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# State of Louisiana

## DEPARTMENT OF ENVIRONMENTAL QUALITY ENVIRONMENTAL SERVICES

**APR 17 2017**

Mr. Martin S. Mayer  
Chief, Regulatory Branch  
Department of the Army  
Corps of Engineers, New Orleans District  
P. O. Box 60267  
New Orleans, Louisiana 70160-0267  
Attention: Brenda A. Archer

AI No.: 149056  
WQC 160629-02  
Activity No.: CER20160001

RE: Water Quality Certification WQC 160629-02 \*CORRECTED\*  
2017 Nationwide Permit Reissuance  
State of Louisiana

Dear Mr. Mayer:

The Louisiana Department of Environmental Quality, Office of Environmental Services (LDEQ), provides with this correspondence clarification of the water quality certification approval and reissuance of the U.S. Army Corps of Engineers (Corps) Nationwide Permits (NWP), general conditions, and definitions with some modification in the *Federal Register* (Vol. 82 No. 4) as published January 6, 2017. The 2017 NWPs are in effect as of March 19, 2017. The publication of the final NWPs in the *Federal Register* serves as the Corps application for water quality certification (WQC) under Section 401 of the Clean Water Act for those NWPs that will result in a discharge in the State of Louisiana.

LDEQ has reviewed the Corps' Reissuance of Nationwide Permits, as published in the referenced *Federal Register* and issues WQC 160629-02 with the attached Nationwide Permit (NWP) Regional Conditions, February 2017 for the following NWPs:

- |        |        |        |        |
|--------|--------|--------|--------|
| NWP 3  | NWP 18 | NWP 33 | NWP 46 |
| NWP 4  | NWP 19 | NWP 34 | NWP 48 |
| NWP 5  | NWP 20 | NWP 36 | NWP 49 |
| NWP 6  | NWP 21 | NWP 37 | NWP 50 |
| NWP 7  | NWP 22 | NWP 38 | NWP 51 |
| NWP 12 | NWP 23 | NWP 40 | NWP 52 |
| NWP 13 | NWP 25 | NWP 41 | NWP 53 |
| NWP 14 | NWP 27 | NWP 42 | NWP 54 |
| NWP 15 | NWP 30 | NWP 43 |        |
| NWP 16 | NWP 31 | NWP 44 |        |
| NWP 17 | NWP 32 | NWP 45 |        |

WQC 160629-02 \*CORRECTED\*  
AI 149056  
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LDEQ denies 401 Water Quality Certification to the reissuance of NWP 29 except those associated with construction or expansion of a single residence pursuant to the attached State of Louisiana Nationwide Permit Regional Conditions.

LDEQ has denied 401 Water Quality Certification to the reissuance of NWP 39.

Based on the information provided in the application, it is the opinion of LDEQ that the Nationwide Permit NWP 39 could have potential adverse effects on water quality or fail to comply with State water quality standards as provided for in LAC 33:IX. Chapter 11, and should be considered for certification on a case-by-case basis. Therefore, certification for this NWP is denied.

Should you have any questions concerning any part of this certification, please contact Elizabeth Hill at (225) 219-3225 or by email at [elizabeth.hill@la.gov](mailto:elizabeth.hill@la.gov). Please reference Agency Interest (AI) number 149056 and Water Quality Certification 160629-02 on all future correspondence to this Department to ensure all correspondence regarding this subject is properly filed into the Department's Electronic Document Management System.

Sincerely,



Elliott B. Vega  
Assistant Secretary

Attachment

c: IO-W

**STATE OF LOUISIANA  
NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS  
FEBRUARY 2017**

***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 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.** Although ESA Section 7 consultation is no longer required for the Louisiana black bear (which has been delisted due to recovery), permittees are advised that the Louisiana black bear is still protected under State of Louisiana law, and the Louisiana Department of Wildlife and Fisheries (LDWF) will continue to actively manage this subspecies. To learn more about State law requirements for Louisiana black bear protection and habitat conservation, permittees shall contact Maria Davidson (Louisiana Department of Wildlife and Fisheries - Large Carnivore Program Manager) at (337) 948-0255.

**Regional Condition 5.** Due to the occurrence of threatened or endangered species, **Pre-Construction Notification** shall be required for **ALL** regulated 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 Pontchartrain and its tributaries, Lake Saint Catherine, Little Lake, Tchefuncta River, Little Tchefuncta River, the Rigolets and West Pearl River.

**Regional Condition 6.** 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 7.** 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 8.** A pre-construction notification, as defined under nationwide general condition 32, will be provided for all regulated activities, excluding Nationwide 20, 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 Louisiana designated Natural and Scenic River or a state or federal wetland/wildlife management area and/or refuge.

**Regional Condition 9, Supplement to General Condition 2 – Aquatic Life Movement.** To support compliance with General Condition 2 of the NWPs, 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:*

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 proposed.

**NWP 5.** *Scientific Measurement Devices:*

A 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.

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 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.**     *Utility Line Activities:*

Pre-Construction Notification, as defined under nationwide general condition 32, is required for regulated **utility line activities** regardless of impact acreage. The U.S. Fish and Wildlife Service, 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.

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** regardless of impact acreage. The U.S. Fish and Wildlife Service, 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.

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 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:*

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 additional 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 additional 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 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 in proposed.

**NWP 29.**     *Residential Developments:*  
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.

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:*  
Pre-Construction Notification, as defined under nationwide general condition 32, is required for all regulated 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 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 additional 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:*

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 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:*

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

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 42.** *Recreational Facilities:*

Work 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 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 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:**

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.**

### ***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 2017 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

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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.

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.