



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

# Public Notice

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INFORMATIONAL PUBLIC NOTICE

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Date: January 28, 2022

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## **PUBLIC NOTICE FOR FEDERAL REGISTER NOTICE ANNOUNCING THE REISSUANCE OF THE NATIONWIDE PERMITS**

On December 27, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the Federal Register (86 FR 73522) announcing the reissuance of 40 existing nationwide permits (NWP) and one new NWP. These 41 NWP will go into effect on February 25, 2022, and they will expire on March 14, 2026:

- NWP 1 – Aids to Navigation
- NWP 2 – Structures in Artificial Canals
- NWP 3 – Maintenance
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleeting and Anchorage Areas
- NWP 10 – Mooring Buoys
- NWP 11 – Temporary Recreational Structures
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 15 – U.S. Coast Guard Approved Bridges
- NWP 16 – Return Water From Upland Contained Disposal Areas
- NWP 17 – Hydropower Projects
- NWP 18 – Minor Discharges
- NWP 19 – Minor Dredging
- NWP 20 – Response Operations for Oil or Hazardous Substances
- NWP 22 – Removal of Vessels
- NWP 23 – Approved Categorical Exclusions
- NWP 24 – Indian Tribe or State Administered Section 404 Programs
- NWP 25 – Structural Discharges

- NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- NWP 28 – Modifications of Existing Marinas
- NWP 30 – Moist Soil Management for Wildlife
- NWP 31 – Maintenance of Existing Flood Control Facilities
- NWP 32 – Completed Enforcement Actions
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 34 – Cranberry Production Activities
- NWP 35 – Maintenance Dredging of Existing Basins
- NWP 36 – Boat Ramps
- NWP 37 – Emergency Watershed Protection and Rehabilitation
- NWP 38 – Cleanup of Hazardous and Toxic Waste
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 45 – Repair of Uplands Damaged by Discrete Events
- NWP 46 – Discharges in Ditches
- NWP 49 – Coal Remining Activities
- NWP 53 – Removal of Low-Head Dams
- NWP 54 – Living Shorelines
- NWP 59 – Water Reclamation and Reuse Facilities

The new NWP 59 authorizes discharges of dredged or fill material into waters of the United States for the construction, expansion, and maintenance of water reclamation and reuse facilities.

The Corps has also issued final decision documents for these new and reissued NWPs. These final decision documents are available at [www.regulations.gov](http://www.regulations.gov) at docket number COE-2020-0002.

The 40 existing NWPs published in the December 27, 2021, final rule replace the 2017 versions of these NWPs. The 2017 versions of NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 45, 46, 49, 53, and 54 expire on February 24, 2022.

The NWP general conditions and definitions that were issued in the final rule that was published in the January 13, 2021, issue of the Federal Register (86 FR 2744) apply to the 40 reissued NWPs and the new NWP 59 that were published in the Federal Register on December 27, 2021.

Regional conditions will provide additional protection for the aquatic environment, and will help ensure that the NWPs authorize only those activities that have no more than minimal adverse environmental effects. Regional conditions will help ensure protection of high value waters within the Fort worth District's area of responsibility in Texas and Louisiana (map and regional conditions for each state are attached).

The December 27, 2021, Federal Register notice is available for viewing at <https://www.federalregister.gov/documents/2021/12/27/2021-27441/reissuance-and-modification-of-nationwide-permits>

The January 13, 2021, Federal Register notice is available for viewing at: <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits>

As an alternative, interested parties can access the December 27, 2021, and January 13, 2021, final rules and related documents at:

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

Brandon W. Mobley  
Chief, Regulatory Division

# 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

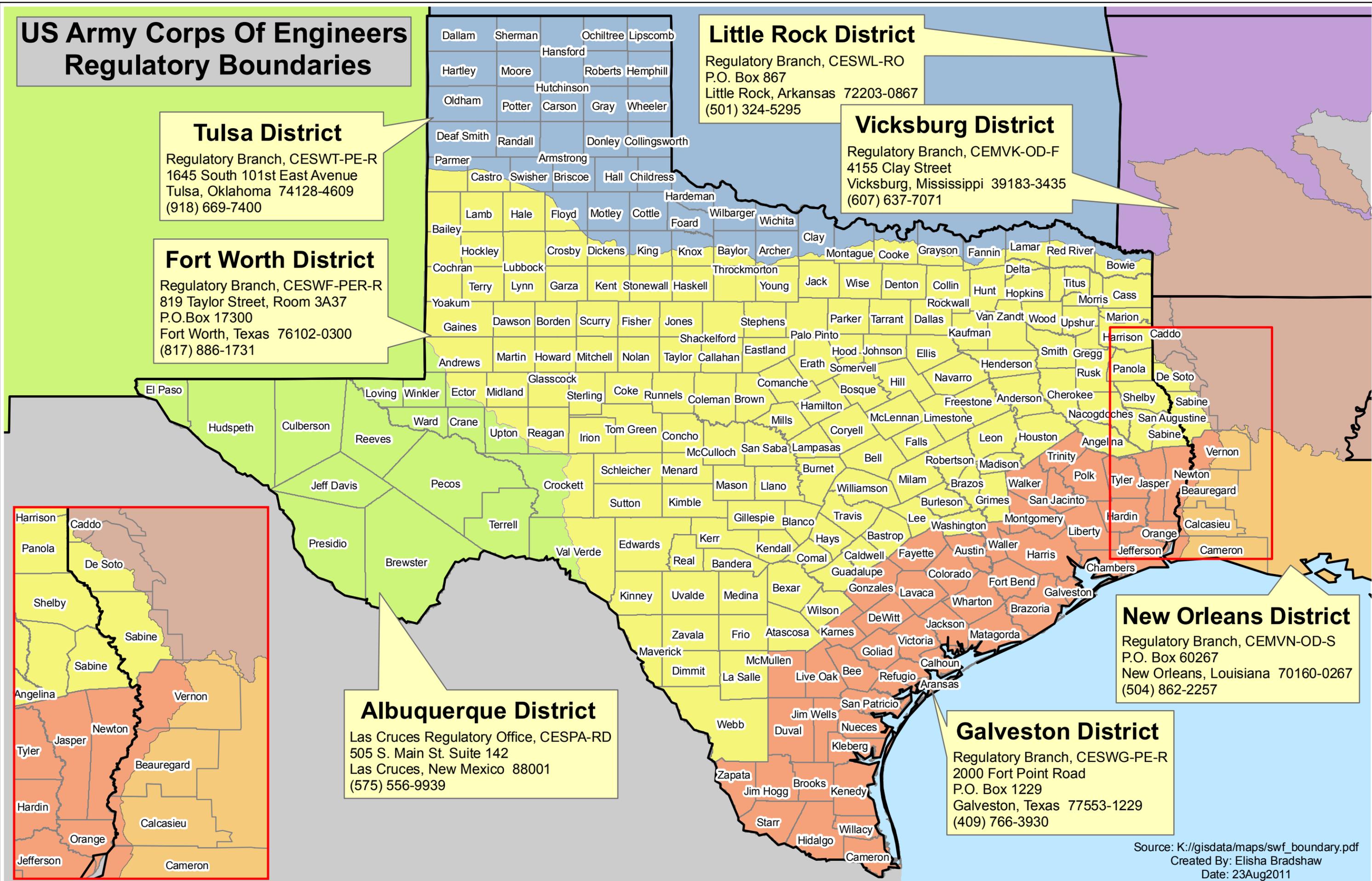
Las Cruces Regulatory Office, CESPA-RD  
505 S. Main St. Suite 142  
Las Cruces, New Mexico 88001  
(575) 556-9939

## 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





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## 2021-COMBINED NATIONWIDE PERMIT (NWP) 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 within the Fort Worth District and Galveston District Boundaries:**

4. 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)(3).
  - a. Pitcher plant bogs ((*Sarracenia* spp.) and/or sundews (*Drosera* spp.) and/or Bald Cypress/Tupelo swamps ((*Taxodium distichum*) and/or water tupelo (*Nyssa aquatica*)).
  - 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> ).



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**2021-COMBINED NATIONWIDE PERMIT (NWP)  
REGIONAL CONDITIONS FOR  
THE STATE OF TEXAS**

5. 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.

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

6. No NWP, except NWP 3, shall be used to authorize discharges into the habitat types or specific areas located within waters of the United States, 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/>)

7. 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.



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8. Nationwide Permit 12, 57, and 58 shall not be used to authorize all 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.

9. For all activities proposed for authorization under Nationwide Permit 12, 57, or 58 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.

10. 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)(3) - PCN.

11. 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.

12. 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.

13. 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/>)

Revised to include any NWP-specific regional conditions for the 40 NWPs reissued and 1 new NWP issued on December 27, 2021.

## **1. STATE OF LOUISIANA**

## **2. 2021 NATIONWIDE PERMIT (NWP) 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 ½ 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 ½ 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.

**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 Permits for regulated activities located within the Louisiana Coastal Zone 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 verification requests that have not received a Coastal Use Permit or other consistency determination from the OCM would be processed by the Corps. However, if 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 affect greater than 1/10 acre of wetlands within the Louisiana Coastal Zone, and/or;

b. Adversely impact 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.

**Regional Condition 8, ESA Additional Information and State Regulation.** NWP GC 18(g) provides links to information about threatened and endangered species and their critical habitat from FWS and NMFS. Within the state of Louisiana, additional information regarding the state protection status of rare, threatened and endangered species and compliance with state threatened and endangered species laws and regulations can be obtained from LDWF at their world wide web pages at <https://www.wlf.louisiana.gov/page/request-wildlife-diversity-project-review-or-digital-data>. **Proponents of regulated activities are reminded that NWPs only authorize activities from the perspective of the U.S. Army Corps of Engineers; state permits, approvals and authorizations may also be required.**

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

### **NWP 1. *Aids to Navigation:***

No regional conditions are proposed.

### **NWP 2. *Structures in Artificial Canals:***

No regional conditions are proposed.

### **NWP 3. *Maintenance:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

### **NWP 4. *Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities:***

No 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:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 7. Outfall Structures and Associated Intake Structures:**

Activities that include the construction of intake structures must include adequate fish exclusion screening devices.

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 8. Oil and Gas Structures on the Outer Continental Shelf:**

No regional conditions are proposed.

**NWP 9. Structures in Fleeting and Anchorage Areas:**

No regional conditions are proposed.

**NWP 10. Mooring Buoys:**

No regional conditions are proposed.

**NWP 11. Temporary Recreational Structures:**

No 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 within tidal waters** regardless of impact acreage. The U.S. Environmental Protection Agency and National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification.

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

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**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.

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 14. *Linear Transportation Projects:***

Pre-Construction Notification, as defined under nationwide general condition 32, is required for all regulated **linear transportation crossings within tidal waters** regardless of impact acreage. The U.S. Environmental Protection Agency and National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification.

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 15. *U.S. Coast Guard Approved Bridges:***

No regional conditions are proposed.

**NWP 16. *Return Water from Upland Contained Disposal Areas:***

No regional conditions are proposed.

**NWP 17. *Hydropower Projects:***

No regional conditions are in proposed.

**NWP 18. *Minor Discharges:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana

Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 19. *Minor Dredging:***

No regional conditions are proposed.

**NWP 20. *Response Operations for Oil and Hazardous Substances:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 21. *Surface Coal Mining Activities:***

No regional conditions are proposed.

**NWP 22. *Removal of Vessels:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 23. *Approved Categorical Exclusions:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 24. *Indian Tribe or State Administered Section 404 Programs:***

Not applicable in the State of Louisiana.

**NWP 25. *Structural Discharges:***

No 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 regional conditions are proposed.

**NWP 29. Residential Developments:**

This NWP, via disavowal of water quality certification by the Louisiana Department of Environmental Quality, is considered **denied** without prejudice for all developments except those associated with construction or expansion of a single residence. For all developments consisting of more than a single residence, individual requests for approval under this NWP will be considered on a case-by-case basis only after receipt by the appropriate Corps district of an individual water quality certification, waiver, or other approval by the Louisiana Department of Environmental Quality.

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 30. Moist Soil Management for Wildlife:**

No regional conditions are proposed.

**NWP 31. Maintenance of Existing Flood Control Facilities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 32. Completed Enforcement Actions:**

No regional conditions are proposed.

**NWP 33. Temporary Construction, Access and Dewatering:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within

the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 34. *Cranberry Production Activities:***

Not applicable within the state of Louisiana.

**NWP 35. *Maintenance Dredging of Existing Basins:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 36. *Boat Ramps:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 37. *Emergency Watershed Protection and Rehabilitation:***

No regional conditions are proposed.

**NWP 38. *Cleanup of Hazardous and Toxic Waste:***

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 39. *Commercial and Institutional Developments:***

This NWP, via disavowal of water quality certification by the Louisiana Department of Environmental Quality, is considered **denied** without prejudice. Individual requests for approval under this NWP will be considered on a case-by-case basis only after receipt by the appropriate Corps district of an individual water quality certification, waiver, or other approval by the Louisiana Department of Environmental Quality.

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within

the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 40. Agricultural Activities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 41. Reshaping Existing Drainage Ditches:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 42. Recreational Facilities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**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).

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**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).

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 45. Repair of Uplands Damaged by Discrete Events:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 46. Discharges in Ditches:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 47. [Reserved]**

**NWP 48. Existing Commercial Shellfish Aquaculture Activities:**

No regional conditions are proposed.

**NWP 49. Coal Remining Activities:**

No regional conditions are proposed.

**NWP 50. Underground Coal Mining Activities:**

No regional conditions are proposed.

**NWP 51. Land-Based Renewable Energy Generation Facilities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 52. Water-Based Renewable Energy Generation Pilot Projects:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 53. Removal of Low-Head Dams:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 54. Living Shorelines:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 55. Seaweed Mariculture Activities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 56. Finfish Mariculture Activities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will ***be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.***

**NWP 57. Electric Utility Line and Telecommunication Activities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 58. Utility Line Activities for Water and Other Substances:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**NWP 59. Water Reclamation and Reuse Facilities:**

This NWP, via disavowal of Coastal Zone certification by the Louisiana Department of Natural Resources, is considered **denied** without prejudice within the Louisiana Coastal Zone. Individual requests for approval under this NWP will **be conditioned to require the applicant to obtain a Louisiana Department of Natural Resources determination/certification before the NWP is valid.**

**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 2021 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.

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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.

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.
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.