

ENCLOSURE NO. 1
PROPOSED NATIONWIDE PERMIT REGIONAL CONDITIONS
FOR SOUTH CAROLINA

The following Regional Conditions have been proposed by the Charleston District for the nationwide permits (NWP) published in the February 21, 2012, Federal Register as authorized under General Condition # 26. Regional conditions are authorized to modify NWP's by adding conditions on a generic basis applicable to certain activities or specific geographic areas. Certain terminologies used in the following conditions are identified in *italics* and are defined in the above referenced Federal Register under Definitions.

For All Nationwide Permits:

1. The applicant must implement *best management practices* during and after all construction to minimize erosion and migration of sediments off site. These practices may include use of devices capable of preventing erosion and migration of sediments in waters of the U.S., including wetlands. These devices must be maintained in a functioning capacity until the area is permanently stabilized. All disturbed land surfaces must be stabilized upon project completion.
2. All wetland and stream crossings must be stabilized immediately following completion of construction/installation and must be aligned and designed to minimize the *loss of waters of the U.S.*
3. Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.
4. Any excess excavated materials not utilized as authorized back fill must be placed and contained on high land and permanently stabilized to prevent erosion into waters of the U.S., including wetlands.
5. Placement and/or stockpiling (double handling) of excavated material in waters of the U.S, including wetlands, is prohibited unless specifically authorized by the nationwide permit verification. Should double handling be authorized, the material must be placed in a manner that does not impede circulation of water and will not be dispersed by currents or other erosive forces.
6. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to aquatic resources and the surrounding environment.
7. The permittee must notify the Corps of Engineers, Charleston District in the event archaeological or paleontological remains are found during the course of work. Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent (i.e., older than 100 years) vessel ruins.

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Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

8. Use of nationwide permits does not obviate requirements to obtain other Federal, State, county, or local government authorizations.
9. With the exception of NWP 38, no NWP is authorized in areas of known or suspected sediment contamination.

FOR SPECIFIC NATIONWIDE PERMITS:

10. For NWP's **12, 14, 18, 27, 29, 38, 39, 40, 42, 43, 44, 51 and 52**, a discharge cannot cause the loss of greater than 300 linear feet of *streambed*.
11. For NWP's **1, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 36, 51, and 52**, a notification must be submitted for any activity that would be located adjacent to an authorized Federal Navigation project. These Federal navigation areas include Adams Creek, Atlantic Intracoastal Waterway (AIWW), Ashley River, Brookgreen Garden Canal, Calabash Creek Charleston Harbor (including the Cooper River and Town Creek), Folly River, Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Canal), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Savannah River, Shem Creek (including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.
12. For **NWP 3, paragraph (a) activities**, the permittee must notify the District Engineer in accordance with General Condition 31, if the discharge of dredged or fill material causes the loss of greater than 1/10-acre of waters of the U.S. or there is a discharge in a special aquatic site, including wetlands and riffle pool complexes.
13. For **NWP 3, paragraph (b) activities**, excavation of accumulated sediment or other material is not authorized in areas adjacent to existing private or commercial dock facilities, piers, canals dug for boating access, marinas, or boat slips.
14. For **NWP's 7 and 12**, the associated intake structure must be screened to prevent entrainment of juvenile and larval organisms and the inflow velocity of the associated intake structures must be limited to ≤ 0.5 ft/sec.
15. For **NWP 7**, activities related to the construction of outfall structures must occur in the immediate vicinity of the outfall, and must be necessary for the overall construction or operation of the outfall (e.g. pump equipment, rip-rap). Authorization does not include ancillary activities such as construction of access roads, installation of utility lines leading to or from the outfall or intake structures, construction of buildings, distant activities, etc.

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16. **NWP's 12, 14, 29, 39, 43, 51 and 52** will not be used in conjunction with one another for an activity that is considered a *single and complete project*.
17. For **NWP's 12, 14, and 18**, the permittee must submit a pre-construction notification (PCN) to the District Engineer in accordance with General Condition 31, prior to commencing the activity if the discharge will impact more than **25 linear feet of streambed**. This notification requirement is in addition to the notification criteria listed for these NWPs.
18. For **NWP 12**, excavated material shall be returned to the trench and any remaining material shall be relocated and retained on an upland disposal site. Substrate containing roots, rhizomes, seeds, etc., must be kept viable and replaced at the surface of the excavated site. Impacted wetlands will be replanted with native wetland species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native.
19. For **NWP 12**, stream banks that are cleared of vegetation will be stabilized using bioengineering techniques and/ or the planting of deep-rooted native species.
20. For **NWP 12**, construction techniques to prevent draining, such as anti-seep collars, will be required for utility lines buried in waters of the U.S when necessary. If no construction techniques to prevent draining are proposed, the applicant must provide appropriate documentation that such techniques are not required to prevent drainage of waters of the U.S.
21. For **NWP 12**, all activities that involve temporary structures, fills, and work must include with the notification the specifications of how pre-construction contours will be re-established and verified after construction.
22. For **NWP 12**, all activities that involve maintained utility crossings must include with the notification a justification for the required width of the maintained crossing that impacts waters of the U.S.
23. For **NWP 12**, all activities that involve the construction of a sub-station in waters of the U.S. must include with the notification a statement of avoidance and minimization for the loss of waters of the U.S. impacted by the utility line sub-station.
24. For **NWP 12**, all activities that involve the permanent conversion of forested wetlands to herbaceous wetlands must include with the notification the acreage of conversion impacts of waters of the U.S. and a compensatory mitigation proposal or a statement of why compensatory mitigation should not be required.
25. For **NWP's, 14, 29, 39, 46, 51 and 52**, all notifications must include appropriately sized and positioned culverts that meet the requirements of General Conditions 2, 9 and 10 for each individual crossing of waters of the U.S.

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26. For **NWP's 14, 29, 39, 51 and 52**, each individual stream crossing is required to accommodate bankfull* flows by maintaining the existing bankfull channel cross sectional area. Flows that exceed bankfull flow must be accommodated by placement of additional culverts above the bankfull elevation.
27. Notifications for aquatic habitat *restoration*, establishment, and enhancement activities authorized by **NWP 27** will require coordination with appropriate Federal, State, and local agencies. The coordination activity will be conducted by the Corps of Engineers. Agencies will generally be granted 15 days to review and provide comments unless the District Engineer determines that an extension of the coordination period is reasonable and prudent.
28. For **NWP 29**, the loss of waters of the U.S. is limited to a maximum of ¼-acre for a single family residence. For impacts greater than 0.1 acres, measures taken to avoid and minimize impacts to waters of the U.S. must be provided with the PCN.
29. For **NWP 36**, the width of the boat ramp will be limited to **16 feet** and only one boat ramp may be constructed on a single lot or tract of land (e.g. each lot within a subdivision). **NWP 36** may be used to authorize the construction of all boat ramps.
30. For **NWP 38**, notifications require the following information:
- documentation that the specific activities are required to effect the containment, stabilization, or removal of hazardous or toxic waste materials as performed, ordered, or sponsored by a government agency with established legal or regulatory authority;
 - a narrative description indicating the size and location of the areas to be restored, the work involved and a description of the anticipated results from the restoration;
 - a plan for the monitoring, operation, or maintenance of the restored area.
31. For **NWP's 29 and 39**, the discharges of dredged or fill material for the construction of *stormwater management facilities in perennial streams* are not authorized.
32. For **NWP 41**, notification must be submitted for projects that require mechanized land clearing in waters of the U.S., including wetlands, in order to access or perform reshaping activities.
33. **NWP 41** is prohibited in channelized streams or stream relocation projects that exhibit natural stream characteristics and/or perform natural stream functions.
34. For **NWP 48**, a copy of the lease or permit issued by an appropriate state or local government agency, a treaty, or a legal contractual document establishing a valid property interest, must be provided with the pre-construction notification (PCN) for commercial shellfish aquaculture activities that occur in a new project area. This is in addition to the information specifically required for this NWP as well as the required information found in General Condition 31.

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*Bankfull corresponds to the discharge at which channel-forming processes, such as forming or removing bars or meanders, is most effective. It is typically associated with the 1.5-year storm event, the "ordinary high water mark", and the elevation on the stream bank where flooding begins in a stable stream system. It can often be identified in the field by the elevation of the highest depositional feature (e.g. point bars), a recognizable floodplain, or a break in perennial vegetation.