



# Public Notice

**U.S. Army Corps  
Of Engineers**

**Galveston District  
31 January 2022**

**2021 NATIONWIDE PERMIT PROGRAM  
ANNOUNCING THE ISSUANCE:  
2021 COMBINED TEXAS REGIONAL CONDITIONS  
TEXAS SECTION 401 WATER QUALITY CERTIFICATION  
TEXAS COASTAL ZONE MANAGEMENT ACT  
CONSISTENCY**

---

## Purpose of Public Notice:

This public notice is to announce and convey the 2021-Combined Texas Regional Conditions, Texas Clean Water Act (CWA) Section 401 Water Quality Certifications, and the Texas Coastal Zone Management Act consistencies. These documents and certifications will go into effect for the subject 41 nationwide permits (NWP) on 25 February 2022, and are attached to this public notice. The Combined Texas Regional Conditions will also go into effect for the 16 NWPs previously issued on 15 March 2021.

The document titled, 2021-Combined Texas Regional Conditions will supersede the previous 2021-A Texas Regional Conditions. The Corps is not seeking comments at this time.

Portions of the Galveston District is located within the State of Louisiana. For information on the Louisiana NWP Regional Conditions, please visit the New Orleans District website at: <https://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Nationwide-Permits-Program/>

On 27 December 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 NWPs and one new NWP. These 41 NWPs will go into effect on 25 February 2022, and they will expire on 14 March 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 NWP published in the 27 December 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 24 February 2022.

The NWP general conditions and definitions that were issued in the final rule that was published in the 13 January 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 27 December 2021.

The 27 December 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 13 January 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 27 December 2021, and 13 January 2021, final rules and related documents at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

#### Texas Regional Conditions:

The Southwestern Division has finalized the Texas regional conditions for all NWPs. The regional conditions are intended to provide additional protection of the aquatic environment by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions help ensure protection of high value waters within the districts. The final 2021-Combined NWP Regional Conditions for the State of Texas and a map of the Corps district boundaries in Texas are attached to this public notice. (Encl 1 and 2). The document titled, 2021-Combined Texas Regional Conditions for the NWPs in the State of Texas, will supersede the previous 2021-A Texas Regional Conditions.

#### Texas CWA Section 401 Water Quality Certifications:

The Environmental Protection Agency (EPA) Region 6, by letter dated 14 December 2020, on behalf of Ysleta del Sur Pueblo, Alabama-Coushatta Tribe of Texas, and Kickapoo Traditional Tribe of Texas, granted CWA Section 401 certification, with no conditions, for NWPs (Encl 3). EPA Region 6 has determined that any discharge that could be authorized under NWPs would comply with water quality requirements, as defined at 40 CFR 121.1(n).

The Texas Commission on Environmental Quality (TCEQ), by letter dated 18 December 2020, conditionally certified these NWP's (Encl 4). TCEQ has determined that any discharge that could be authorized under these NWP's would comply with water quality requirements, as required by CWA Section 401 certification and pursuant to Title 30 Texas Administrative Code (TAC) Chapter 279. Conditions for each NWP were defined in the TCEQ's water quality certification letter.

The Texas Railroad Commission (TxRRC), by letter dated 18 December 2020, certified these NWP's and determined that they should not result in a violation of Texas Surface Water Quality Standards as required by CWA Section 401 and pursuant to 16 TAC §3.93 (Encl 5). Conditions for each NWP were defined in TxRRC's water quality certification letter. Under Texas Natural Resource Code, Title 3, and the Texas Water Code, Chapter 26, the TxRRC has the responsibility for the prevention of pollution that might result from activities associated with the exploration, development, and production of oil, gas, or geothermal resources of the State.

#### Coastal Zone Management Act:

The Texas General Land Office (TxGLO), by letter dated 17 December 2020, stated that their staff has reviewed the submitted information for consistency pursuant to Title 31 Natural Resources and Conservation, Part 16 Coastal Coordination Council rules, Section 506.20 and has determined that the NWP's, general conditions, definitions, and regional conditions have been found to be consistent with the goals and policies of the Texas Coastal Management Program (CMP). The TxGLO's consistency determination was issued without conditions. (Encl 6)

The TCEQ, by the same letter dated 18 December 2020, stated that they reviewed the Notice of Reissuance of Nationwide Permits for consistency with the Texas CMP goals and policies in accordance with the CMP regulations {Title 31, Texas Administrative Code (TAC), Chapter (§)505.30} and determined that the action is consistent with the applicable CMP goals and policies. The TCEQ's consistency determination was issued without conditions.

The TxRRC, by the same letter dated 18 December 2020, stated that they reviewed the proposed action for consistency with the CMP goals and policies, in accordance with the regulations of the CMP, and found that the proposed action will have direct and significant adverse effect on any coastal natural resource area identified in the applicable policies, but has determined that the proposed action is consistent with the applicable goals and policies of the CMP. The TxRRC's consistency determination was issued with conditions.

### Previous NWP's Associated to this Effort:

On 13 January 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of 12 existing NWP's and four new NWP's, as well as the reissuance of NWP general conditions and definitions with some modifications. These 16 NWP's went into effect on 15 March 2021, and will expire on 14 March 2026:

- NWP 12 – Oil or Natural Gas Pipeline Activities
- NWP 21 – Surface Coal Mining Activities
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater Management Facilities
- NWP 44 – Mining Activities
- NWP 48 – Commercial Shellfish Mariculture Activities
- NWP 50 – Underground Coal Mining Activities
- NWP 51 – Land-Based Renewable Energy Generation Facilities
- NWP 52 – Water-Based Renewable Energy Generation Pilot Projects
- NWP 55 – Seaweed Mariculture Activities
- NWP 56 – Finfish Mariculture Activities
- NWP 57 – Electric Utility Line and Telecommunications Activities
- NWP 58 – Utility Line Activities for Water and Other Substances