

THE PIPELINERS ASSOCIATION OF HOUSTON MEETING

Galveston District
Regulatory Division
6 March 2023

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TOPICS

- Overview of Regulatory Program
 - Authorities / Permit Types
- 2021 Nationwide Permit Program
 - General Conditions
 - Regional Conditions (TX)
- SWG Regional General Permits
- Outer Continental Shelf
- Regulatory Program Look Ahead



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REGULATORY MISSION

To protect the Nation's aquatic resources, while allowing reasonable development through fair and balanced decisions.



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AUTHORITIES

Section 10 Rivers and Harbors Act of 1899

Regulate the obstruction or alteration of navigable waters

- Constructing structures in, over, under navigable waters
- Excavation/dredging
- Depositing material
- Any other work that affects the course, location, condition, or capacity of navigable waters
- Also applies to the construction of artificial islands, installations, and other devices located on the seabed on the outer continental shelf.

Clean Water Act Section 404

Corps regulates the discharge of dredged or fill material into waters of the U.S.

Not all waters are waters of the U.S.



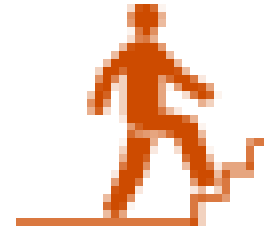
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PERMIT TYPES

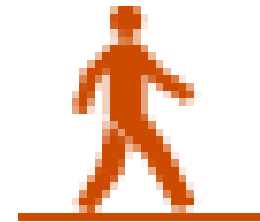
- **Individual Permits**

- Standard Permits
- Letters of Permission



- **General Permits**

- Nationwide Permits
- Regional General Permits
- Programmatic General Permits



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NO PRE-CONSTRUCTION NOTIFICATION

- A request does not need to be submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit.
- The project proponent is responsible for assuring all terms and conditions of the nationwide permit have been met.

Note: Endangered Species Act and National Historic Preservation Act



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PRE-CONSTRUCTION NOTIFICATION

- Opportunity for district to review proposed NWP activity to determine eligibility for authorization
 - Will the proposed activity result in only minimal adverse environmental effects?
 - Does proposed activity comply with all applicable general and regional conditions?
 - Is compensatory mitigation or other mitigation required to ensure no more than minimal adverse environmental effects?
 - Are any consultations required?



Endangered Species Act Section 7

National Historic Preservation Act Section 106

Essential Fish Habitat provisions of the Magnuson-Stevens
Fishery Conservation and Management Act



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PRE-CONSTRUCTION NOTIFICATION

- NWP General Condition 32
- Corps' review process
 - 30-day completeness review period
 - 45-day verification decision period
- Content of pre-construction notification:
 - For linear projects:
 - identify other crossings of waters of the United States that require Corps authorization, including those authorized by general permit that do not require pre-construction notification
 - include the quantity of losses of aquatic resources for each single and complete crossing of those waters and wetlands

~HIGHLIGHTS~
2021 NATIONWIDE PERMITS
AND
NWP GENERAL CONDITIONS
REGIONAL CONDITIONS



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CURRENT NWPS FOR PIPELINES

- NWP 12 – Oil or Natural Gas Pipelines
- NWP 57 – Electric Utility Line and Telecommunications Activities
- NWP 58 – Utility Line Activities for Water and Other Substances



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NWP PRE-AMBLE: OIL/NATURAL GAS VS OTHER SUBSTANCES

Oil or Natural gas pipeline: Considers the wide variety of products that may be derived from oil or natural gas and transported in these pipelines, such as: gasoline, jet fuel, diesel fuel, heating oil, petrochemical feedstocks, waxes, lubricating oils, and asphalt.

Nationwide permit 58 can be used to authorize pipeline activities that require DA authorization and are used to convey hydrogen, methanated hydrogen, or carbon dioxide.



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NWP 12 – OIL OR NATURAL GAS PIPELINES

- Authorizes crossings of jurisdictional waters and wetlands for oil and natural gas pipelines and associated facilities
- Limits Regarding Loss of Waters of US:
 - 1/2-acre limit for each single and complete project
 - 1/2-acre of non-tidal waters for substations
 - 1/2-acre of non-tidal waters for access road crossings



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NWP 57 – ELECTRIC UTILITY LINE AND TELECOMMUNICATIONS ACTIVITIES

- Authorizes crossings of jurisdictional waters and wetlands for electric utility lines, telecommunication lines, and facilities
- Limits Regarding Loss of Waters of US:
 - 1/2-acre limit for each single and complete project
 - 1/2-acre of non-tidal waters for substations
 - 1/2-acre of non-tidal waters for access road crossings



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NWP 58 – UTILITY LINE ACTIVITIES FOR WATER AND OTHER SUBSTANCES

- Authorizes crossings of jurisdictional waters and wetlands for utility lines for water and other substances, and facilities
- Limits Regarding Loss of Waters of US:
 - 1/2-acre limit for each single and complete project
 - 1/2-acre of non-tidal waters for substations
 - 1/2-acre of non-tidal waters for access road crossings



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UTILITY LINE NWP PCN TRIGGERS

NWP 12, 57, 58:

- A section 10 permit is required

NWP 12, 57, 58:

- The discharge will result in the loss of greater than 1/10 - acre of waters of the United States

NWP 12:

- Overall project that is greater than 250 miles in length and the project purpose is to install new pipeline



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NWP GC 18 – ENDANGERED SPECIES

- For non-federal permittees, PCNs are required for proposed activities that might affect listed species or designated critical habitat - 33 CFR 330.4(f)
 - Includes species proposed for listing
 - Includes critical habitat proposed for designation
- Compliance with requirements of ESA section 7(a)(2)
 - No PCN – **Applicant** must assure ESA compliance
 - PCN – **Corps** assures ESA compliance
 - Activity-specific ESA section 7 consultations
- Applicant shall not begin the activity until notified by the Corps.



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NWP GC 20 – HISTORIC PROPERTIES

- For non-federal permittees, PCNs are required for proposed activities that might have the potential to cause effects to historic properties - 33 CFR 330.4(g)
- Compliance with requirements of NHPA section 106
 - No PCN – **Applicant** must assure NHPA compliance
 - PCN – **Corps** assures NHPA compliance
 - Activity-specific NHPA section 106 consultations
- Applicant shall not begin the activity until notified by the Corps.



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NWP GC 31 – ACTIVITIES AFFECTING STRUCTURES OR WORKS BUILT BY THE UNITED STATES

- Any NWP activity that also requires a Section 408 permission from the Corps requires notification to the Corps district
- Activity is not authorized by NWP until after the Corps issues the 408 permission, and the district issues the NWP verification



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REGIONAL CONDITIONS FOR NWP

2021 - Combined Texas Regional Conditions

- Valid February 2022 – March 2026
- Covers ALL NWPs

<https://www.swg.usace.army.mil/Missions/Regulatory/Permits/Nationwide-General-Permits/>



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SWG Regional General Permits



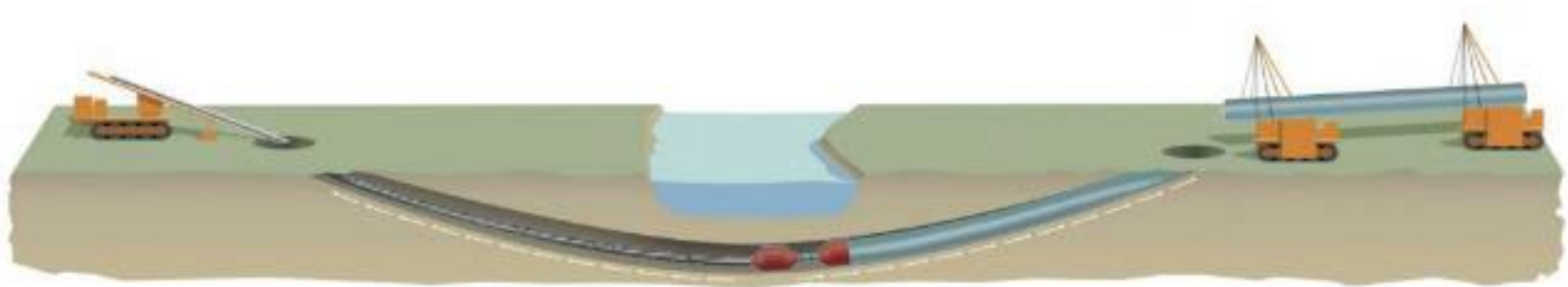
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REGIONAL GENERAL PERMIT - HDD

SWG-1998-02413 – Installation of Pipelines by Directional Drilling

- May require Sec 408 review
- Perpendicular crossings of water bodies
- Sets desired pipeline depths



River Crossing – HDD Method



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REGIONAL GENERAL PERMIT – FEDERAL CHANNEL IMPROVEMENT PROJECT - PIPELINE REMOVALS

SWG-2019-00315 - Corpus Christi Ship Channel and adjacent affected bay systems

SWG-2020-00837 – Sabine-Neches Water Way Channel

SWG-2020-00228 – Houston Ship Channel

- Work in navigable waters of the US to facilitate the removal of utility lines affecting Federally Authorized projects
- May require Sec 408 review

OUTER CONTINENTAL SHELF



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OUTER CONTINENTAL SHELF (OCS)

Section 10 of the Rivers and Harbor Act

The authority of the Secretary of the Army to prevent obstructions to navigation in navigable waters of the United States was extended to artificial islands, installations, and other devices located on the seabed, to the seaward limit of the outer continental shelf, by section 4(f) of the Outer Continental Shelf Lands Act of 1953 as amended (43 U.S.C. 1333(e)).



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OUTER CONTINENTAL SHELF (OCS) CONT.

NWP 8. *Oil and Gas Structures on the Outer Continental Shelf.* Structures for the exploration, production, and transportation of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the Department of the Interior, Bureau of Ocean Energy Management.

NWP 12, 57, and 58

Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.



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Regulatory Program Look Ahead



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REGULATORY PROGRAM LOOK AHEAD

- Regulatory Division Staffing Update
 - Fully Staffed → Evaluation
 - Fully Staffed → Compliance
 - Fully Staffed → CCRFO
- Regulatory Division Workshop
 - Planning in Progress → Tentative Fall 2023
- Regulation Changes
 - WOTUS 2023 Rule → 20 March 2023
 - Pipeline Depth of Cover Requirements
 - Signed February 2023 by Operations

WANT TO KNOW MORE?

Regulatory HQ HomePage

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>

- Links to Regulations, Policies, MOAs and MOUs
- Video Library that provides more detailed overviews of aspects of the review process
- Avatar for finding Regulatory offices
- And so Much More!

Galveston District HomePage

<https://www.swg.usace.army.mil/Missions/Regulatory/>

Ask a Regulator!

Galveston District Regulatory Hotline

409-766-3869



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QUESTIONS?



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