “NWP 27 Guidelines” at <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/NWP.aspx> ).

**The following regional conditions apply only within the Fort Worth District.**

4. Notification to the Fort Worth District Engineer in accordance with Nationwide Permit General Condition 32 - Pre-Construction Notification (PCN) is required for all activities proposed for authorization by any NWP that result in the loss of greater than 300 linear feet of streams, 0.1 acre of wetlands, other special aquatic sites and/or other waters and must include a compensatory mitigation plan. Mitigation thresholds are cumulative irrespective of aquatic resource type at each single and complete crossing or site. PCN is also required for all activities that result in the temporary impact of 0.1 acre of scrub-shrub/forested wetland and/or 0.5 acre of emergent wetlands and must include a restoration plan.
5. Notification to the Fort Worth District Engineer in accordance with Nationwide Permit General Condition 32 - PCN is required for all activities proposed for authorization by NWP 27.
6. Notification to the Fort Worth District Engineer in accordance with Nationwide Permit General Condition 32 - PCN is required for all activities proposed for authorization by any NWP involving a water intake.
7. Seismic testing activities (i.e., explosive detonations) within perennial streams and rivers are not authorized by NWP.



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**PROPOSED 2020 NATIONWIDE PERMIT  
(NWP) REISSUANCE  
REGIONAL CONDITIONS FOR THE  
STATE OF TEXAS**

**The following regional conditions apply within the Fort Worth District and Galveston District Boundaries:**

8. Notification to the appropriate District Engineer in accordance with Nationwide Permit General Condition 32 - Pre-Construction Notification (PCN) is required for all activities proposed for authorization by any NWP into the below listed ecologically unique and sensitive areas located within waters of the United States. The Corps will coordinate with the resource agencies as specified in NWP General Condition 32(d).

- a. Pitcher plant bogs ((*Sarracenia* spp.) and/or sundews (*Drosera* spp.) and/or Bald Cypress/Tupelo swamps ((*Taxodium distichum*) and/or water tupelo (*Nyssa aquatic*)).
- b. Karst Zones 1 and 2 located in Bexar, Travis and Williamson Counties (see [https://www.fws.gov/southwest/es/AustinTexas/Maps\\_Data.html](https://www.fws.gov/southwest/es/AustinTexas/Maps_Data.html) ).
- c. Caddo Lake and associated areas that are designated as “Wetland of International Importance” under the Ramsar Convention (see <http://caddolakedata.us/media/145/1996caddolakeramsar.pdf> or <http://caddolakedata.us/media/144/1996caddolakeramsar.jpg> ).
- d. Reaches of rivers (and their adjacent wetlands) that are included in the Nationwide Rivers Inventory (see <https://www.nps.gov/subjects/rivers/nationwide-rivers-inventory.htm> ).

9. For all activities proposed for authorization under any NWP at sites approved as compensatory mitigation sites (either permittee-responsible, mitigation bank and/or in-lieu fee) under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899, the applicant shall notify the appropriate District Engineer in accordance with the Nationwide Permit General Condition 32 - PCN prior to commencing the activity.





**PROPOSED 2020 NATIONWIDE PERMIT  
(NWP) REISSUANCE  
REGIONAL CONDITIONS FOR THE  
STATE OF TEXAS**

**The following regional conditions apply only within the Galveston District.**

10. No NWP, except NWP 3, shall be used to authorize discharges into the habitat types or specific areas listed in paragraphs a through c, below. The applicant shall notify the Galveston District Engineer in accordance with the NWP General Condition 32 - Pre-Construction Notification (PCN) prior to commencing the activity under NWP 3.

- a. Mangrove Marshes. For the purpose of this regional condition, Mangrove marshes are those waters of the United States that are dominated by mangroves (*Avicennia* spp., *Laguncularia* spp., *Conocarpus* spp., and *Rhizophora* spp.).
- b. Coastal Dune Swales. For the purpose of this regional condition, coastal dune swales are wetlands and/or other waters of the United States located within the backshore and dune areas in the coastal zone of Texas. They are formed as depressions within and among multiple beach ridge barriers, dune complexes, or dune areas adjacent to beaches fronting tidal waters of the United States.
- c. Columbia Bottomlands. For the purpose of this regional condition, Columbia bottomlands must meet all of the following criteria: 1) wetlands and/or other waters of the United States, 2) currently dominated by bottomland hardwoods (*Quercus* spp.), and 3) located in the Lower Brazos and San Bernard River basins identified in the 1997 Memorandum of Agreement between the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Natural Resource Conservation Service, and Texas Parks and Wildlife Department for bottomland hardwoods in Brazoria County. (For further information, see <http://www.swg.usace.army.mil/Business-With-Us/Regulatory/Permits/Nationwide-General-Permits/>)

11. For all activities proposed under NWP 10 and 11 located in vegetated shallows and coral reefs; as defined by 40 CFR 230.43 and 230.44 respectively, the applicant shall notify the Galveston District Engineer in accordance with the NWP General Condition 32 - PCN. Examples include, but are not limited to: seagrass beds, oyster reefs, and coral reefs.

12. Nationwide Permit 12, C, and D shall not be used to authorize discharges within 500 feet of vegetated shallows and coral reefs; as defined by 40 CFR 230.43 and 230.44 respectively. Examples include, but are not limited to: seagrass beds, oyster reefs, and coral reefs.

13. For all activities proposed for authorization under Nationwide Permit 12, C, or D that involve underground placement below a non-navigable tributary there shall a minimum cover of 48 inches of soil below the river and/or perennial stream thalweg.



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**PROPOSED 2020 NATIONWIDE PERMIT  
(NWP) REISSUANCE  
REGIONAL CONDITIONS FOR THE  
STATE OF TEXAS**

14. For all discharges and work proposed under NWP 14 and 18 in tidal waters, the applicant shall notify the Galveston District Engineer in accordance with the NWP General Condition 32 - PCN. The Galveston District will coordinate with the resource agencies in accordance with NWP General Condition 32(d) - PCN.

15. No NWPs, except NWPs 3, 16, 20, 22, 37, shall be used to authorize discharges, structures, and/or fill within the standard setback and high hazard zones of the Sabine-Neches Waterway as defined in the Standard Operating Procedure - Permit Setbacks along the Sabine-Neches Waterway. The applicant shall notify the Galveston District Engineer in accordance with NWP General Condition 32 - PCN for all discharge, structures and/or work in medium hazard zones and all NWP 3 applications within the standard setback and high hazard zones of the Sabine-Neches Waterway.

16. No NWP, except 20, 22, and 37, shall be used to authorize discharges, structures, and/or fill within the standard setback exemptions of the Gulf Intracoastal Waterway as defined in the Standard Operating Procedure- Department of the Army Permit Evaluation Setbacks along the Gulf Intracoastal Waterway. The applicant shall notify the Galveston District Engineer in accordance with NWP General Condition 32 – PCN for all discharges, structures and/or work within the standard setback, shoreward of the standard setback, and/or standard setback exemption zones.

17. All work in the San Jacinto Waste Pit (SWJP) Area of Concern (AOC), authorized under an NWP, requires a waiver from the Galveston District Engineer (DE). The applicant shall notify the DE in accordance with the NWP General Condition 32 - PCN. The PCN shall be used to review the project to determine if it will result in more than minimal effects to the region and does not lessen the restriction provided by any General Condition of the NWPs. The applicant must receive written approval, including a waiver, from the DE prior to starting work in jurisdictional areas. (For further information, see <http://www.swg.usace.army.mil/Business-With-Us/Regulatory/Permits/Nationwide-General-Permits/>)

18. Federal Agencies: For activities that trigger the requirement for compensatory mitigation, as defined in 33 CFR 332, the Federal Agency must provide the Galveston District Engineer a copy of the Federal Agency's self-verification documentation, within 30-days after start of work in waters of the United States. The self-verification documentation must show how the compensatory mitigation was/or will be completed in accordance with 33 CFR 332.

19. Federal Agencies: For activities that trigger the requirements under General Condition 31 Activities Affecting Structures or Works Built by the United States, the Federal Agency must notify the Galveston District Engineer in accordance with NWP General Condition 32 - PCN and cannot start work in Waters of the United States until the district engineer issues a written NWP verification.

1. STATE OF LOUISIANA
2. NATIONWIDE PERMIT (NWP) REISSUANCE
3. REGIONAL CONDITIONS

### **Proposed 2020 NWP Louisiana Regional Conditions**

#### ***PART I - REGIONAL CONDITIONS FOR ALL NWPS:***

**Regional Condition 1.** No regulated activity may cause the permanent loss or the conversion of greater than 1/2 acre of cypress swamp and/or cypress-tupelo swamp.

**Regional Condition 2.** No regulated activity may cause the permanent loss or the conversion of greater than 1/2 acre of coastal prairie, pine savanna, and/or pitcher plant bogs.

**Regional Condition 3.** No regulated activity is authorized under any NWP permit which has been determined to have an adverse impact upon a federal or state designated rookery and/or bird sanctuary.

**Regional Condition 4.** Dredged and/or fill material placed within wetlands and other waters must be free of contaminants, to the best of the applicant's knowledge.

**Regional Condition 5.** For work within the Louisiana Coastal Zone and/or the Outer Continental Shelf off Louisiana;

a. The New Orleans District's Programmatic General Permit (PGP) generally supersedes the Nationwide Permit authorization for regulated activities located within the Louisiana Coastal Zone as incorporated within the New Orleans Corps District boundaries. Projects typically will not qualify for a Nationwide Permit if they qualify for the Programmatic General Permit.

b. A joint permit application for work must first be submitted to the Louisiana Department of Natural Resources, Office of Coastal Management (OCM). OCM will then forward the request to the Corps of Engineers-New Orleans District.

c. NWP requests that have not received a Coastal Use Permit or other consistency determination from the OCM would be processed by the Corps. However any granted authorization may be conditioned to require the applicant to obtain appropriate authorization from OCM before the NWP is valid.

**Regional Condition 6.** A pre-construction notification, as defined under nationwide general condition 32, will be provided for all regulated activities, excluding Nationwide 20, that a. Adversely affects greater than 1/10 acre of wetlands, and/or;

- b. Adversely impacts a Louisiana designated Natural and Scenic River or a state or federal wetland/wildlife management area and/or refuge.

**Regional Condition 7, Supplement to General Condition 2 – Aquatic Life Movement.** To support compliance with General Condition 2 of the NWP, culverts must be sufficiently sized to maintain expected high water flows and be installed at a sufficient depth to maintain low flows to sustain the movement of aquatic species.

## **PART II - REGIONAL CONDITIONS FOR SPECIFIC NWPS**

**NWP 1.** *Aids to Navigation:*  
No additional regional conditions are proposed.

**NWP 2.** *Structures in Artificial Canals:*  
No additional regional conditions are proposed.

**NWP 3.** *Maintenance:*  
No additional regional conditions are proposed.

**NWP 4.** *Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities:* No additional regional conditions are proposed.

**NWP 5.** *Scientific Measurement Devices:*  
Pre-construction notification, as defined under nationwide general condition 32, is required for all weirs and flumes in any water of the United States.

**NWP 6.** *Survey Activities:*  
Pre-construction notification, as defined under nationwide general condition 32, is required for all regulated **seismic survey activities**. The state and federal resource agencies will be forwarded a copy of the Pre-Construction Notification regardless of acreage impact.

**NWP 7.** *Outfall Structures and Associated Intake Structures:*  
Activities that include the construction of intake structures must include adequate fish exclusion screening devices.

**NWP 8.** *Oil and Gas Structures on the Outer Continental Shelf:*  
No additional regional conditions are proposed.

**NWP 9.** *Structures in Fleeting and Anchorage Areas:*  
No additional regional conditions are proposed.

**NWP 10.**     *Mooring Buoys:*  
No additional regional conditions are proposed.

**NWP 11.**     *Temporary Recreational Structures:*  
No additional regional conditions are proposed.

**NWP 12.**     *Oil or Natural Gas Pipeline Activities:*  
Pre-Construction Notification, as defined under nationwide general condition 32, is required for regulated **pipeline activities** regardless of impact acreage. The U.S. Environmental Protection Agency and, if applicable, National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification for all NWP #12 activities.

A 50-foot gap shall be required for every 500 linear feet of sidecast material resulting from trench excavation activities associated with utility line construction. Under certain circumstances the gap intervals may be modified. Additionally, no fill shall be placed in a manner which would impede natural watercourses.

**NWP 13.**     *Bank Stabilization:*  
Rip-rap material shall be free of protruding reinforcement material (i.e., rebar). Such material may pose a hazard to navigation and recreational uses.

**NWP 14.**     *Linear Transportation Projects:*  
Pre-Construction Notification, as defined under nationwide general condition 32, is required for all regulated **linear transportation crossings** regardless of impact acreage. The U.S. Environmental Protection Agency and, if applicable, National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification for all NWP #14 activities.

**NWP 15.**     *U.S. Coast Guard Approved Bridges:*  
No additional regional conditions are proposed.

**NWP 16.**     *Return Water from Upland Contained Disposal Areas:*  
No additional regional conditions are proposed.

**NWP 17.**     *Hydropower Projects:*  
No additional regional conditions are in proposed.

**NWP 18.**     *Minor Discharges:*  
No additional regional conditions are proposed.

**NWP 19.**     *Minor Dredging:*  
No additional regional conditions are proposed.

**NWP 20.**     *Response Operations for Oil and Hazardous Substances:*  
No additional regional conditions are proposed.

**NWP 21.**     *Surface Coal Mining Activities:*  
No additional regional conditions are proposed.

**NWP 22.**     *Removal of Vessels:*  
No additional regional conditions are proposed.

**NWP 23.**     *Approved Categorical Exclusions:*  
No additional regional conditions are proposed.

**NWP 24.**     *Indian Tribe or State Administered Section 404 Programs:*  
Not applicable in the State of Louisiana.

**NWP 25.**     *Structural Discharges:*  
No additional regional conditions are proposed.

**NWP 26.**     (Reserved)

**NWP 27.**     *Aquatic Habitat Restoration, Establishment, and Enhancement Activities:*  
No regulated activities shall be authorized that would convert tidal wetlands to another aquatic habitat type.

**NWP 28.**     *Modifications of Existing Marinas:*  
No additional regional conditions are proposed.

**NWP 29.**     *Residential Developments:*  
No additional regional conditions are proposed.

**NWP 30.**     *Moist Soil Management for Wildlife:*  
No additional regional conditions are proposed.

**NWP 31.**     *Maintenance of Existing Flood Control Facilities:*  
No additional regional conditions are proposed.

**NWP 32.**     *Completed Enforcement Actions:*  
No additional regional conditions are proposed.

**NWP 33.**     *Temporary Construction, Access and Dewatering:*  
No additional regional conditions are proposed.

**NWP 34.**     *Cranberry Production Activities:*  
Not applicable within the State of Louisiana.

**NWP 35.**     *Maintenance Dredging of Existing Basins:*  
No additional regional conditions are proposed.

**NWP 36.**     *Boat Ramps:*  
No additional regional conditions are proposed.

**NWP 37.**     *Emergency Watershed Protection and Rehabilitation:*  
No additional regional conditions are proposed.

**NWP 38.**     *Cleanup of Hazardous and Toxic Waste:*  
No additional regional conditions are proposed.

**NWP 39.**     *Commercial and Institutional Developments:*  
No additional regional conditions are proposed.

**NWP 40.**     *Agricultural Activities:*  
No additional regional conditions are proposed.

**NWP 41.**     *Reshaping Existing Drainage Ditches:*  
No additional regional conditions are proposed.

**NWP 42.**     *Recreational Facilities:*  
No additional regional conditions are proposed.

**NWP 43.**     *Stormwater Management Facilities:*  
Regulated activities which would result in the resuspension of dredged material shall be prohibited in Bayou d'Inde, the Inner Navigation Harbor Canal, Calcasieu River at the mouth of Bayou d'Inde, Harvey Canal, California Canal, and Bayous Trepagnier, Rigaud, Olsen and Verdine, Capitol Lake, Coon Island Loop, Devil's Swamp, and Tensas River (areas within and upstream of Tensas National Wildlife Refuge), Ouachita River (areas within and upstream of the Upper Ouachita National Wildlife Refuge), Wham Brake drainage (Staulkinghead Creek, Little Bayou Boeuf, Bayou Lafourche and Lake Irwin).

**NWP 44.**     *Mining Activities:*  
Regulated activities which would result in the resuspension of dredged material shall be prohibited in Bayou d'Inde, the Inner Harbor Canal, Calcasieu River at the mouth of Bayou d'Inde, Harvey Canal, California Canal, and Bayous Trepagnier, Rigaud, Olsen and Verdine, Capitol Lake, Coon Island Loop, Devil's Swamp, and Tensas River (areas within and upstream of Tensas National Wildlife Refuge), Ouachita River (areas within and upstream of the Upper Ouachita National Wildlife Refuge), Wham Brake drainage (Staulkinghead Creek, Little Bayou Boeuf, Bayou Lafourche and Lake Irwin).

**NWP 45. *Repair of Uplands Damaged by Discrete Events:***  
No additional regional conditions are proposed.

**NWP 46. *Discharges in Ditches:***  
No additional regional conditions are proposed.

**NWP 47. *[Reserved]***

**NWP 48. *Existing Commercial Shellfish Aquaculture Activities:***  
No additional regional conditions are proposed.

**NWP 49. *Coal Remining Activities:***  
No additional regional conditions are proposed.

**NWP 50. *Underground Coal Mining Activities:***  
No additional regional conditions are proposed.

**NWP 51. *Land-Based Renewable Energy Generation Facilities:***  
No additional regional conditions are proposed.

**NWP 52. *Water-Based Renewable Energy Generation Pilot Projects:***  
No additional regional conditions are proposed.

***NWP-53. Removal of Low-Head Dams***  
No additional regional conditions are proposed.

***NWP-54. Living Shorelines***  
No additional regional conditions are proposed.

A. Seaweed Mariculture Activities  
No additional regional conditions are proposed.

B. Finfish Mariculture Activities  
No additional regional conditions are proposed.

C. Electric Utility Line and Telecommunication Activities  
No additional regional conditions are proposed.

D. Utility Line Activities for Water and Other Substances  
No additional regional conditions are proposed.

E. Water Reclamation and Reuse Facilities  
No additional regional conditions are proposed.



### **PART III - WATER QUALITY REGIONAL NWPS CONDITIONS FOR “INDIAN COUNTRY” LANDS**

The Environmental Protection Agency (EPA) is the agency required to address water quality certification of the 2020 nationwide permits (NWPs) in Indian country<sup>1</sup> where a tribe has not received treatment in the same manner as a state for the Clean Water Act (CWA) Section 401 program. Tribes which have received treatment in the same manner as a state (TAS) for the water quality standards and §401 certification programs and which have EPA-approved water quality standards will be contacted by the Corps of Engineers for the water quality certification process. EPA is the agency required to address water quality certification for tribes that have not received TAS for the water quality standards and 401 certification programs. At this time, no Indian tribes in Louisiana have CWA Section 401 authority.

1. The permittee shall conduct all work in such a manner to comply with all U.S. Army Corps of Engineers §404 permit conditions.
2. The permittee shall keep a copy of this certification with conditions at the project site during all phases of construction. All contractors or subcontractors involved in the project must be provided a copy of this certification prior to commencement of activities.
3. All heavy equipment used in the project areas shall be steam cleaned before the start of the project and inspected daily for leaks. Leaking equipment must not be used in or near surface water or in a wetland area. Equipment shall be parked outside the waterbody when not in use.
4. All fuels, oil, hydraulic fluid, or other substances of this nature must not be stored, temporarily or otherwise, within the normal floodplain or the wetland. A secondary containment system for these items shall be used in the event the primary containment system leaks. Refueling or servicing of equipment must not take place within 100 feet of any watercourse or within the wetland area.
5. The construction area shall be protected such that a runoff event will not move soil or contaminants to surface water or away from the construction site. These measures shall be in place prior to the commencement of activities and inspected daily.
6. Temporary mats must be placed on stream banks, riparian areas, and wetlands, to minimize impacts to soil and vegetation from heavy equipment. Temporary access roads must be restored to pre-project conditions.

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<sup>1</sup> “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.

7. All asphalt, concrete, and other construction materials must be properly handled and contained to prevent releases to the stream channels. All concrete that is to be poured must be fully contained in mortar-tight forms to prevent accidental releases to surface water or ground water. No discharge of any concrete to surface water or ground water may occur. Dumping of waste materials near watercourses is strictly prohibited.

8. Work in a stream channel should be limited to periods of no flow when practicable, and must be limited to periods of low flow. Avoid working within the channel during spring runoff or summer thunderstorm season.

9. When working in a stream channel, flowing water must be temporarily diverted around the work area to minimize sedimentation and turbidity problems. Acceptable diversion structures are non-erosive and include (but are not limited to) sand bags, water bladders, concrete barriers lined with plastic, and flumes.

10. The permittee shall restore all areas disturbed by construction activities to pre-project conditions. This shall include restoration of surface contours, stabilization of the soil, and restoration of appropriate native vegetation to establish permanent cover.

# US Army Corps Of Engineers Regulatory Boundaries

## Tulsa District

Regulatory Branch, CESWT-PE-R  
1645 South 101st East Avenue  
Tulsa, Oklahoma 74128-4609  
(918) 669-7400

## Fort Worth District

Regulatory Branch, CESWF-PER-R  
819 Taylor Street, Room 3A37  
P.O.Box 17300  
Fort Worth, Texas 76102-0300  
(817) 886-1731

## Little Rock District

Regulatory Branch, CESWL-RO  
P.O. Box 867  
Little Rock, Arkansas 72203-0867  
(501) 324-5295

## Vicksburg District

Regulatory Branch, CEMVK-OD-F  
4155 Clay Street  
Vicksburg, Mississippi 39183-3435  
(607) 637-7071

## Albuquerque District

Las Cruces Regulatory Office, CESP-ARD  
505 S. Main St. Suite 142  
Las Cruces, New Mexico 88001  
(575) 556-9939

## New Orleans District

Regulatory Branch, CEMVN-OD-S  
P.O. Box 60267  
New Orleans, Louisiana 70160-0267  
(504) 862-2257

## Galveston District

Regulatory Branch, CESWG-PE-R  
2000 Fort Point Road  
P.O. Box 1229  
Galveston, Texas 77553-1229  
(409) 766-3930

