

**STATE OF LOUISIANA
NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS
JULY 2012**

PART I - REGIONAL CONDITIONS FOR ALL NWPS:

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

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

Regional Condition 3. No 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. No existing den or candidate den trees may be felled or impacted by soil compaction within Louisiana black bear breeding habitat. (Existing den trees are those known to be used or have evidence of being used by a denning Louisiana black bear, regardless of size, species, or proximity to water. Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies.) Additionally, Pre-Construction Notification shall be required for all activities involving clearing within Louisiana black bear critical habitat. Those habitat boundaries may be found at: http://www.fws.gov/Lafayette/la_black_bear_PCH.html.

Regional Condition 5. Due to the occurrence of threatened or endangered species, **Pre-Construction Notification** shall be required for **ALL** instream activities in the following waterways: Abita River and tributaries; Amite River (LA Highway 37 at Grangeville to Port Vincent); Bayou Bartholomew in Morehouse Parish; Bayou Boeuf and Bayou Rapides Tributaries in Rapides Parish: (Bayou Clear, Brown Creek, Burney Branch, Castor Creek, Clear Creek, Haikey's Creek, Little Bayou Clear, Little Brushy Creek, Loving Creek, Little Loving Creek, Long Branch, Mack Branch, Patterson Branch, Valentine Creek, and Williamson Branch), Bayou Rigolette tributaries in Grant Parish (Beaver Creek, Black Creek, Chandler Creek, Clear Branch, Coleman Branch, Cress Creek, Cypress Creek, Glady Hollow, Gray Creek, Hudson Creek, James Branch, Jordon Creek, Moccasin Branch, and Swafford Creek); Bogue Falaya River and Tributaries, Bogue Chitto River and Tributaries, Lake Borgne, Lake Ponchartrain and its tributaries, Lake Saint Catherine, Little Lake, Tchefuncta River, Little Tchefuncta River, the Rigolets and West Pearl River.

Regional Condition 6. Excavated and/or fill material placed within wetlands must be free of contaminants, to the best of the applicant's knowledge.

Regional Condition 7. For work within the Louisiana Coastal Zone and/or the Outer Continental Shelf off Louisiana;

- a. An application for work must first be submitted to the Louisiana Department of Natural Resources, Office of Coastal Management (OCM) who will then forward the request to the Corps of Engineers.
- b. NWP requests that have not received a Coastal Use Permit or other consistency determination from the OCM would be processed by the Corps but granted authorization would be conditioned to require the applicant to obtain appropriate authorization from OCM before the NWP is valid.
- c. The New Orleans District's Programmatic General Permit generally supersedes the Nationwide Permit authorization for activities located within the Louisiana Coastal Zone as incorporated within the New Orleans Corps District boundaries. Projects will not qualify for a Nationwide Permit if they qualify for the Programmatic General Permit.

Regional Condition 8. A preconstruction notification, as defined under nationwide general condition 31, will be provided for all activities that meet one or both of the following criteria;

- a. Adversely affects greater than 1/10 acre of wetlands, and/or
- b. Adversely impacts a designated Natural and Scenic River, a state or federal wildlife management area and/or refuge.

Regional Condition 9, Supplement to General Condition 2 – Aquatic Life Movement. For installation of culverts, twenty percent (20%) of the culvert diameter (20 percent of the height of elliptical culverts) must be installed below the natural grade of the stream.

PART II - REGIONAL CONDITIONS FOR SPECIFIC NWPS

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

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

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 additional regional conditions are in effect.

NWP 5. *Scientific Measurement Devices:*

A preconstruction notification, as defined under nationwide general condition 31, 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 31, is required for all **seismic survey activities**. The state and federal resource agencies will be forwarded a copy of the Pre-Construction Notification regardless of acreage impact.

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

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.***

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

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

No additional regional conditions are in effect.

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

No additional regional conditions are in effect.

NWP 10. *Mooring Buoys:*

No additional regional conditions are in effect.

NWP 11. *Temporary Recreational Structures:*

No additional regional conditions are in effect.

NWP 12. *Utility Line 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.***

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.

Pre-Construction Notification, as defined under nationwide general condition 31, is required for **utility line activities** regardless of impact acreage. The U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification for all NWP #12 activities.

NWP 13. *Bank Stabilization:*

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 31, is required for all **linear transportation crossings** regardless of impact acreage. The U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and National Marine Fisheries Service will be forwarded a copy of the Pre-Construction Notification for all NWP #14 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 15. *U.S. Coast Guard Approved Bridges:*

No additional regional conditions are in effect.

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

No additional regional conditions are in effect.

NWP 17. *Hydropower Projects:*

No additional regional conditions are in effect.

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.***

The U. S. Environmental Protection Agency (Vicksburg District only) will be forwarded a copy of the Pre-Construction Notification for all NWP #18 activities.

NWP 19. *Minor Dredging:*

No additional regional conditions are in effect.

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 additional regional conditions are in effect.

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 ***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 ***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 additional regional conditions are in effect.

NWP 26. *(RESERVED)*

NWP 27. *Aquatic Habitat Restoration, Establishment, and Enhancement Activities:*
No 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 in effect.

NWP 29. *Residential 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.***

The DA authorization shall be conditioned to require that sewage generated at the site will be processed through a municipal sewage treatment system or, in areas where tie-in to a municipal system is not practical, the on-site sewage system must be approved by the local parish sanitarian before any housing is constructed.

NWP 30. *Moist Soil Management for Wildlife:*
Pre-Construction Notification, as defined under nationwide general condition 31, is required for all activities regardless of the impact acreage. The U.S. Fish and Wildlife Service and the Louisiana Wildlife and Fisheries will be forwarded a copy of the complete Pre-Construction Notification. A copy of the water-level management plan must be submitted as part of the PCN.

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 additional regional conditions are in effect.

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 additional regional conditions are in effect.

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.*

Work 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 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:*

No discharges shall be allowed under this NWP that would adversely impact mature riparian corridors.

Work 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 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.*

Work 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 43. *Stormwater Management 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.***

Work 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 44. *Mining 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.***

Work 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:*

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 additional regional conditions are in effect.

NWP 49. *Coal Remining Activities:*

No additional regional conditions are in effect.

NWP 50. *Underground Coal Mining Activities:*

No additional regional conditions are in effect.

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.***

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 2012 nationwide permits (NWPs) in Indian country¹ where a

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, not withstanding 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.

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.
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.