United States Army Corps of Engineers
Charleston District

Regulatory Program

Applicant Information

US Army Corps
Of Engineers®
Charleston District

14 Jan 16

DEPARTMENT OF THE ARMY
Charleston District, Corps of Engineers
69A Hagood Avenue
Charleston, SC 29403-5107

SAC Permit Application Information

This pamphlet contains generalized information that you may find helpful when applying for a Department of the Army (DA) permit to impact waters of the US, including wetlands. If you have any questions, please feel free to call the appropriate U.S. Army Corps of Engineers, Charleston District's (Corps or Charleston District) office or visit our website at http://www.sac.usace.army.mil/missions/regulatory . The contact numbers can be found on page 7 of this information packet. **This pamphlet is intended to provide only informal guidance to the public; it does not alter in any way the U.S. Army Corps of Engineers regulations, including those found at 33 C.F.R. Parts 320 through 332, and/or associated policies and procedures.**

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Please note that while this pamphlet was drafted in coordination with SC Department of Health and Environmental Control's Bureau of Water and Office of Ocean and Coastal Resource Management; it in no way alters their regulations or processes and any questions regarding State regulations, processes, permits, certifications, etc. should be directed to the appropriate State office.

1. Introduction

Introduction

This pamphlet provides informal guidance on how to apply for a Department of the Army (DA) permit from the Charleston District, United States Army Corps of Engineers, Regulatory Division (Corps or Charleston District). It is designed to help you identify whether or not you may need a DA permit and the type of DA permit that may be required. It will also help you understand how to prepare the application materials and drawings required in order to apply for a DA permit. The Charleston District has three field offices that accept permit applications, based on the location of your proposed project. A map is included in this pamphlet to assist you in locating the appropriate Charleston District office.

Submitting a complete application will help prevent unnecessary delays in evaluating your permit request. Corps regulations associated with the Regulatory Program are codified at Title 33, Code of Federal Regulations, Parts 320 through 332. An electronic version of the code of federal regulation is routinely updated and posted at http://www.ecfr.gov. To obtain additional information, please contact the Charleston District office nearest you or visit our website at http://www.sac.usace.army.mil/Missions/Regulatory.

In addition to the requirement for a DA permit to perform work in waters and wetlands within South Carolina, a certification and/or state permit from the South Carolina Department of Health and Environmental Control (SCDHEC) may also be required. Specifically, the two State permitting program areas of SCDHEC are the Bureau of Water (SCDHEC-BOW) and Division of Ocean and Coastal Resource Management (SCDHEC-OCRM). For convenience, when a project requires a permit from both the Corps and SCDHEC, the Joint Federal and State Application Form can be submitted to the Corps' office, which initiates the permitting process for both agencies (see Section 10 of this pamphlet for more information). Generally, the public notice issued for your application is considered to be a request for a State Certification and/or state permit. However, supplemental information may be required by SCDHEC.

Please find enclosed in Section 2, a map that delineates the geographic areas of jurisdiction of SCDHEC.

- Certain activities impacting waters of the United States located in the Area "A" may require a water quality certification from the SCDHEC Bureau of Water and a permit from the Corps of Engineers.

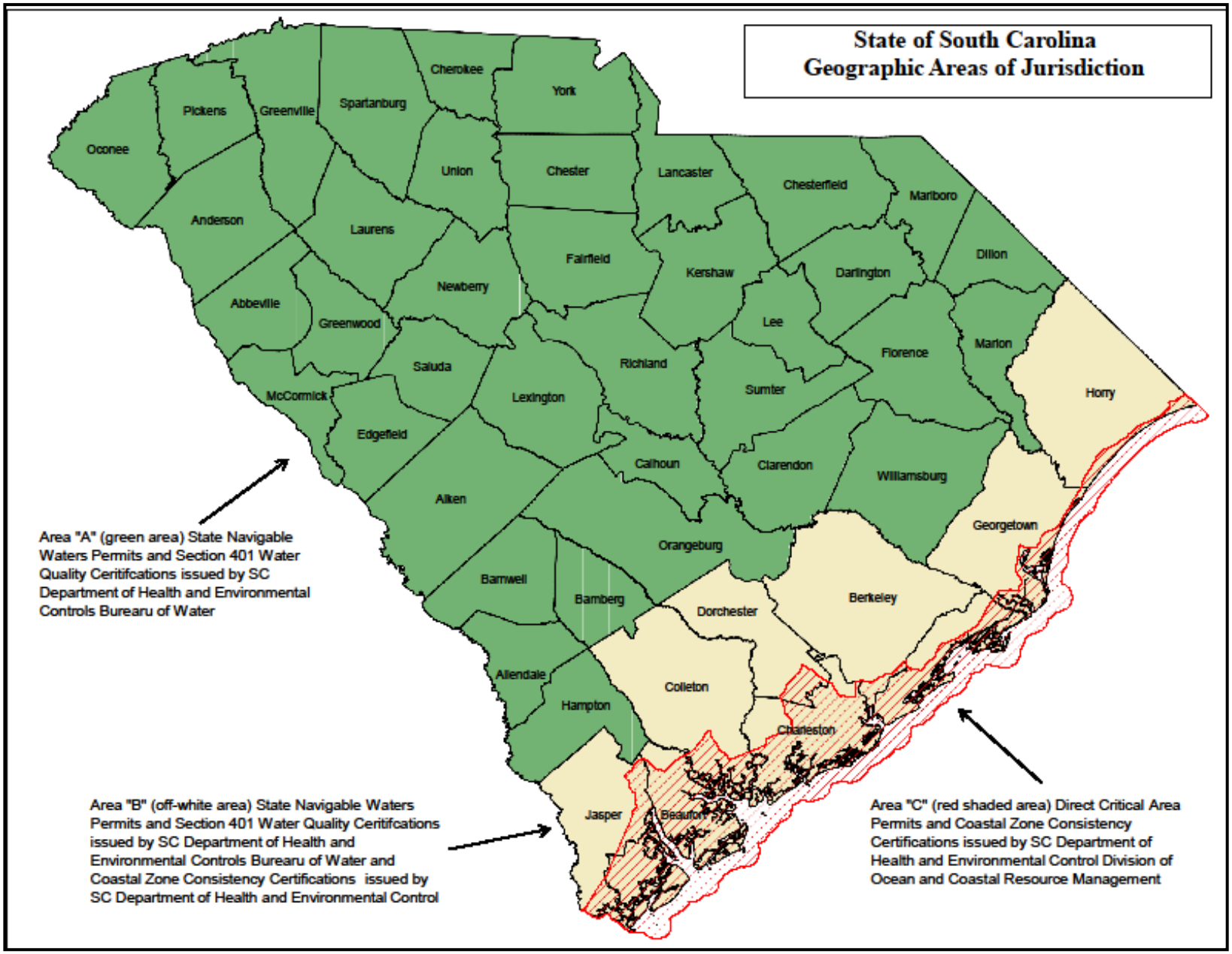
- Certain activities located in Area "B" may require a water quality certification from the SCDHEC-BOW. Some activities must also be certified as consistent with the South Carolina Coastal Zone Management Program.
- Certain activities within Area "C" may require SCDHEC-OCRM to issue either

a critical area permit or a certification that the activity to be authorized by the Corps of Engineers permit is consistent with the South Carolina Coastal Zone Management Program. In addition, certain activities (e.g., deposition of dredged or fill material) may also require a water quality certification from SCDHEC-BOW.

Additional information on these requirements may be provided to you after a public notice of your application is issued, if applicable. Section 6 of this pamphlet describes in detail the DA permit process, and Section 11 provides the detailed information that may be required for a DA permit decision. If your activity requires either a certification by, or a state permit from, SCDHEC-OCRM, it is highly recommended that you review SCDHEC-OCRM's Management Program prior to submitting your application for a DA permit. Should your project be located in either Area "B" or "C," a written statement indicating that your proposed activity complies with and will be conducted in a manner consistent with the S.C. Coastal Zone Management Program must be submitted. A sample letter is attached for your use or you may prepare a letter of your own. If you wish to review the Coastal Zone Management Program, you should contact the S.C. Department of Health and Environmental Control Division of Ocean and Coastal Resource Management at 843-953-0200 or visit their website at: http://www.scdhec.gov/environment/ocrm/.

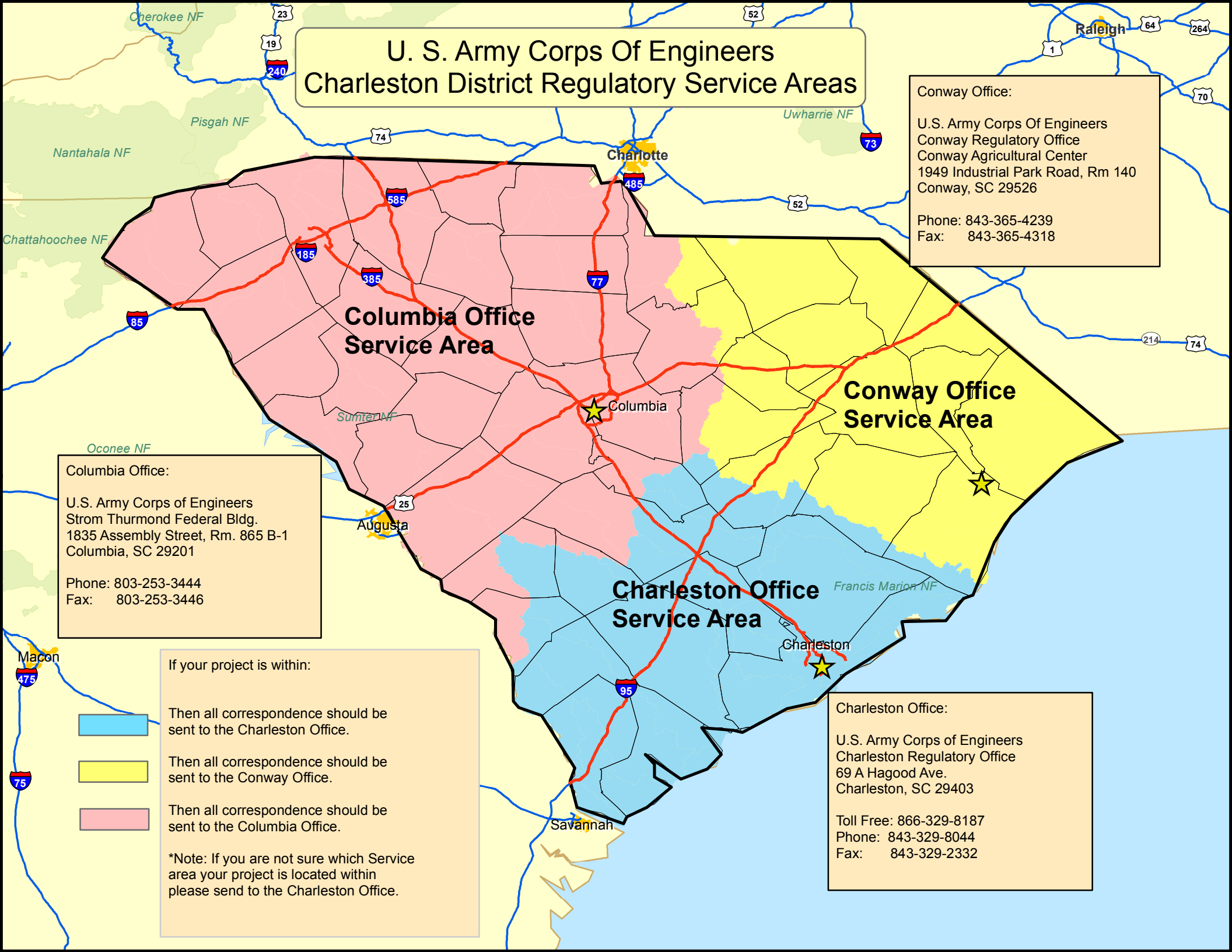
If you have any questions or concerns regarding the Charleston District's Regulatory Program, we will be happy to talk with you over the phone or you may make an appointment to talk with one of our Regulatory specialists. It is recommended that you call beforehand and make an appointment to ensure that someone is available to assist you. In each of the Corps' offices, someone is designated as the "Project Manager of the Day" to assist you in answering any questions you may have. On page 8 of this pamphlet, you will find a map showing the location and service area of the three Corps' Regulatory offices and the contact information for each office. Please feel free to contact us with your questions!

2. State of SC Geographic Areas of Jurisdiction


State of South Carolina
Geographic Areas of Jurisdiction
Oconee
Pickens
Greenville
Spartanburg
Cherokee
York
Union
Chester
Lancaster
Chesterfield
Marlboro
Anderson
Laurens
Fairfield
Kershaw
Darlington
Dillon
Abbeville
Greenwood
Newberry
Lee
Marion
Florence
Saluda
Richland
Sumter
Horry
McCormick
Lexington
Edgefield
Calhoun
Clarendon
Williamsburg
Aiken
Georgetown
Orangeburg
Barnwell
Bamberg
Berkeley
Dorchester
Allendale
Colleton
Hampton
Charleston
Jasper
Beaufort
Area "A" (green area) State Navigable Waters Permits and Section 401 Water Quality Ceritifcations issued by SC Department of Health and Environmental Controls Burearu of Water
Area "B" (off-white area) State Navigable Waters Permits and Section 401 Water Quality Ceritifcations issued by SC Department of Health and Environmental Controls Burearu of Water and Coastal Zone Consistency Certifications issued by SC Department of Health and Environmental Control
Area "C" (red shaded area) Direct Critical Area Permits and Coastal Zone Consistency Certifications issued by SC Department of Health and Environmental Control Division of Ocean and Coastal Resource Management

3. Charleston District Regulatory Service Area Map

U. S. Army Corps Of Engineers
Charleston District Regulatory Service Areas



Conway Office:

U.S. Army Corps Of Engineers
Conway Regulatory Office
Conway Agricultural Center
1949 Industrial Park Road, Rm 140
Conway, SC 29526

Phone: 843-365-4239
Fax: 843-365-4318

Columbia Office:

U.S. Army Corps of Engineers
Strom Thurmond Federal Bldg.
1835 Assembly Street, Rm. 865 B-1
Columbia, SC 29201

Phone: 803-253-3444
Fax: 803-253-3446

If your project is within:

Then all correspondence should be sent to the Charleston Office.

Then all correspondence should be sent to the Conway Office.

Then all correspondence should be sent to the Columbia Office.

*Note: If you are not sure which Service area your project is located within please send to the Charleston Office.

Charleston Office:

U.S. Army Corps of Engineers
Charleston Regulatory Office
69 A Hagood Ave.
Charleston, SC 29403

Toll Free: 866-329-8187
Phone: 843-329-8044
Fax: 843-329-2332

4. Commonly Used Terms

Explanation of Some Commonly Used Terms

Certain terms which are closely associated with the regulatory program are explained briefly in this section.

Activity(ies) as used in this pamphlet includes the construction or placement of structures (for example a pier, wharf, bulkhead, or jetty) and work (for example dredging, disposal or dredged material, filling, excavation or other modification of a water of the United States).

Navigable Waters of the United States (for purposes of Section 10 of the Rivers and Harbors Act, 33 USC 403) are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity. This term should not be confused with *waters of the United States* below. The official, codified definition of navigable waters of the United States is located at 33 CFR 329.4.

Waters of the United States (for purposes of Section 404 of the Clean Water Act) is a broader term than navigable waters of the United States defined above. It includes all Navigable Waters of the US, as well as:

- All interstate waters,including interstate wetlands;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce;
- All impoundments of waters otherwise defined as waters of the United States;
- Tributaries of waters identified previously in this paragraph;
- The territorial seas;
- Wetlands adjacent to waters (other than waters that are themselves wetlands) identified previously in this paragraph.

The official, codified definition of waters of the United States is located at 33 CFR 328.3.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The official, codified definition of wetlands is located at 33 CFR 328.3(b). For an official determination on whether or not an area is considered to be a wetland, please contact the Charleston District office in your area.

Pre-Application Consultation is one or more meetings between members of Charleston District staff and an applicant (and/or his agent or his consultant). A pre-application consultation is usually related to applications for major activities and may involve discussions of alternatives, environmental documents, National Environmental Policy Act (NEPA) procedures, and development of the scope of the data required when an Environmental Impact Statement (EIS) is required.

Compensatory Mitigation. The objective of the Clean Water Act (CWA) is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Toward achievement of this goal, the CWA prohibits the discharge of dredged or fill material into wetlands, streams, and other waters of the United States unless a DA permit issued by the Corps or approved State under CWA Section 404 authorizes such a discharge. When there is a proposed discharge, all appropriate and practicable steps must first be taken to avoid and minimize impacts to aquatic resources. For unavoidable impacts, compensatory mitigation is required to replace the loss of wetland, stream, and/or other aquatic resource functions. The Corps (or approved state authority) is responsible for determining the appropriate form and amount of compensatory mitigation required. Methods of providing compensatory mitigation include aquatic resource restoration, establishment, enhancement, and in certain circumstances, preservation. Corps regulations at 33 CFR 320.4(r) and 33 CFR Part 332 provide additional information regarding the Corps' official mitigation policies and requirements.

Charleston District Public Hearings may be held to acquire information and give the public the opportunity to present views and opinions. The Corps may hold a hearing or participate in joint public hearings with other Federal or state agencies. The District Engineer may specify in the public notice for the permit application that a public hearing will be held. In addition, any person may request, in writing, during the comment period that a public hearing be held to consider the material matters at issue in the permit application. When making a request, specific reasons should be stated as to the need for a public hearing. The District Engineer may attempt to resolve the issue informally or he may set the date for a public hearing. Hearings are held at times and places that are convenient for the interested public. Very few DA applications involve a public hearing.

SCDHEC Public Hearings

SCDHEC Bureau of Water: R.61-101 states that the Department shall hold a public informational hearing whenever twenty (20) or more individual written requests are received during the public comment period and which raise water quality and classified use issues. A hearing may also be held whenever the Department staff determines that it may be useful in reaching a decision

on an application. Such hearing will be conducted by Department staff personnel.

SCDHEC Division of OCRM: Section 48-39-140(C) directs the Department to hold public hearings on permit applications if it is deemed necessary. Section 48-39-150(B) requires the Department to convene a public hearing before acting on an application if twenty or more citizens or residents of the affected county or counties request such a hearing. Each request must be in writing and on a separate sheet of paper and be received within thirty days after publication of a Public Notice of the permit application (15 days for a minor activity). In all cases, the public hearing shall be held in the county where the land is located, and if in more than one county, the Department shall determine in which county to hold the hearing or may hold hearings in more than one county. When applicable and practical, joint public hearings may be held with the Charleston District and/or other Federal or state agencies.

The Public Interest Review is the term which refers to the evaluation of a proposed activity to determine probable impacts. Expected benefits are balanced against reasonable foreseeable detriments and all relevant factors are weighed. Public interest review factors include an analysis of conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

Public Notice is the primary method of soliciting comments and information from interested public agencies and other private parties or individuals who may have an interest in the proposed activity. All public notices are available on the Charleston District's website at http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices, and include a description of the project as well as the drawings of the proposed activities. Upon request, anyone's name can be added to the distribution list to receive notifications of public notices.

Fill material means material placed in waters of the United States where the material has the effect of:
(1) Replacing any portion of a water of the United States with dry land; or
(2) Changing the bottom elevation of any portion of a water of the United States. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The official, codified definition of fill material is located at 33 CFR 323.2(e)(1).

Navigable Waters of the State of South Carolina As defined in State Regulation 19-450 Permits for Construction in Navigable Waters means those waters which are now navigable, or have been navigable at any time, or are capable of being rendered navigable by the removal of accidental obstructions, by rafts of lumber or timber or by small pleasure or sport fishing boats. Navigability shall be determined by the Department (SCDHEC).

Critical Areas when in the Coastal Zone of South Carolina are defined as any of the following: coastal waters, tidelands, beach/dune systems, and beaches.

Tidelands is a term used by DHEC-OCRM and means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, DHEC-OCRM shall have the authority to designate its approximate geographic extent.

Beach/Dune system is a term used by DHEC-OCRM which is the area from the mean high-water mark to the setback line as determined in SC Code of Laws Section 48-39-280.

5. Authorities

Authorities for the Regulatory Program

The Department of the Army Regulatory Program is one of the oldest in the Federal Government. Initially, it served a fairly simple, straightforward purpose: to protect and maintain the navigable capacity of the nation's waters. Time, changing public needs, evolving policy, case law, and new statutory mandates have changed the complexion of the program, adding to its breadth, complexity, and authority.
The Regulatory Program is committed to protecting the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands.

Federal Regulatory Authorities

The regulatory authorities and responsibilities of the Corps are based on the following laws:

- **Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)** prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps.

- **Section 404 of the Clean Water Act (33 USC 1344)**. Section 404 of this Act prohibits the discharge of dredged or fill material into waters of the United States without a DA permit from the Corps.

- **Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33USC 1413)** authorizes the Corps to issue DA permits for the transportation of dredged material for the purpose of dumping it into ocean waters.

Other laws may also affect the processing of applications for DA permits. Among these are Section 401 of the CWA, Section 307(c) of the Coastal Zone Management Act of 1972, the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, the National Historic Preservation Act, the Deepwater Port Act, the Federal Power Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, and the National Fishing Enhancement Act of 1984. In addition, there are Executive Orders that are also used, to direct how the Corps' Regulatory Program is administered. The official, codified list of Corps authorities and related laws are located at 33 CFR Part 320.

State Regulatory Authorities

Section 401 of the Clean Water Act requires applicants to obtain a certification or waiver from the S.C. Department of Health and Environmental Control (SCDHEC) to discharge dredged or fill materials into waters of the United States.

SCDHEC reviews the effect of the discharge on water quality pursuant to State Regulation 61-101 Water Quality Certification.

Coastal Zone Management Act. The South Carolina Coastal Management Program was established under the guidelines of the national Coastal Zone Management Act (1972) as a state-federal partnership to comprehensively manage coastal resources. It was authorized in 1977 under SC's Coastal Tidelands and Wetlands Act (CTWA) with the goal of achieving balance between the appropriate use, development, and conservation of coastal resources in the best interest of all citizens of the state. Specifically, the Coastal Tidelands and Wetlands Act gave the South Carolina Department of Health and Environmental Control direct and indirect permitting authority over activities within Areas "C" and "B", respectively, of the coastal zone. The coastal zone means all coastal waters and submerged lands seaward to the State's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper and Georgetown.

6. The Permit Process

The Permit Process

This section provides information on the types of permits the Corps issues, permit application requirements and the permit application review process.

Types of Permits

The Corps issues different types of DA permits to authorize regulated activities. Your activity can be authorized under an **individual permit** or a **general permit.** There are two types of general permits available in South Carolina - nationwide permits and regional general permits.

General Permits

General Permits apply to activities the Corps has determined are substantially similar in nature and cause minimal environmental impact, individually and cumulatively. The Corps performs an expedited review for projects falling within these General Permit categories.

The two types of General Permits (GPs) – nationwide and regional – embody the same concept: an expedited review process for work that will have impacts that are minimal in nature. However, there are substantial differences between the two types of GPs. Nationwide General Permits (NWP) are a series of General Permits issued by the Corps' Headquarters office for specific types of activities across the country. While the NWP impact thresholds and qualifying conditions are the same for each Corps District, there may be regional conditions that provide more stringent guidelines for each District, depending on the local environmental conditions. The Charleston District also has several Regional General Permits (RGP's) that are applicable only for certain activities or for certain areas within the State of South Carolina. All RGPs take advantage of strong state coastal and wetland protection laws, reducing duplication in review between the Corps and the state and expedite the permit review process for the applicant.

Generally, all GPs contain specific conditions that outline the activities, impact thresholds, and qualifications for each GP. The levels of review necessary varies with each GP. In many cases, an applicant will be required to receive written verification from the Corps prior to the construction of a proposed project, which verifies that the proposed project is eligible for a GP. In these cases, the applicant will be required to submit an application and specific information pertaining to your project in order for the Corps to determine your eligibility. If you have any questions regarding the type of permit for which a project qualifies, please visit our web site at http://www.sac.usace.army.mil/Missions/Regulatory/PermittingProcess . All Nationwide GPs and RGPs, as well as all Regional Special Conditions and General Conditions are available on our web site.

Application

The following information should be submitted to the Corps to obtain verification that your activity is authorized under a general permit.

- *Joint Federal and State Application Form For Activities Affecting Waters of the United States OR Critical Areas of the State of South Carolina* completed and signed by the applicant. See Section 10 and 11 for more information.

- *Vicinity map* depicting the location of the proposed project. You may use an existing road map or U.S. Geological Survey topographic map, as long as the roads are labeled and the map contains enough information to physically locate the site.

- *Site Plan showing the project limits* as if you were looking straight down on it from above. Clearly show the entire project site, and the limits of waterbodies and wetlands on your project site. Numbered references should be made to attached detail sheets.

- *Detail plan view showing the proposed activity* as if your were looking straight down on it from above. Clearly show any activity within jurisdictional waterbodies or wetlands. If the project involves the discharge of dredged or fill material, indicate the limits of wetland filling and the area of fill in square feet or acerage.

The plan should include the dimensions of proposed structures and areas of work. Also, where possible, indicate distances to recognizable landmarks (e.g., existing roadways and buildings, utility poles, fences) to assist in locating the activity in the field.

Evaluating a General Permit

Upon receipt of your request, the Charleston District will determine whether the project complies with the criteria for a General Permit.

The criteria for each GP is different and the Corps' project manager assigned to your application will determine if a proposal meets the criteria for one of the GPs. While some proposals may not require a written verification from the Corps, it is the applicant's responsibility to review and adhere to all the terms and conditions of the particular GP, as well as obtain any required state or local permits. If there is any doubt about whether your proposal requires written verification from the Corps, it is best to submit the required information and the Corps' project manager will determine if the proposed project meets the terms and conditions of a GP, based on the information submitted. The Corps will then either provide you a written verification that your project meets the criteria for a GP or request additional information needed in order to process the permit application as an individual permit.

Presently, there are no fees associated with GPs.

Step-by-Step Procedure for Evaluating a Typical General Permit

1. The applicant submits a complete DA permit application, including the proposed project's plans, to the appropriate Corps' regulatory office.

2. The Corps assigns an identification number and reviews the application for authorization under a GP.

3. Corps notifies applicant if additional information is required.

4. If required, the Corps coordinates with the appropriate resources agencies.

5. Corps issues a GP verification letter if the Corps determines that the proposal meets all the terms and conditions of the applicable GP. This authorization may have special conditions to insure that the project will result in no more than minimal impacts. The applicant must complete work authorized described in the verification letter within a specified timeframe. The Corps authorization letter will state whether a separate authorization is required from SCDHEC-Bureau of Water or SCDHEC- Office of Ocean and Coastal Resource Management.

If the Corps determines that an individual permit review is required, the applicant will be notified of this determination.

Individual Permits

If the proposed project cannot be authorized by any of the Corps' GPs, the applicant will need to submit an application for a standard, individual permit. You may consult a Corps' representative early to find out what information will be required during the review process or to arrange a pre-application meeting. A pre-application request form can be found in this pamphlet or online at: http://www.sac.usace.army.mil/Missions/Regulatory/PermittingProcess .

Evaluating an Individual Permit

The Corps will begin evaluating a permit application as soon as we receive all the required information. The Corps will acknowledge receipt of the application and inform you of the file number assigned to the project. You should refer to this number when inquiring about your application. The decision whether to grant or deny a DA permit is based, in part, on a ***public interest review*** of the probable impact of the proposed activity and its intended use. The public notice review takes into consideration all comments received and other relevant factors. Benefits and detriments are balanced by considering effects on items such as:

- Conservation
- Navigation
- Economics
- Shore erosion & accretion
- Aesthetics
- Recreation
- Wetlands
- Water supply & conservation
- Cultural values
- Water quality
- Fish & wildlife values
- Safety
- Floodplain values
- Needs & welfare of the people
- Flood hazards
- Considerations of private ownership
- Food & fiber production
- General environmental concerns
- Energy needs

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. In order to complete the appropriate NEPA review, the Corps must identify and assess reasonable alternatives that would avoid or minimize adverse effects upon the quality of the human environment.

The 404(b)(1) Guidelines

The 404(b)(1) Guidelines were prepared by the Environmental Protection Agency in consultation with the Corps and are the criteria used in evaluating discharges of dredged or fill material in waters of the U.S., including wetlands. They are designed to restore and maintain the chemical, physical, and biological integrity of waters of the U.S. and are weighted towards avoiding the unnecessary filling of waters of the U.S.

The Guidelines state that:

- No discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have significant adverse environmental consequences.

- No discharge of dredged or fill material shall be permitted if it:
  (1) causes or contributes to violations of any applicable State water quality standards;
  (2) Violates any applicable toxic effluent standard or prohibition under 307 of the Act;
  (3) Jeopardizes the continued existence of species listed as threatened under the Endangered Species Act of 1973, as amended, or results in likelihood of the destruction or adverse modification of critical habitat designated by the Endangered Species Act of 1973, as amended;
  (4) Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection Research, and Sanctuaries Act of 1972.

- No discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the U.S.

- No discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.

In order for the Corps to determine compliance with the 404(b)(1) Guidelines, a technical analysis must be completed and is based on many factors that are evaluated in light of the purpose and need for the proposed project. A number of critical items must be evaluated for each project, which include the basic project purpose, practicable alternatives, cumulative effects, the proposed project's environmental impacts and proposed mitigation, as well as factual determinations on numerous items to include physical substrate, water circulation, fluctuation, and salinity, suspended particulate/ turbidity, contaminants, the aquatic ecosystem and organisms, as well as the secondary and cumulative effects on the ecosystem. Key issues must be decided in arriving at a determination of compliance or non-compliance with the Guidelines.

If a project is determined by the Corps not to be in compliance with the 404(b)(1) guidelines, the DA permit application will be denied, regardless of the Public Interest Review outcome. Specific guidance concerning the 404(b)(1) Guidelines is found in EPA's Guidelines for Specifications of Disposal Sites for Dredged or Fill Material, 40 CFR 230 - Federal Register, Dec. 24, 1980.

Step-by-Step Procedure for Evaluating a Typical Individual Permit

1. Pre-application meeting (recommended for large projects but not required);

2. Applicant submits *Joint Federal and State Application Form For Activities Affecting Waters of the United States OR Critical Areas of the State of South Carolina;*

3. Corps receives application and assigns identification number;

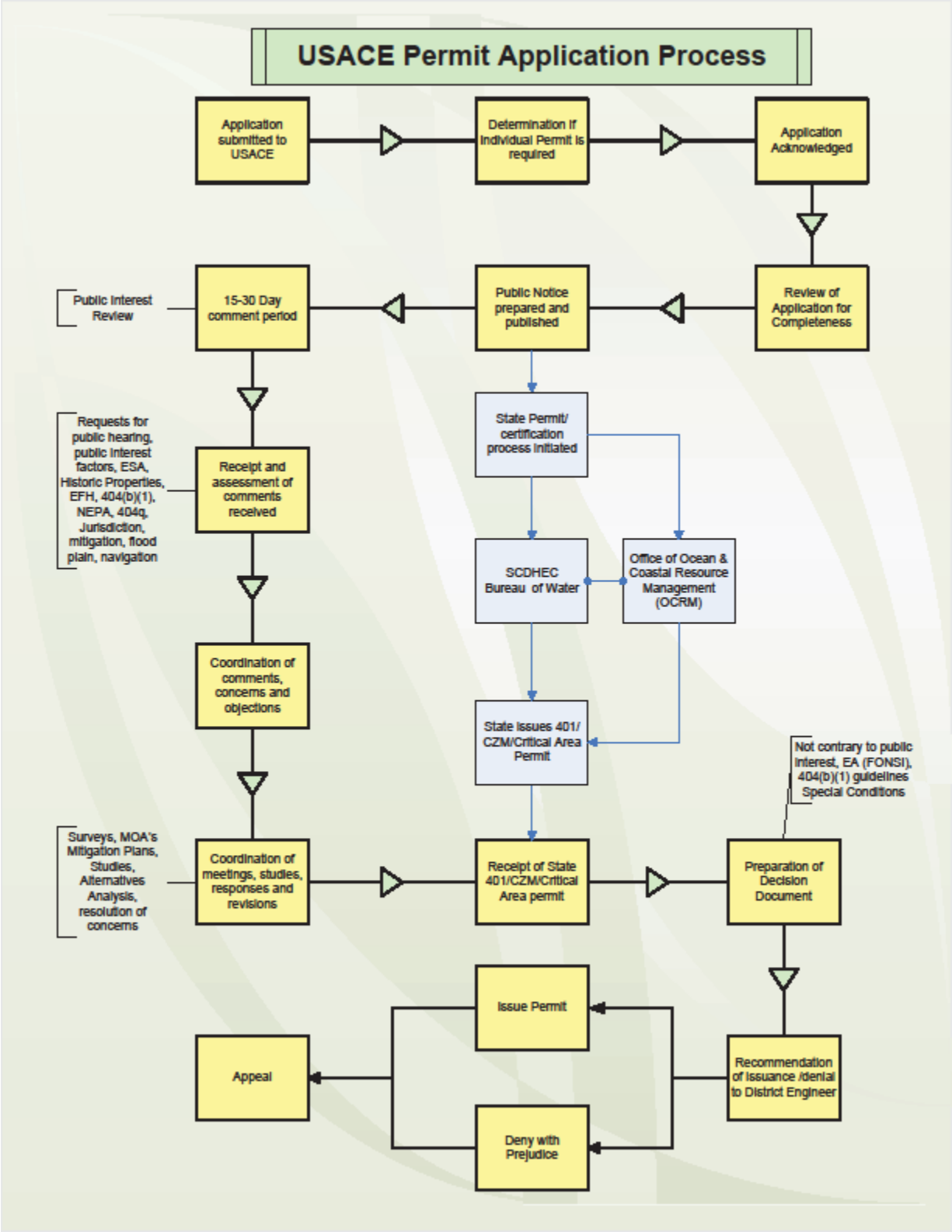
4. Corps notifies applicant if additional information is required to initiate a public notice;

5. Public notice issued within 15 days of receiving all required information. The public notice seeks comments from the general public, adjacent property owners, interested groups and individuals, local agencies, state agencies, and federal agencies;

6. A 15-30 day comment period, depending upon nature of activity;

7. The Corps considers all comments, conducts a 404(b)(1) evaluation and a Public Interest Review, and evaluates compliance with all applicable laws, regulations and Executive Orders. The Corps may ask the applicant to provide additional information or clarification to assist in evaluating the proposed project. Please note that the information required to initiate a public notice and the information required to make a permit decision vary greatly depending on the nature of the project, the comments received in response to the public notice, and the evaluation of the proposed project and it's impacts on the human and natural environment;

12. Corps makes a DA permit decision.


USACE Permit Application Process
Application submitted to USACE
Determination if Individual Permit is required
Application Acknowledged
Review of Application for Completeness
Public Notice prepared and published
15-30 Day comment period
Public Interest Review
State Permit/ certification process initiated
Requests for public hearing, public interest factors, ESA, Historic Properties, EFH, 404(b)(1), NEPA, 404q, Jurisdiction, mitigation, flood plain, navigation
Receipt and assessment of comments received
SCDHEC Bureau of Water
Office of Ocean & Coastal Resource Management (OCRM)
Coordination of comments, concerns and objections
State Issues 401/ CZM/Critical Area Permit
Not contrary to public interest, EA (FONSI), 404(b)(1) guidelines Special Conditions
Surveys, MOA's Mitigation Plans, Studies, Alternatives Analysis, resolution of concerns
Coordination of meetings, studies, responses and revisions
Receipt of State 401/CZM/Critical Area permit
Preparation of Decision Document
Issue Permit
Appeal
Recommendation of Issuance /denial to District Engineer
Deny with Prejudice

7. SC Department of Health and Environmental Control, Bureau of Water's Required Notice and Fees

14 Jan 16

Bureau of Water
2600 Bull Street
Columbia, SC 29201

Pursuant to R.101.C, Water Quality Certification, the SC Department of Health and Environmental Control (Department) will not consider your application complete for processing until you publish notice of the application in a newspaper and submit the required fee.

Details of the fee and public notice requirements follow:

1. **Newspaper Notice:** Pursuant to R. 61-101, Water Quality Certification, a notice in the newspaper must contain information explaining the location, nature and extent of the proposed activity. The notice must indicate a fifteen (15) day comment period and be published in a newspaper of local or general circulation in the county where the activity is proposed to take place for one day. **You must provide SC DHEC with an affidavit of publication from the newspaper within fifteen (15) days of publication. You must publish the following notice and submit an affidavit of publication before SC DHEC can continue processing your application.**

   (Applicant) has applied to the South Carolina Department of Health and Environmental Control for a Water Quality Certification to ***(Brief description of work)*** for ***(Public/Private)*** use in ***(Name and Location of Waterbody)***. Comments will be received by the South Carolina Department of Health and Environmental Control at 2600 Bull St, Columbia SC 29201- 1797, Attn: (***DHEC Project Manager)***, Division of Water Quality until ***(Insert Date- 15 days from date of this notice)***.

2. **Fee:** Pursuant to R. 61-30, Environmental Protection Fees, the SC Department of Health and Environmental Control is authorized to collect application fees for Water Quality Certification.

   - Certification of major activities requiring federal or state permits $1,000
   - Certification of minor activities requiring federal or state permits $100

Please Note: The above described notice and fees do NOT have to be completed prior to, or in conjunction with, submitting an application. SCDHEC will send you a letter providing you instructions (similar to what is listed above) after you submit your application to the Corps of Engineers.

8. SC Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Required Notice and Fees

Division of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

1. NOTIFICATION OF NEWSPAPER NOTICE

As required in Section 14(C) of Act 123 of 1977, applicants for Division of Ocean and Coastal Resource Management permits must publish a notice in an appropriate newspaper. For a minor activity, this notice must run in a newspaper published in the county where the activity is taking place. A minor activity is defined as a private, recreational dock or erosion control such as a bulkhead or revetment. Any activity which does not meet the definition of a minor activity is classified as a major activity. Applications for a major activity must be advertised both in a newspaper published in the county where the activity is taking place and a newspaper of statewide circulation (The State, The Greenville News, or The Post and Courier). If the county newspaper is the Post and Courier, then only one (1) advertisement is required. The newspaper notice need only run one time, but applications should be submitted to the Division of Ocean and Coastal Resource Management prior to the ad placement. After the ad(s) have been run, the newspaper will send the applicant an affidavit of publication, which must be forwarded to the Division of Ocean and Coastal Resource Management. A permit cannot be issued until the proof of publication is received. The following form shall be used for newspaper publication: (NOTE – this ad must run in the paper for ONE DAY with the appropriate comment time inserted)

PUBLIC NOTICE
(***Applicant***) has applied to the South Carolina Department of Health and Environmental Control, Division of Ocean and Coastal Resource Management for a permit to (***specific description of work***) for (***public/private***) use, at/in (***street address or lot/block number and name of waterway***). Comments will be received by the Division of Ocean and Coastal Resource Management , (***insert appropriate address - see below*****)** by (***insert date, 10 days after date of publication for minor activity and 15 days after publication date for a major activity***).

2. FEES

Pursuant to R. 61-30, Environmental Protection Fees, the SC Department of Health and Environmental Control is authorized to collect application fees for Critical Area Permit Applications.

- Minor activity: $250, except docks 100 feet or less in length for which the fee will be $150
- Major activity: $1000
- Extensions or transfers of minor permits: $25
- Extensions or transfers of major permits: $100
- Amendments for minor permits which must be placed on public notice: $100
- Amendments for major permits which must be placed on public notice: $1000

Please Note: The above described fee will need to be submitted in conjunction with the application to the Division.

9. U.S. Army Corps of Engineers, Charleston District's Permit Fees

US Army Corps of Engineers ®
Charleston District

U.S. ARMY CORPS OF ENGINEERS PERMIT FEES

Pursuant to 33 CFR 325.1 paragraph (f), fees are required for permits pursuant to Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the Rivers and Harbors Act of 1899.

1. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services.

OR

2. A $10.00 fee will be charged for permit applications when the proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise.

The fee should NOT be submitted with the application. The final decision as to the basis for a fee (commercial vs. non-commercial) shall be solely the responsibility of the district engineer. When it is determined that the proposed activity will not be contrary to the public interest, the applicant will be advised to submit the processing fee to the appropriate office.

A fee will **NOT** be charged for the following:

- Withdrawal of an application
- Denial of a permit
- Transfer of permits from one property owner to another
- Time extensions
- General permits
- Letters of permission

Multiple fees will not be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. Agencies or instrumentalities of federal, state or local governments will not be required to pay any fee in connection with permits.

10. Joint Federal and State Application Form

Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina	**This Space for Official Use Only** Application No._____ Date Received_____ Project Manager_____ Watershed #_____

Authorities: 33 USC 401, 33 USC 403, 33 USC 407, 33 USC 408, 33 USC 1341, 33 USC 1344, 33 USC 1413 and Section 48-39-10 et. Seq of the South Carolina Code of Laws. These laws require permits for activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. The Corps of Engineers and the State of South Carolina have established a joint application process for activities requiring both Federal and State review or approval. Under this joint process, you may use this form, together with the required drawings and supporting information, to apply for both the Federal and/or State permit(s).

Drawings and Supplemental Information Requirements: In addition to the information on this form, you must submit a set of drawings and, in some cases, additional information. A completed application form together with all required drawings and supplemental information is required before an application can be considered complete. See the attached instruction sheets for details regarding these requirements. You may attach additional sheets if necessary to provide complete information.

1. Applicant Last Name:		11. Agent Last Name (agent is not required):	
2. Applicant First Name:		12. Agent First Name:	
3. Applicant Company Name:		13. Agent Company Name:	
4. Applicant Mailing Address:		14. Agent Mailing Address:	
5. Applicant City:		15. Agent City:	
6. Applicant State:	7. Applicant Zip:	16. Agent State:	17. Agent Zip:
8. Applicant Area Code and Phone No.:		18. Agent Area Code and Phone No.:	
9. Applicant Fax No.:		19. Agent Fax No.:	
10. Applicant E-mail:		20. Agent E-mail:	
21. Project Name:		22. Project Street Address:	
23. Project City:	24. Project County:	25. Project Zip Code:	26. Nearest Waterbody:
27. Tax Parcel ID:		28. Property Size (acres):	
29. Latitude:		30. Longitude:	

31. Directions to Project Site (Include Street Numbers, Street Names, and Landmarks and attach additional sheet if necessary):

32. Description of the Overall Project and of Each Activity in or Affecting U.S. Waters or State Critical Areas (attach additional sheets if needed)

33. Overall Project Purpose and the Basic Purpose of Each Activity In or Affecting U.S. Waters (attach additional sheets if needed):

34. Type and quantity of Materials to Be Discharged

Dirt or Topsoil:	_____	☐cubic yards
Clean Sand:	_____	☐cubic yards
Mud:	_____	☐cubic yards
Clay:	_____	☐cubic yards
Gravel, Rock, or Stone:	_____	☐cubic yards
Concrete:	_____	☐cubic yards
Other (describe):	_____	☐cubic yards
TOTAL:	_____	cubic yards

35. Type and Quantity of Impacts to U.S. Waters (including wetlands).

Filling:	_____	☐acres	☐ sq.ft. _____	☐cubic yards
Backfill & Bedding:	_____	☐acres	☐ sq.ft _____	☐cubic yards
Landclearing:	_____	☐acres	☐ sq.ft _____	☐cubic yards
Dredging:	_____	☐ acres	☐ sq.ft. _____	☐cubic yards
Flooding:	_____	☐acres	☐ sq.ft. _____	☐cubic yards
Draining/Excavation:	_____	☐acres	☐ sq.ft. _____	☐cubic yards
Shading:	_____	☐acres	☐ sq.ft. _____	☐cubic yards
TOTALS:	_____ acres	_____ sq.ft.	_____ cubic yards	

36. Individually list wetland impacts including mechanized clearing, fill, excavation, flooding, draining, shading, etc. and attach a site map with location of each impact (attach additional sheets if needed).

Impact No.	Wetland Type	Distance to Receiving Water body (LF)	Purpose of Impact (road crossing, impoundment, flooding, etc)	Impact Size (acres)
			Total Wetland Impacts (acres)	

37. Individually list all seasonal and perennial stream impacts and attach a site map with location of each impact (attach additional sheets)

Impact No.	Seasonal or Perennial Flow	Average Stream Width (LF)	Impact Type (road crossing, impoundment, flooding, etc)	Impact Length (LF)
			Total Stream Impacts (Linear Feet)	

38. Have you commenced work on the project site? ☐ YES ☐ NO If yes, describe all work that has occurred and provide dates.

39. Describe measures taken to avoid and minimize impacts to Waters of the United States:

40. Provide a brief description of the proposed mitigation plan to compensate for impacts to aquatic resources or provide justification as to why mitigation should not be required (Attach a copy of the proposed mitigation plan for review).

41. See the attached sheet to list the names and addresses of adjacent property owners.

42. List all Corps Permit Authorizations and other Federal , State, or Local Certifications, Approvals, Denials received for work described in this application.

43. Authorization of Agent. I hereby authorize the agent whose name is given on page one of this application to act in my behalf in the processing of this application and to furnish supplemental information in support of this application. [1]

Applicant's Signature Date

44. Certification. Application is hereby made for a permit or permits to authorize the work and uses of the work as described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent for the applicant. [1]

Applicant's Signature Date Agent's Signature Date

[1]The application must be signed by the person who desires to undertake the proposed activity or it may be signed by a duly authorized agent if the authorization statement in blocks 11 and 43 have been completed and signed. 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

11. Information Required for DA Permit Applications

The information listed on this form is normally required for the Corps to make a permit decision. Items 1-7 are required as the minimum information necessary to issue a public notice. Please note that while only items 1-7 are required to issue a public notice, other applicable information listed in this form can be submitted with the application to expedite the permit process. For projects located in Area "C" (as shown on the State of SC Geographic Areas of Jurisdiction Map) which will result in alterations to the critical areas of South Carolina, information in addition to items 1-7 will generally be required prior to placing the project on SCDHEC- OCRM public notice. Please refer to #18 of the checklist. Please note the Corps cannot issue a DA permit until the applicant obtains the appropriate authorization(s), if any, from SCDHEC.

☐ **1**. **A completed *Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina*.** The application should be completed in full and signed by the appropriate party. Additional sheets may be used if more space in needed.

☐ **2. Maps.** A map showing the location of site for the proposed activity must be furnished. The site must be clearly marked and shown relative to the nearest major waterway, road, and city in the area. Maps are considered drawings and must conform to the general requirements given for drawings (8.5" x 11" or 8.5" x 14" paper). Maps must have a title block similar to the other drawings and must be included in the drawing scheme (sheet _of_). Do not provide large size maps. A copied portion of a large map is acceptable. Acceptable map sources include:

- United States Coast and Geodetic Survey Charts
- United States Geologic Survey Maps
- Other Federal maps or charts available to the public
- State or County maps

☐ **3. Mitigation.** If the proposed work involves a loss of waters of the US, to include wetlands, the application must include a mitigation plan to comply with 33 CFR Part 332, and the Charleston District's most recent Guidance on preparing a mitigation plan. While a conceptual mitigation plan is required to issue a public notice (Block 40 of the application form), a detailed mitigation plan will be required before a final permit decision can be made. For additional information, please refer to the additional information on mitigation in this pamphlet, or go to our website at: http://www.sac.usace.army.mil/Missions/Regulatory/CompensatoryMitigation).

☐ **4. CZM Certification**. For non-federal applications in the Coastal Zone, the application must include a statement of compliance with the Coastal Zone Management Plan. A

sample letter for the statement of compliance is provided. You may use the enclosed sample letter or prepare one of your own.

☐ **5. Depiction of Wetlands and/or Waters.** A depiction of wetlands and/or waters of the U.S. must be provided for the project site, in order to accurately identify the impacts associated with your project. If delineation has been approved by the Corps, please provide the identification number cited in the letter and a copy of the approved delineation map/survey. For proposed projects in tidal waters in Area "C" (see Section 2) , an approved Critical Area Line survey, validated and signed by the Division of Ocean and Coastal Resource Management must be provided, for those applications to construct an erosion control structure or construct a dock structure with a total channelward extension beyond 900'. A Corps' approved wetland determination is not required for a public notice to be issued; however, please be aware if it is determined that the jurisdictional boundaries of wetlands and/or waters, published via public notice, is found to be incorrect, the Corps may have to issue a revised public notice. The depiction of wetlands and/or waters will be the basis for quantifying the impacts to aquatic resources.

☐ **6. General Drawing Requirements**. A complete depiction of the proposed must be provided (detailed Engineering plans and specs are not required). Drawings must meet the following minimum requirements:

☐ Plans must be on 8.5" x 11" or 8.5" x 14" paper. Leave at least a 0.25" unused border area on each sheet. All drawings and writings must be clear, readable and reproducible;

☐ Drawings must be use appropriate shading, hatching or other annotated graphic symbols defined in a legend;

☐ Drawings should not show the approval, comments, or actions of any government agency;

☐ A title block is required for each drawing sheet (including maps). The title block must include the applicant's name, project name, project location, drawing date, drawing number (sheet_of_), and sufficient unused space for a 12 digit file number;

☐ Drawings must have all relevant dimensions shown for each view with a graphic drawing scale.

*There may be additional drawing requirements for projects occurring in Area "C" where a SCDHEC OCRM Critical Area Permit is required (see #18 of this checklist and Section 2 of this pamphlet).

☐ **7. Plan View and Cross-Section View Drawing Requirements**. Plan and elevation drawings should be provided. These drawings should show the general and specific site location and include a depiction of all proposed activities, including the size and

relationship of any proposed structure(s) to the size of the impacted waterway and depth of water (if applicable). You may also refer to items 8-20 in this checklist which provides information that should be included for specific activities. At a minimum, the drawings must include the following (as they pertain to your project):

☐ Plan and cross section views for each proposed work, structure, fill and excavation (for all projects).

☐ In tidal waters, the direction of the tidal ebb and flow must be shown.

☐ Control and datum elevation references must be shown as follows (for work in open waters):

- In tidal areas, show the existing and proposed water depths and land elevations relative to the nearby mean low water (MLW) contour or elevation;
- In tidal waters, show the MLW and mean high water (MHW) contours on all views;
- In non-tidal, navigable waters of the U.S., existing and proposed water depths and land elevations may be shown relative to mean sea level (MSL);
- In non-tidal, non-navigable waters of the U.S. , existing and proposed water depths and land elevations may be shown relative to the nearby ordinary high water (OWH) contour, or to MSL;
- In non-tidal waters, the OWH contour must be shown on all views;
- In lakes, the normal high water (NHW) level of the lake must be shown on the plans.

☐ In non-tidal waters, the direction of the river or stream flow must be shown.

☐ Existing and proposed ground contours must be shown on each cross section view (for all projects).

☐ Any existing marsh or wetland areas within the project boundaries must be depicted on the plans, whether or not they are impacted by the work.

☐ Each proposed structure, work, fill, or excavation must be clearly shown and located with respect to either a plat line or some fixed immovable object.

☐ Disposal areas for dredged or fill material must be shown. Cross hatching or shading and appropriate notes must clearly show these areas.

☐ Any proposed or existing retaining structures (e.g. embankments, bulkheads) for dredged or fill material must be shown.

☐ Property boundaries and names of adjacent property owners must be shown on a drawing (addresses should be provided on a separate sheet).

☐ For projects which encroach upon or lie adjacent to a site on which the Federal government has an easement to either deposit dredged material or excavate to improve channel operations, the drawings must clearly show the extent of encroachment or indicate if none is intended.

<u>The following items (8-20) are project-specific and will not be relevant to all projects. In addition, the items listed for each activity are not intended to be additional requirements; rather they should be incorporated in the drawings described in 5 and 6 above and/or included in the application itself.</u> *Additional requirements for SCDHEC OCRM Critical Area Permit application drawings (see #18 of checklist).

☐ **8. Fill in wetlands and/or waters.** For any fill in wetlands and/or waters of the U.S., the proposed project must include:

☐ General drawing(s) depicting the entire project (entire development, subdivision, roadway, etc.);

☐ Detailed drawings (to comply with the requirements described previously) for each fill;

☐ The use of the proposed fill/ project (private, commercial, etc).

☐ **9. Docks and Platforms**. For construction of a dock or platform supported by piles or floats, the proposed project description must include:

☐ The use of the platform (private use, multi-use, commercial use, etc.);

☐ Specific structures to be erected on the platform (boat house, boatlift, roof, railing, bathrooms, sinks, etc.).

☐ **10. Road Crossings.** For projects involving roads that cross wetlands, streams, open waters, etc. the drawings must include:

☐ The size and location of all culverts, pipes, etc;

☐ Verification that all water conveyances are adequately sized;

☐ **11. Utility line Crossings.** For projects involving utility line crossings the application must include:

☐ Overhead. For overhead utility lines crossing open waters, the application must include information on the height of the lines above mean high water.

☐ Underground. For underground utility lines, the application must include a description of how the utility line will be placed, i.e. directional bore, trenched, etc. For utility lines below open waters, the depth below the bottom of the waterbody must be included.

☐ The location of all disturbed ground must be indicated on the drawings.

☐ Right-of-Way (ROW) Maintenance Description. Temporary and permanent impacts must be identified and a description of how the ROW will be maintained.

☐ **12. Dredging/ Excavation**. For dredging in navigable waters of the United States, the application must include:

☐ The method of dredging;
☐ The site and plans for disposal of the dredged material;
☐ A description of the type, composition, and quantity of the material to be dredged.
☐ A statement regarding whether the material proposed for dredging has been tested or will be tested. If applicable, forward copies of all data with the application.

☐ **13. Ocean Dumping.** For requests to transport dredged material, for the purpose of dumping it into ocean waters, the application must include:
☐ The specific location of the proposed disposal site and its physical boundaries;
☐ A statement as to whether the proposed disposal site has been designated for use by the Administrator, EPA, pursuant to Section 102 of the Act;
☐ If the proposed disposal site has not been designated by the Administrator, EPA, a description of the characteristics of the site and an explanation as to why no previously designated disposal site is feasible;
☐ A brief description of known dredged material discharges at the proposed disposal site;
☐ Existence and documented effects of other authorized disposals that have been made in the disposal area (e.g., heavy metal background reading and organic carbon content);
☐ An estimate of the length of time during which disposal would continue at the proposed site;
☐ Information on the characteristics, composition, type and quantity of the dredged material.
☐ A statement regarding whether the material proposed for dredging has been tested or will be tested. If applicable, forward copies of all data with the application.

☐ **14. Discharges**. For the discharge of dredged or fill material into navigable waters of the United States or transportation of dredged material for disposal in ocean waters, the application must include:
☐ The source of the material;
☐ The purpose of the discharge;
☐ A description of the type, composition and quality of the material;
☐ The method of transportation and disposal of the material;
☐ The location of the disposal site.
☐ A statement regarding whether the material proposed for dredging has been tested or will be tested. If applicable, forward copies of all data with the application.

☐ **15. Impoundments**. For activities involving the construction of an impoundment, the applicant must demonstrate that the embankment complies with established State dam

safety criteria or that the structure has been designated by qualified persons and independently reviewed (and modified as the review indicates) by similarly qualified persons. No specific design criteria will be prescribed nor will an independent detailed Engineering review be made by the District Engineer.

☐ **16. Artificial Reefs**. For activities involving construction or placement of an artificial reef, as defined in 33 CFR 322.2(g), in the navigable waters of the United States or in the waters overlying the outer continental shelf, the application must include provisions for sitting, constructing, monitoring, and managing the reef.

☐ **17. Beach Nourishment.** For projects involving beach nourishment, the application should include:

- ☐ The location or source and type of material to be used;
- ☐ The construction method (s) of re-nourishment and proposed timeframes;
- ☐ The location of the re-nourishment activities;
- ☐ Cubic yards of material to be used and acreage of coverage;
- ☐ Proposed elevations and slope of re-nourished beach.

SC Department of Health and Environmental Control (SCDHEC) requirements. Before SCDHEC will issue a permit, the following must be completed and evidence submitted to SCDHEC. Please note the Corps cannot issue a Department of the Army permit until the applicant obtains the appropriate authorization(s) from SCDHEC.

☐ **18. SC Department of Health and Environmental Control (SCDHEC) requirements.**

☐ Proof of publication in the appropriate newspaper(s). Detailed information can be found in this pamphlet on this requirement or you can contact SCDHEC for additional information.

☐ For other than single family lots, a drainage and stormwater plan must be submitted directly to SCDHEC. Contact DHEC directly for requirements.

Division of Ocean and Coastal Resource Management Critical Area Permit requirements:

☐ Affidavit of Ownership or Control form (page 9 of OCRM Critical Area Permitting Application) completed, signed and notarized, including one of the following: 1) Legal description and/or copy of the certified plat of the property 2) A certified copy of the deed, lease, easement, or other instrument under which the applicant claims title, or permission from the owner of the property to carry out the proposed activity. Please note that professional dock drawings do not satisfy the proof of ownership requirement.

☐ For applications for the construction of an erosion control structure or a docking structure whose total channelward extension exceeds 900', a survey depicting the Critical Area Line that has been validated and certified the Division of Ocean and Coastal Resource Management.

☐ As of JULY 24, 2006, all drawings submitted as required by any application/ amendment request must be produced, stamped and signed by one of the following professional groups: registered land surveyors, registered professional engineers, registered landscape architects.These individuals must be licensed in the state of South Carolina. OCRM will not accept hand drawings or other drawings not meeting these criteria. Applications with drawings judged to be inexact and unprofessional will not be placed on public notice and will be returned to the applicant.

Detailed Drawing Requirements:

REGISTERED DRAWINGS FOR PLAN VIEW

1. Show critical area line (shoreline) in relation to the proposed activity and any adjacent existing structures. Show all upland property boundaries and width of property at critical area line (shoreline).
2. Show north arrow and direction of flood and ebb tide.
3. Show name of waterway and mean high and mean low water lines.
4. Show edge of marsh grass and distance of structure from edge of marsh grass.
5. Show distance from marsh grass to marsh grass or distance across channel or to navigation channel where applicable. Show all water bodies within the extended property lines.
6. Show dimensions of structures and distance from property lines, extended property lines or dock corridor lines.
7. Show and label adjacent property owners.
8. For applications involving beachfront activity, a certified plat must be submitted which clearly shows the location of the baseline, and setback lines.
9. For beachfront applications involving rebuilding, a certified plat must be submitted which show the previous improvements.

REGISTERED DRAWINGS FOR SIDE VIEW

1. Show high and low water and distance above high water.
2. Show critical area line (shoreline) in relation to structure.
3. Show edge of marsh grass and distance of structure from edge of marsh grass.
4. See 8 and 9 under Plan View.

Note: Additional information may be required depending on the nature of the project.

For your information, the following items may be requested if the Corps deems them necessary to make an informed permit decision. If you know that any of these items are pertinent to your project, you may choose to submit them with the permit application in order to expedite the process. Otherwise, the Corps will notify you if you are required to submit the information and can provide further clarification on the below listed items, if needed.

☐ **A 404(b)(1) Alternatives Analysis.** 40 CFR 230 states that "Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." Therefore, the Corps may require additional information from the applicant to demonstrate that the proposed project is the least environmentally damaging practicable alternative.

☐ **Cultural Resource Survey.** Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of their actions on historic properties. If the Corps makes a determination that your proposed project may have an effect on a historic property, or needs additional information to assist in making a determination, a cultural resource survey may be required.

☐ **Threatened and Endangered Species Survey.** Section 7(a)(2) of the Endangered Species Act requires Federal agencies to insure that any action it authorizes is not likely to jeopardize the continued existence of any Federally listed species or result in the destruction or adverse modification of designated critical habitat. If the Corps has information that leads them to believe that your proposed project may impact a federally threatened or endangered species, a survey may be required.

☐ **Hydraulics and Hydrology.** The Corps is charged with making a determination that your proposed project is (or is not) contrary to the public interest. Several of the factors that the Corps must consider relate to flooding. Therefore, the Corps must have adequate information to ensure that your project will not cause adverse impacts to adjacent properties and may need additional information from you.

☐ **Navigation.** The purpose of the Department of the Army's Regulatory Program has always been to protect and maintain the navigable capacity of the nation's waters. If your project has the potential to impact the navigable capacity of a waterbody, the Corps may require additional information (to include hydrographic surveys) to ensure

that your project is planned to not cause an unacceptable interference with safe navigation.

☐ **Impacts to a Federal Project.** 33 U.S.C. § 408 requires permission from the Secretary of the Army for any proposed project that modifies an existing U.S. Army Corps of Engineers project (Federal project). In order to gain permission, it must be demonstrated that such proposed alteration or permanent use and occupation of the Federal project is “not injurious to the public interest and will not impair the usefulness of such work.” Therefore, if your proposed project impacts, modifies or changes a Federal project, you will be required to submit additional information. For example, if you are proposing a dock on the Intracoastal Waterway (a Federally maintained waterway), you will be required to provide a survey indicating the distance to the Federal channel and the distance to the setback. If you are proposing a structure in a federal flood control project, then you may be required to submit a detailed study and analysis showing the impacts of your proposed structure on the federal project.

12. Compensatory Mitigation

Mitigation Plan (33 CFR 332.4(c))

A mitigation plan is required for all projects, whether you are proposing to use a mitigation bank, an in-lieu fee program or propose a permittee-responsible mitigation projects. Applicants must submit a mitigation plan that is consistent with Corps regulations (i.e., 33 CFR 320.4(r) and 33 CFR Part 332) and the most recent Charleston District Guidance on completing Compensatory Mitigation (found on our website at: http://www.sac.usace.army.mil/Missions/Regulatory). The following is information to assist you with preparing a mitigation plan.

Using Mitigation Banks or In-Lieu Fee Programs

Individual Permits
For applicants proposing to meet their mitigation obligations by securing credits from an approved mitigation bank or in-lieu fee program, their mitigation plans only need to include components 4 (baseline information) and 5 (determination of credits), and the name of the mitigation bank or in-lieu fee program to be used.

General Permits
For applicants proposing to meet their mitigation obligation by securing credits from an approved mitigation banks or in-lieu fee programs, their mitigation plans only need to include components 4, Baseline Information and 5 Determination of Credits (discussed later in this document) and either the name of the mitigation bank or in-lieu fee program to be used.

Permittee-Responsible Mitigation

Individual Permits
Applicants must prepare a draft or conceptual mitigation plan and submit it to the district engineer (DE) for review. The Corps will issue a public notice soliciting comments on your project and proposed mitigation plan. After the public comment period is over, the Corps will provide you a list of all comments and concerns. The applicant must address any comments and concerns the Corps' has, as well as those comments received during the public notice comment period in a final mitigation plan. The level of detail in the mitigation plan should be commensurate with the impacts and should include the 12 components listed herein this document. A final mitigation plan must be approved by the DE prior to issuing an individual permit.

General Permits
The applicant must submit a mitigation plan, incorporating the 12 components listed herein, at a level of detail commensurate with the impacts. While the mitigation plan may be conceptual, a final mitigation plan must be approved by the DE before the permittee commences work in waters of the U.S. or prior to issuing an authorization letter, whichever is deemed appropriate.

12 Components of a Compensatory Mitigation Plan

1. Objectives. A description of the resource type(s) and amount(s) that will be provided, the method of compensation (restoration, establishment, preservation etc.), and how the anticipated functions of the mitigation project will address watershed needs.

2. Site Selection. A description of the factors considered during the site selection process. This should include consideration of watershed needs, onsite alternatives where applicable, and practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the mitigation project site.

3. Site Protection Instrument. A description of the legal arrangements and instrument including site ownership, that will be used to ensure the long-term protection of the mitigation project site.

4. Baseline Information. A description of the ecological characteristics of the proposed mitigation project site, in the case of an application for a DA permit, the impact site. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, a map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s), and other characteristics appropriate to the type of resource proposed as compensation. The baseline information should include a delineation of waters of the United States on the proposed mitigation project site. A prospective permittee planning to secure credits from an approved mitigation bank or in-lieu fee program only needs to provide baseline information about the impact site.

5. Determination of Credits. A description of the number of credits to be provided including a brief explanation of the rationale for this determination. The determination of credits should be prepared using the most recent Charleston District guidance on preparing a mitigation plan.

- For permittee-responsible mitigation, this should include an explanation of how the mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity.
- For applicants intending to secure credits from an approved mitigation bank or in-lieu fee program, it should include the number and resource type of credits to be secured and how these were determined.

6. Mitigation Work Plan. Detailed written specifications and work descriptions for the mitigation project, including: the geographic boundaries of the project; construction methods, timing, and sequence; source(s) of water; methods for establishing the desired plant community; plans to control invasive plant species; proposed grading plan; soil management; and erosion control measures. For stream mitigation projects, the mitigation work plan may also include other relevant information, such as planform geometry, channel

form (e.g., typical channel cross-sections), watershed size, design discharge, and riparian area plantings.

7. **Maintenance Plan**. A description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed.

8. **Performance Standards**. Ecologically-based standards that will be used to determine whether the mitigation project is achieving its objectives.

9. **Monitoring Requirements**. A description of parameters monitored to determine whether the mitigation project is on track to meet performance standards and if adaptive management is needed. A schedule for monitoring and reporting monitoring results to the DE must be included.

10. **Long-term Management Plan**. A description of how the mitigation project will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management.

11. **Adaptive Management Plan.** A management strategy to address unforeseen changes in site conditions or other components of the mitigation project, including the party or parties responsible for implementing adaptive management measures.

12. **Financial Assurances**. A description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the mitigation project will be successfully completed, in accordance with its performance standards.

PLEASE NOTE: The DE may require additional information as necessary to determine the appropriateness, feasibility, and practicability of the mitigation project. For additional information, please visit the Charleston District's website: http://www.sac.usace.army.mil/Missions/Regulatory/CompensatoryMitigation

13. Frequently Asked Questions

Frequently Asked Questions

Various questions are often asked about the Charleston District's Regulatory Program. It is hoped that these answers will help you to understand the program better.

Q. When should I apply for a DA permit from the Corps?

A. Since processing an application for a standard, individual permit involving a public notice can be a lengthy process, you should apply as early as possible to be sure you have all the required approvals before your planned commencement date. For a large or complex activity that may take longer, it is often helpful to have a "pre-application consultation" with the Corps during the early planning phase of your project. You may receive helpful information at this point which could prevent delays later. When in doubt as to whether a permit may be required or what you need to do, don't hesitate to call the Corps. A pre-application form can be found in this information packet as well as the contact phone numbers for the appropriate Corps' office.

Q. I have obtained permits form local and state government. Why do I have to get a permit from the Corps?

A. Each federal, state, local governmental entity is responsible for administering different programs, pertinent to the laws or regulations. For projects that impact waters of the United States, a permit is most likely required by the Corps. It is possible you may not have to obtain an individual permit, depending on the type or location of work. The Corps has many General Permits which authorize minor activities for discharges of dredged or fill material without the need for individual processing. When a General Permit does not apply, you may be required to obtain an individual permit. Feel free to contact one of our Corps' offices or visit our website for more information on the Regulatory program and the permitting process http://www.sac.usace.army.mil/missions/regulatory.

Q. What will happen if I do work without getting a DA permit from the Corps or SCDHEC OCRM, when applicable?

A. Performing unauthorized work in waters of United States or failure to comply with terms of a valid permit can have serious consequences. You would be in violation of Federal law and could face penalties, including fines and/or requirements to restore the area.

Furthermore, performing unauthorized work in the critical areas of the South Carolina coastal zone (Area "C") or failure to comply with the terms of a valid permit can have further serious consequences. In addition to those penalties assessed by the Corps, you would also be in violation of State law. As part of a comprehensive enforcement process, SCDHEC OCRM may require individuals to restore the site to original conditions, remove/modify unauthorized structures and/or pay civil penalties.

Enforcement is an important part of both the Corps' and SCDHEC- OCRM's regulatory programs. The Corps and SCDHEC OCRM surveillance and monitoring activities are often aided by various agencies, groups, and individuals who report suspected violations. When in doubt as to whether a planned activity needs a DA permit, contact the nearest Charleston District office and SCDHEC OCRM office, if in Area "C".

Q. How can I obtain further information about permit requirements?

A. Information about the regulatory program is available from any of the DHEC or Charleston District's regulatory offices. Contact numbers and addresses are listed in this pamphlet and you can find additional information on the following website: http://www.sac.usace.army.mil/missions/regulatory.

http://www.scdhec.gov/Agency/Contact/

Q. Why should I waste my time and yours by applying for a DA permit when you probably won't let me do the work anyway?

A. Nationwide, only a very small percent of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application. To avoid unnecessary delays, pre-application meetings, particularly for applications for major activities, are recommended. The Corps will endeavor to give you helpful information, including factors which will be considered during the public interest review, and alternatives to consider that may prove to be useful in designing a project.

Q. What is a wetland and what is its value?

A. Wetlands are areas that are periodically or permanently inundated by surface or ground water and support vegetation adapted for life in saturated soil. Wetlands include swamps, marshes, bogs, and similar areas. If you would like to know if your property contains wetlands, you can request a wetland delineation from the appropriate Corps' office by filing out a wetland determination request form and submitting the appropriate information. You can obtain a copy of the request form on our website: http://www.sac.usace.army.mil/Missions/Regulatory/PermittingProcess

A significant natural resource, wetlands serve important functions relating to fish and wildlife; food chain production; habitat; nesting; spawning; rearing and resting sits for aquatic and land species; protection of other areas from storm and flood waters; natural recharge areas where ground and surface water are interconnected; and natural water filtration and purification functions.

Q. How can I design my project to eliminate the need for a DA permit?

A. If your activity is located in an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoids wetlands or other waterbodies. In the vicinity of fresh water, stay above ordinary high water and avoid wetlands adjacent to the stream or lake. Also, it is possible that your activity is exempt and does not need a Corps permit or that it has been authorized by a nationwide or regional permit. So, before you build, dredge, or fill, contact the Corps regulatory office in your areas for specific information about location, exemptions, and regional and nationwide general permits.

Q. Why do I need a State Water Quality Certification or 401?

A. You need a 401 in order to comply with State water quality certification requirements of Section 401 of the Federal Clean Water Act, 33 U.S.C. Section 1341. Any applicant for a Federal license or permit to conduct any activity, which during construction or operation may result in any discharge to navigable waters, is required by Federal law to first obtain a certification from SCDHEC. Potential applicants are encouraged to contact SCDHEC prior to submitting an application. Federal law provides that no Federal license or permit is to be granted until such certification is obtained. In accordance with Regulation 61.101 Water Quality Certification, any certification issued by SCDHEC shall also set forth any limitations, conditions, or monitoring requirements necessary to assure maintenance of classified or existing water uses and standards and compliance with other requirements of Regulation 61-68, Water Classifications & Standards, or other appropriate requirements of State law. More information about the 401 Program can be found here: http://www.scdhec.gov/environment/WaterQuality/401Certification/CertificationProcessExplained/

Q. What are classified and existing water uses (DHEC)?

A. Classified uses means those uses specified in South Carolina Regulation 61-68, Water Classifications and Standards, Section G for surface waters and Section H for ground waters, whether or not those uses are being attained. Existing uses means those uses actually being attained in or on the water, on or after November 28, 1975, regardless of the classified uses.

Q. What is the 303(d) list (DHEC)?

A. The 303(d) list is the list of impaired waterbodies. All states are required to develop a list of waterbodies that do not meet water quality standards. This requirement comes from Section 303(d) of the Clean Water Act, hence the common name for the list. The waterbodies on this list do not meet water quality standards even after controls for point and nonpoint source pollution have been put in place. The purpose of the list is to identify impaired waters so that

the source of impairment can be described and corrective actions can be implemented to improve water quality.

Q. What is nonpoint source pollution and what are nonpoint source controls (DHEC)?

A. According to the United States Environmental Protection Agency, polluted runoff, or nonpoint source pollution, is the number one contributor to water pollution nationwide. Nonpoint source pollution results from rainwater runoff or stormwater that finds its way into surface or groundwater. As it travels across surfaces, this stormwater can pick up sediment, nutrients, bacteria, and toxins, which then have an adverse impact on the state's water resources. Nonpoint source controls are anything that limits stormwater and nonpoint source pollution from leaving a project site, mitigating the adverse effects on receiving waters. Low Impact Development (LID) and Construction Best Management Practices such as appropriate grading and sloping techniques, mulches, silt fences, etc are examples.

Q. What is a stormwater demonstration and when is it required (DHEC)?

A. A stormwater demonstration is a study that shows that your project will not contribute to an existing impairment both during and after construction. Generally, one is required whenever the project involves greater than twenty-five (25) acres of land disturbance and is adjacent to a 303(d) listed waterbody; however, this requirement is evaluated on a case by case basis as the circumstances of each project are uniqueMore information about the 303(d) list can be found here:

http://www.scdhec.gov/HomeAndEnvironment/Water/ImpairedWaters/Overview/

Q. What is the "Critical Area"?

A. By law, the critical areas in South Carolina are the coastal waters, tidelands, and beach/dune systems. In these areas SCDHEC OCRM has direct jurisdiction for permits to perform any alteration.

Q. **What activities are covered under a critical area permit?**

A. Common activities covered by a critical area permit include construction of docks and bulkheads. Other activities requiring a permit include, but are not limited to, additions to existing structures, such as boatlifts, construction of boat ramps, marinas, dredging activities.

Q. **Do I have to use an agent to submit my application to SCDHEC OCRM or the Corps?**

A. An agent is not required and OCRM and Charleston District staff are generally available to help an applicant through the DA permitting process. However, some applicants prefer to have an agent manage the administrative application process.

Q. **What do I need to do if I oppose a permit application?**

A. If you oppose a pending permit, you need to write a letter to SCDHEC OCRM and/or the Charleston District explaining the reason for the opposition. The letter must be received within the Public Notice period.

If twenty or more people request a public hearing on the pending permit, SCDHEC OCRM will hold a public hearing in the county where the land is located. The Charleston District will review requests for public hearings and make decisions on whether to hold a public hearing on a case-by-case basis.

Q. **What happens when SCDHEC OCRM makes a decision?**

A. Typically, one of two things could happen: SCDHEC OCRM issues or denies the permit application. When a permit is issued, DHEC-OCRM will send the original and one copy of the permit to the applicant, and will also include instructions to follow once you get ready for the construction phase. The permit is not valid until the applicant signs the original and returns it to OCRM. The copy should also be signed and then retained for your records. A copy of the permit is also sent to the Corps. You may not commence work until you have received authorization from both SCDHEC OCRM and the Corps.

In the case of a denial, SCDHEC OCRM will send a formal letter to the applicant explaining why the permit has been denied. The applicant then has 15 days to appeal the decision to Board of the S.C. Department of Health and Environmental Control. In either case, SCDHEC OCRM will also send a notification of the final staff decision to any objecting parties once the permit has been executed or denied.

Q. **What happens when the Corps makes a decision on a DA permit?**

A. Typically, one of two things could happen: the Corps either issues or denies the permit application. When a permit is issued, the Corps will send two original copies of the permit to the applicant, with instructions. Both copies should be signed and returned to the Corps, with any applicable fees. Upon receipt of the signed copies of the permits and applicable fees, the Corps will sign both copies and return one copy to the applicant with instructions requiring that the Corps be notified when the applicant begins and complete the authorized work.

In the case of a denial, the Corps will send a formal letter to the applicant explaining why the permit has been denied and outline the appeal rights.

Q. **Are SCDHEC OCRM permits transferable?**

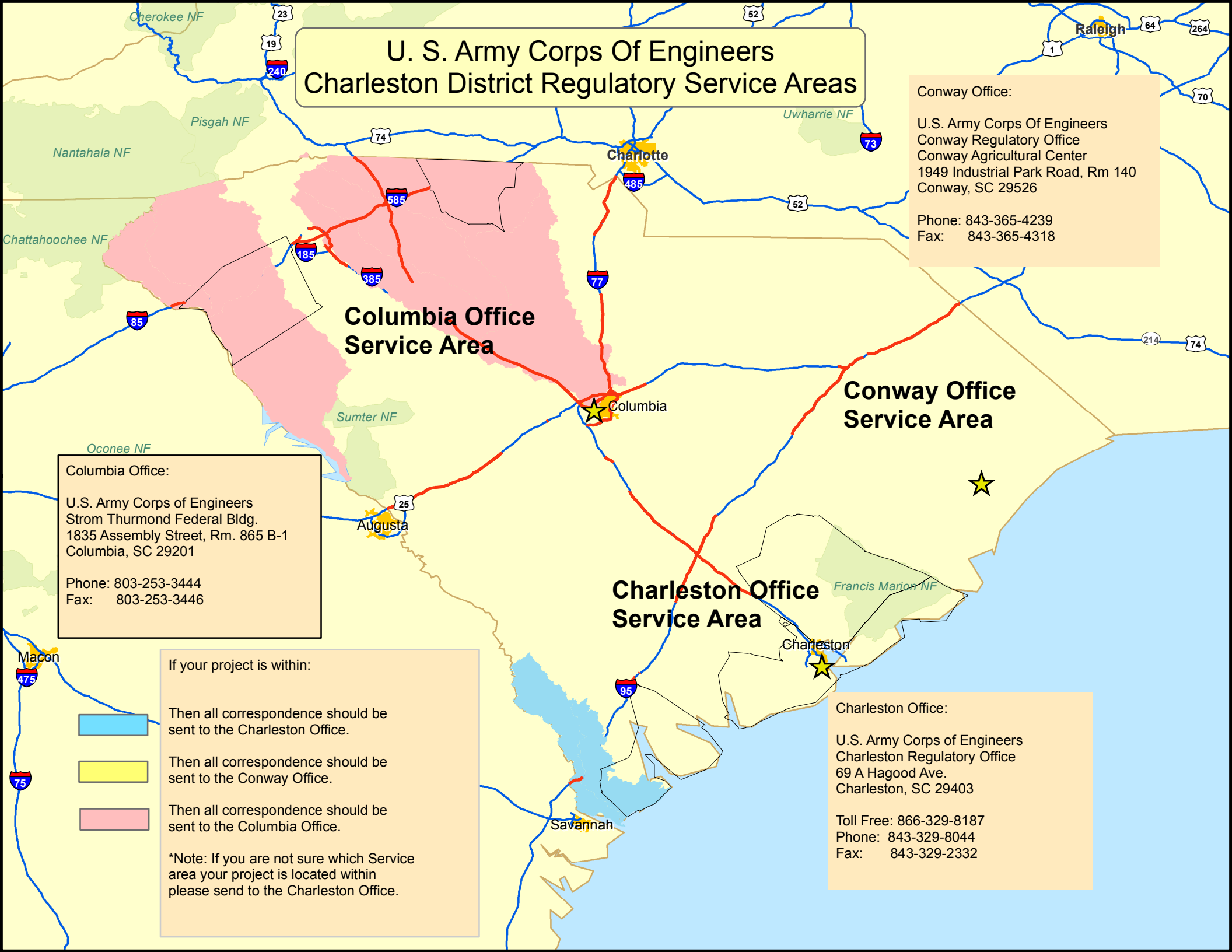
A. Yes; simply fill out the Assignment/Transfer Form (DHEC 3900). This form is available online or at your local SCDHEC OCRM office. The new permit holder will be responsible for all

conditions prescribed under the original permit. Both parties need to sign this form, so real estate closings are a good time to complete the form and have it witnessed. Once it is complete, simply mail it to the local SCDHEC OCRM office with the appropriate fee. Please note that only active permits require a transfer.

Q. **Are the DA permits transferable?**

Yes; have the appropriate representative/landowner sign original permit on the space allotted at the bottom of the actual permit and mail it to the appropriate Charleston District office. The new permit holder will be responsible for all conditions prescribed under the original permit.

U. S. Army Corps Of Engineers
Charleston District Regulatory Service Areas



Conway Office:

U.S. Army Corps Of Engineers
Conway Regulatory Office
Conway Agricultural Center
1949 Industrial Park Road, Rm 140
Conway, SC 29526

Phone: 843-365-4239
Fax: 843-365-4318

Columbia Office:

U.S. Army Corps of Engineers
Strom Thurmond Federal Bldg.
1835 Assembly Street, Rm. 865 B-1
Columbia, SC 29201

Phone: 803-253-3444
Fax: 803-253-3446

If your project is within:

Then all correspondence should be sent to the Charleston Office.

Then all correspondence should be sent to the Conway Office.

Then all correspondence should be sent to the Columbia Office.

*Note: If you are not sure which Service area your project is located within please send to the Charleston Office.

Charleston Office:

U.S. Army Corps of Engineers
Charleston Regulatory Office
69 A Hagood Ave.
Charleston, SC 29403

Toll Free: 866-329-8187
Phone: 843-329-8044
Fax: 843-329-2332