

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403-5107

THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405
and

THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Water Quality Certification and Wetlands Section
2600 Bull Street
Columbia, South Carolina 29201

REGULATORY DIVISION

March 11, 2021

Refer to: P/N # SAC-2015-1280, SAC-2015-1281, SAC-2015-1282, SAC-2015-1283, SAC-2015-1284, SAC-2015-1285, SAC-2015-1286

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), the South Carolina Coastal Zone Management Act (48-39-10 et.seq.), and the S.C. Construction in Navigable Waters Permit Program (R. 19-450, et. seq., 1976 S.C. Code of Laws, as amended).

NOTICE

is hereby given that the District Engineer, Charleston District proposes to reissue General Permits SAC-2015-1280, SAC-2015-1281, SAC-2015-1282, SAC-2015-1283, SAC-2015-1284, SAC-2015-1285, and SAC-2015-1286. The revised General Permits would be issued to South Carolina Department of Transportation (SCDOT) authorizing the discharge of dredged and/or fill material, incidental to the improvement, expansion, or maintenance of existing linear transportation projects in waters of the U.S., within the State of South Carolina.

NOTE: A copy of the draft General Permits are attached to this Public Notice and contain the general and special conditions of the authorization.

Written statements regarding the proposed work will be received by the **Corps** and **SCDHEC** until

30 Days from the Date of this Notice

This General Permits, if issued, will be effective for a period of five (5) years.

The purpose of these Regional General Permits (RGP) is to provide a simplified and expeditious means to authorize activities in waters of the United States (US), including wetlands, that are similar in nature and cause only minimal individual and cumulative impacts, for specific transportation projects undertaken by SCDOT, within the State of South Carolina.

NOTE: This public notice and associated plans are available on the Corps' website at:
<http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices> .

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request for certification that these Regional General Permits comply with applicable effluent limitations and water quality standards. The work included in these Regional General Permits must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S.C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S.C. Department of Health and Environmental Control. The District Engineer will not process this General Permit to a conclusion until such certification is received. SCDOT is hereby advised that supplemental information may be required by the State to facilitate the review.

This public notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of these Regional General Permits would impact estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's initial determination is that these Regional General Permits would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). The District Engineer's final determination relative to the Regional General Permits' impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended), the District Engineer has consulted the most recently available information and has determined that the implementation of the proposed Regional General Permits, to include all General and Special Conditions, will have no effect to any Federally endangered, threatened, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

This public notice constitutes a request for information regarding the potential effect that reissuance of this General Permit may have on registered properties, or properties listed as being eligible for inclusion in the National Register of Historic Places.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity. **Please submit comments in writing, identifying the project of interest by public notice number, to the following address:**

E-mail:

SAC.RD.Charleston@usace.army.mil

Standard Mail:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, South Carolina 29403-5107**

If there are any questions concerning this public notice, please contact Stephen A. Brumagin at 803-413-4440 or by email at: Stephen.A.Brumagin@usace.army.mil.



REGIONAL GENERAL PERMITS FOR ACTIVITIES ASSOCIATED WITH LINEAR TRANSPORTATION PROEJCTS WITHIN WATERS OF THE US, LOCATED WITHIN THE STATE OF SOUTH CAROLINA

Authority: The Charleston District, US Army Corps of Engineers (Corps) is authorizing the discharge of dredged and/or fill material in waters of the United States (US), including navigable waters of the US pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and/or to place structures or perform work in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act (33 U.S.C. 403), within the boundaries of the Charleston District in the State of South Carolina.

Purpose: The purpose of these Regional General Permits (RGPs) is to provide a simplified and expeditious means to authorize activities in waters of the US, including wetlands, that are similar in nature and cause only minimal individual and cumulative impacts, for specific transportation projects undertaken by SCDOT, within the State of South Carolina.

Description: These RGPs authorize the South Carolina Department of Transportation to conduct activities required for the improvement, expansion, or maintenance of existing linear transportation projects in waters of the US, including navigable waters of the US, provided they meet the terms and conditions described herein. Only one RGP can be utilized for each single and complete project, defined by the stated purpose of the proposed project.

Charleston District Regional General Permits for Linear Transportation Projects		
RGP #	Project Purpose	Type of Project
TBD	Road Widening	Improvement
TBD	Intersection Improvements	Improvement
TBD	Bridge Replacements	Improvement
TBD	Roadway Improvements (to include shoulder improvements, addition of bike lanes, sidewalks or multi-use pathways, etc.)	Improvement
TBD	Roadway Maintenance Activities and Rip-Rap/Scour Protection (roadway, causeway, bridge approaches, etc.)	Maintenance
TBD	Pipes and Culverts (replacements, extensions, etc.)	Maintenance
TBD	Cleaning and Repairing Existing Outfalls and Roadway Ditches	Maintenance

SAC # TBD Road Widening

Activities required for the expansion of existing linear transportation projects for the purposes of widening an existing roadway for additional vehicular capacity (additional travel lanes) in waters of the US, including “navigable waters of the US”, as well as the addition of bike lanes and pedestrian/ multi-use pathways associated with road widening projects. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 3.0 acres of total impacts which can include up to 3.0 acres of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and 300 linear feet of non-tidal, waters of the US.

Authorized activities include the placement of fill in waters of the US for suitable road base, pipe and culvert extensions, stabilization measures (i.e., rip-rap), etc. This RGP authorizes temporary structures, fills, and work necessary to expand the existing linear transportation project, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties. This RGP also authorizes the installation of utility lines (when those utility lines are being installed due to the improvement, expansion, or maintenance of existing linear transportation projects) and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the US, such as drainage tile or french drains.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer and may only commence work upon written verification from the Corps of Engineers that the project is consistent with the terms and conditions of the RGP. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Intersection Improvements

Activities required for the modification of existing transportation intersections for the purposes of improving the safety and/or traffic flow of vehicles at intersections to include the addition of turn lanes, slight shifts in alignment or alterations in the configuration of roadways or lanes, etc. in waters of the US, including “navigable waters of the US”. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 3.0 acres of total impacts, which can include up to 3.0 acres of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and 300 linear feet of non-tidal, waters of the US.

Authorized activities include the placement of fill in waters of the US for suitable road base, pipe and culvert extensions, stabilization measures (i.e., rip-rap), etc. This RGP authorizes temporary structures, fills, and work necessary to conduct construction activities, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties. This RGP also authorizes the installation of utility lines (when those utility lines are being installed due to the improvement, expansion, or maintenance of existing linear transportation projects) and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the US, such as drainage tile or french drains.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer and may only commence work upon written verification from the Corps of Engineers that the project is consistent with the terms and conditions of the RGP. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Bridge Replacements

Activities required for the replacement of existing bridges in waters of the US, including “navigable waters of the US” and includes widening causeways and/or bridge abutments to allow for additional capacity (vehicular travel lanes and/or pedestrian access). This RGP includes bridge replacements on existing alignment, shifts in alignment, and includes improving existing bridges to allow for additional vehicular capacity (additional travel lanes). Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 3.0 acres of total impacts which can include up to 3.0 acres of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and 300 linear feet of non-tidal, waters of the US.

Authorized activities include the placement of fill in waters of the US for suitable causeway, bridge approaches and/or bridge abutments, stabilization measures, (i.e., rip-rap), sheet pile walls, bulkheads, or other retaining walls, etc. This RGP authorizes temporary structures, fills, and work necessary to replace existing bridges in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties. This RGP also authorizes the installation of utility lines (when those utility lines are being installed due to the improvement, expansion, or maintenance of existing linear transportation projects) and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in pre-construction contours. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term “utility line” does not include activities that drain a water of the US, such as drainage tile or french drains.

For proposed bridge replacements that include shifts in alignment, it will be solely the Corps’ discretion when a shift in alignment becomes such that an alternatives analysis is required (for example, a proposed alignment will adversely impact a tidal creek not currently impacted by the existing structure) and/or the proposed alignment is not considered an improvement or expansion of an existing linear transportation project, but a new alignment and as such will be evaluated for authorization via a Nationwide Permit or a Standard, Individual Permit.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer and may only commence work upon written verification from the Corps of Engineers that the project is consistent with the terms and conditions of the RGP. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Roadway Improvements (to include shoulder improvements, addition of bike lanes, sidewalks or multi-use pathways, etc.)

Activities required for the improvements of existing roadways, for purposes other than increasing vehicular capacity (additional travel lanes), which require fill in waters of the US, including “navigable waters of the US” or where the project purpose is to improve an existing linear transportation project by the addition of bike lanes, sidewalks or multiuse pathways, shoulder improvement activities, etc. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 2.0 acres of total impacts, which can include up to 2.0 acres of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and up to 300 linear feet of waters of the US.

This RGP can be used for the installation of bike lanes, sidewalks and/or multi-use pathways not associated with increasing vehicular capacity as well as shoulder improvement activities needed for safety purposes, the addition of turn lanes, the addition of guardrails, or other improvements to existing roadway shoulders.

This RGP also authorizes fill for the purposes of protecting side slopes from erosion/scour, etc., replacing or extending culverts and/or pipes, etc. This RGP also authorizes temporary structures, fills, and work necessary to conduct construction activities, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer and may only commence work upon written verification from the Corps of Engineers that the project is consistent with the terms and conditions of the RGP. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Roadway Maintenance Activities and Rip-Rap/Scour Protection (roadway, causeway, bridge approaches, etc.)

Activities required for the protection and maintenance of existing roadway surfaces, to include existing causeways, bridge approaches, etc. which require fill in waters of the US, including “navigable waters of the US” to include the installation of rip-rap (or other stabilization materials), sheet pile walls, bulkheads, or other retaining walls, as well as fill for road shoulder rehabilitation activities. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 2.0 acres of total impacts, which can include up to 2.0 acres of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and up to 200 linear feet of waters of the US.

This RGP also authorizes temporary structures, fills, and work necessary to conduct construction activities, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer prior to commencing the activity. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Pipes and Culverts (replacements, extensions, etc.)

Activities required for the improvements or replacements of existing pipes and culverts associated with existing roadway shoulders which require fill in waters of the US, including “navigable waters of the US”. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 1.0 acre of total impacts which can include up to 1.0 acre of non-tidal wetland/water impacts, 0.5 acre of tidal water impacts, and up to 100 linear feet of waters of the US.

This RGP also authorizes the installation of rip-rap (or other erosion protection), wing walls, head walls, outfall aprons, etc. for the purposes of protecting areas around culverts and/or pipes and temporary fills associated with replacement or improvements of pipes and culverts during construction. This RGP authorizes temporary structures, fills, and work necessary to conduct construction activities, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties.

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer prior to commencing the activity. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

SAC # TBD Cleaning and Repairing Existing Structures and Roadway Ditches

Activities required for the cleaning and repairing existing structures in waters of the US and roadway ditches (determined to be waters of the US) associated with existing roadways, which require fill in waters of the US, including “navigable waters of the US”. Permanent and/or temporary impacts to waters of the US, including wetlands, for a single and complete project are not to exceed 1.5 acres of total impacts, which can include up to 1.5 acres of non-tidal wetland/water impacts, 0.5 acre tidal water impacts, and up to 300 linear feet of waters of the US.

Authorized activities include modifying the existing cross-sectional configuration of currently serviceable drainage ditches constructed in waters, the installation of rip-rap (or other erosion protection) for the purposes of protecting road base and areas around culverts and/or pipes and temporary fills associated with replacement or improvements of pipes and culverts during construction. This RGP authorizes temporary structures, fills, and work necessary to conduct construction activities, in accordance with all terms and conditions listed herein to ensure the project results in only minimal impacts within the project area, as well as to adjacent properties.

Note: Maintenance of existing ditches (to include excavations of accumulated sediments back to original contours, re-shaping of side slopes, armoring or piping previously armored or piped sections within the same footprint of previously authorized work, and/or the replacement of existing control structures, where the original function is not changed and the capacity is not increased) is considered an exempt activity under Section 404(f)(1)(C) of the Clean Water Act so long as the activity is consistent with Section 404(f)(2) and 33 CFR.3234 and 40 CFR 232.3. These do not allow any discharges into a water of the US that is:

- part of an activity whose purpose is to convert an area of the waters of the US into a use to which it was not previously subject;
- where the flow or circulation of waters of the US may be impaired;
- the reach of such waters reduced;
- where the proposed discharge will result in significant discernible alterations to flow or circulation (the presumption is that flow or circulation may be impaired by such alteration).

Notification: SCDOT must submit a pre-construction notification to the Charleston District Engineer prior to commencing the activity. (See Section III. Pre-Construction Notification Requirements) (Sections 10 and 404)

I. General Conditions

1. Activities which are not specified in these Regional General Permits or which exceed their limitations will require authorization under a Department of the Army Standard, Individual Permit or Nationwide Permit authorization from the Charleston District, US Army Corps of Engineers. The District Engineer may also require authorization under a Department of the Army Standard, Individual Permit on a case-by-case basis if it is determined that authorization under a Regional General Permit might be contrary to the public interest.
2. This General Permit does not authorize the interference with any existing or proposed Federal project and SCDOT will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the US in the public interest.
3. These Regional General Permits do not convey any property rights, either in real estate or material, or any exclusive privileges; and do not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain other Federal, State, local assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.
4. SCDOT shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of these permits are in accordance with the terms and conditions prescribed herein. The Charleston District reserves the right to require post-construction engineering drawings and/or surveys of any work authorized by these Regional General Permits, as deemed necessary.
5. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of any given Regional General Permit, SCDOT must, within 60 days, without expense to the US, and in such manner as directed by the District Engineer or his authorized representative(s), effect compliance with the terms, conditions, and standards or remove the previously authorized structure/fill.
6. All activities identified and authorized herein shall be consistent with the terms and conditions of these Regional General Permits; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of these permits which may result in the modification, suspension, or revocation of the authorization, as set forth below and in the institution of such legal proceedings as the US Government may consider appropriate.

Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms and conditions of this permit. Such suspension shall be effective upon receipt by SCDOT of a written notice thereof, which shall indicate:

- (i.) The extent of the suspension;
- (ii.) The reasons for this action;
- (iii.) Any corrective or preventative measures to be taken by SCDOT which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest.

SCDOT shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, SCDOT may request a meeting with the District Engineer or a public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to SCDOT if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under these Regional General Permits shall not be the basis for any claim for damages against the US.

7. As determined by the District Engineer, or his designee, there will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by these Regional General Permits.
 - a. No authorized activity may cause more than a minimal adverse effect on navigation.
 - b. SCDOT understands and agrees that if future operations by the US require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, SCDOT will be required, upon due notice from the Charleston District, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the US. No claim shall be made against the US on account of any such removal or alteration.
8. The Charleston District may impose other special conditions on a project authorized pursuant to these Regional General Permits that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including additional special conditions, constitutes a permit violation and may subject SCDOT, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.
9. Authorization under any of the Regional General Permits does not obviate the need to obtain other Federal, state or local authorizations required by law or to comply with all Federal, state, or local laws.
10. SCDOT will ensure that a copy of this Regional General Permit document, the accompanying authorization letter and all approved permit drawings are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although SCDOT may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of the Regional General Permits.

II. Special Conditions

The following Special Conditions are applicable to **ALL** the Regional General Permits (RGP) issued to SC Department of Transportation described in this document. This RGP contains certain limitations intended to protect the environment including natural and cultural resources. However, conformance with the conditions contained in the permit does not necessarily guarantee authorization. In cases

where the District Engineer, or his designee, considers it necessary, a Standard, Individual Department of the Army permit will be required.

1. Water quality.
 - a. All activities authorized by these Regional General Permits that involve the discharge of dredged or fill material in waters of the US will be consistent with applicable water quality standards, effluent limitations, and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law.
 - b. SCDOT must make every reasonable effort to conduct the work authorized herein in a manner to ensure that there is no more than a minimal adverse effect on water quality.
 - c. For projects potentially impacting impaired waters, Outstanding Resource Water (ORW), shellfish harvesting waters and other sensitive waters, SCDOT must implement best management practices and post construction stormwater treatment to provide a reasonable assurance that the proposed project will not contribute to impairments or degrade water quality. A stormwater management plan must be submitted to SCDHEC in accordance with requirements of the SCDOT MS4 NPDES Stormwater Permit.
 - d. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
2. Historic properties.
 - a. SCDOT must submit a statement to the Corps regarding the authorized activity's potential to cause effects to any historic properties (i.e., any prehistoric or historic district, site, building, structure, or object) listed in, or determined to be eligible for listing on, the National Register of Historic Places, including previously unidentified properties. The statement must say which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location or potential for the presence of historic resources can be sought from the South Carolina Department of Archives and History and the National Register of Historic Places. Where SCDOT has identified historic properties which the proposed activity may have the potential to cause effects and so notified the Charleston District, SCDOT shall not begin the activity until notified by the Charleston District that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.
 - b. SCDOT should be aware that Section 110(k) of the NHPA (16 U.S.C. § 470(h)-2(k)) prevents the Corps from granting a permit or other assistance to SCDOT who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effects created or permitted by the SCDOT. If circumstances justify granting the assistance, the Charleston District is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from SCDOT, State Historic Preservation Officer, Tribal Historic Preservation Officer,

appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have legitimate interest in the impacts to the permitted activity on historic properties. If SCDOT, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Charleston District of what has been found. Coordination with the South Carolina Department of Historic Resources will commence and SCDOT will subsequently be advised when he/she may recommence work.

3. Endangered species.

a. No activity is authorized which:

- (i) Is likely to jeopardize the continued existence of any threatened or endangered species or threatened species, or species proposed for such designation, as identified under the Endangered Species Act of 1973, or which will result in the destruction or adverse modification of designated critical habitat of such species;
- (ii) "May affect" a listed species or critical habitat, unless Section 7 (Federal Endangered Species Act) consultation addressing the effects of the proposed activity has been completed.
- (iii) Involves the "take" of a threatened or endangered species as defined under the ESA without separate authorization (e.g., a Biological Opinion with "incidental take" provisions) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.

- b. SCDOT shall include, in their permit applications, information regarding the presence of any federally listed threatened or endangered species or designated critical habitat in the vicinity of the project site that might be affected by the proposed work.

4. Essential Fish Habitat.

- a. The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-297; 11 October 1996), requires all Federal agencies to consult with the National Marine Fisheries Services (NMFS) regarding any of their actions authorized, funded, or undertaken or proposed to be authorized, funded, or undertaken that may adversely affect Essential Fish Habitat (EFH). SCDOT must notify the District Engineer if the activity authorized by this General Permit may adversely affect EFH including indirect affects to EFH from actions outside the EFH. The activity is not authorized until the District Engineer determines that the requirements of the Magnuson-Stevens Fisheries Conservation and Management Act have been satisfied.
- b. Any projects that involve activities, including structures, excavation, discharges of dredged or fill material, etc. that are proposed in tidal waters require early coordination with the Charleston Office of the NMFS Habitat Conservation Division located at 219 Fort Johnson Road, Charleston SC 29412. An EFH assessment and copies of all coordination must be provided as described in Section III. (3) SCDOT cannot begin work until written approval is received from the Corps.

5. Anadromous Fish. Activities authorized under these RGPs must be avoided to the maximum extent practicable during the months of February, March, April, May and June in waters where anadromous fish spawn or migrate. Activities that result in the physical destruction (e.g.,

excavate, fill, or smother downstream by substantial turbidity) of a spawning area are not authorized under these RGPs.

6. Migratory Bird Breeding Areas. Activities in waters of the US that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
7. Floodplains. SCDOT is advised that development activities in a 100-year floodplain, as designated in the Federal Emergency Management Agency's (FEMA) Flood Insurance Study Data, are subject to the floodplain management regulations of the National Flood Insurance Program [(NFIP) (44 CFR)]. The NFIP further prohibits any development within a designated floodway, including placement of fill that results in any increase in base flood elevations. SCDOT must also comply with the FEMA-U.S. Federal Highway Agreement on Floodplain Management. A statement ensuring compliance with applicable regulations must be included in the Pre-Construction Notification. See Section III (3).
8. SCDOT must coordinate with the appropriate state and/or federal agency when a project represents an intrusion into Outstanding Resource Waters, Wild and Scenic Rivers, Trout Streams (as defined by State Regulations 61-68 and 61-69), Wildlife Management Areas and National Estuarine Sanctuaries, Designated Shellfish Grounds, State Heritage Trust Preserves, State Parks, National Wildlife Refuge, or protected lands (previous mitigation/ restoration area). Detailed project information impacting these sensitive areas shall be presented at an interagency coordination meeting (or provided directly to appropriate agencies) during the early phases of development. The notification/application, as described in Section III.(3)(k) shall contain a summary and/or copy of the coordination that occurred.
9. Minimal impacts. SCDOT must make every reasonable effort to conduct the work authorized herein in a manner so as to avoid and minimize any adverse impact to fish, wildlife, and other environmental resources.
 - a. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Pipes or culverts placed in streams and wetlands must be appropriately sized and installed in a manner that prevents erosion and allows adequate passage of the aquatic community and provide unimpeded flow of flood waters. Culverts and pipes placed in tidal waters must be sized and positioned to maintain fish passage and allow for unimpeded tidal flow.
 - b. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, must avoid and minimize potential impacts to shellfish resources to the greatest extent possible. Activities should occur in areas with the least amount of shellfish or in areas void of shellfish resources, if possible. Direct encroachment on any natural shellfish beds should be avoided.
 - c. All activities or structures proposed in waters of the US must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates) in freshwaters. For activities in tidal waters, preconstruction bi-directional flow conditions must be maintained or improved. Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to pre-construction conditions, and provide for not increasing

water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. Tidal waters should not be channelized. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

- d. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be re-vegetated, as appropriate.
- e. Stream crossings are 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.
- f. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. SCDOT is encouraged to perform work within waters of the US during periods of low-flow or no-flow conditions.
- g. Prior to the beginning of any construction activities, appropriate erosion control measures, such as silt fences, silt barriers or other suitable devices, must be placed between the construction area and affected waterways (including wetlands); and maintained in a functioning capacity until the area is permanently stabilized.
- h. All steps necessary must be taken to prevent oil, tar, trash, debris and other pollutants from entering adjacent wetlands and/or waterways. A spill response plan and all related spill materials should be on-site during all phases of construction.
- i. Construction access areas must be clearly identified in the permit application or, construction access must consist of minimal clearing for installation of elevated working platform(s), timber mat(s) or barge(s). Impacts will be temporary and minor in nature. All impacts for construction access count towards the thresholds allowed under these Regional General Permits.
- j. Construction activities must avoid encroachment into any waters of the US not designated as impact areas.
- k. Side slopes must be designed and constructed to minimize impacts to aquatic resources to the maximum extent practicable.
- l. SCDOT must ensure that the wetland boundaries are clearly identified (by flagging, fencing, or other means of identification) for the construction contractor.

- m. Once initiated, projects must be carried to completion in an expeditious manner in order to minimize the period of disturbance and upon completion, all disturbed areas must be permanently stabilized with vegetative cover and/or rip-rap, as appropriate.
10. Mitigation. SCDOT will submit a mitigation plan in accordance with the 2008 Mitigation Rule and the *2010 SAC Guidelines for Preparing a Mitigation Plan* (or the current documents superseding either of these two documents).
- a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site.
 - b. Mitigation in all forms (avoiding, minimizing, rectifying, reducing, or compensating for resources losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
 - c. Compensatory mitigation will be required in accordance with the *2010 SAC Guidelines for Preparing a Mitigation Plan* (or the current SAC Guidance/Proceedures superseding this document), for all wetland losses that exceed 1/10-acre unless the District Engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less, the District Engineer may determine on a case by case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment.
 - d. These Regional General Permits allow for SCDOT to perform stream and/or wetland restoration activities associated with a project-specific mitigation plan approved and authorized by the Corps, provided all work in waters of the US is included in the pre-construction notification. SCDOT will not have to submit for a separate permit for activities in waters of the U.S. associated with the restoration of former waters, the enhancement of degraded tidal and non-tidal wetlands and riparian areas, and the restoration and enhancement of tidal/ non-tidal streams and tidal/ non-tidal open waters if the work is part of an approved mitigation plan. These activities may include installation of ditch plugs, the placement of in-stream habitat structures, modifications of stream bed and/or banks to restore or create meanders, or the creation of riffle and pool stream structures.
11. Single and complete project. All projects authorized under a Regional General Permit must be a single and complete project and meet the requirements for independent utility. A project that is determined to be single and complete will not be segmented or “piece mealed” in order to qualify for multiple Regional General Permits.

III. Pre-Construction Notification Requirements

- 1. The SCDOT shall submit a complete Pre-Construction Notification (PCN) package to the Corps, requesting verification that a proposed project is authorized under the terms and conditions of one of the Regional General Permits described herein. The PCN shall not be deemed complete until the Corps has verified that the delineation of waters of the US is accurate.

2. SCDOT shall submit a PCN Form (Enclosure 1). This form is to assist SCDOT in submitting complete and proper information. Please note that this is not an exhaustive list of information that may be required as each project has unique components; more information may be required to complete a PCN Form for any given project. All information provided in the form shall be succinct, accurate, and project specific.
3. Contents of a Complete PCN:
 - a. A complete Joint Federal and State Application Form;
 - b. Completed PCN Form;
 - c. A delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. (see PCN Form for additional details);
 - d. A statement as to whether the Federal Highway Administration has completed a NEPA document for the proposed project. If so, a copy should be provided;
 - e. Proposed Project Plans to include a location map, plan view and cross sectional diagrams depicting the existing transportation facility and the proposed activities. The proposed plans should depict the entire project with specific detail provided for impacts to waters of the US Cross sectional diagrams should be provided for every typical wetland fill and all open water crossings. All proposed bridge replacement projects should also include bridge profile drawings. Appropriate dimensions of the project as well as acreages or linear feet of impacts should be depicted clearly on the plans, as well as a project specific title block.
 - f. A detailed discussion of how impacts were avoided and minimized from the initial phase of the project plans to the project plan that is currently being proposed.
 - g. Information pertaining to the presence and/or the projects potential affects to historic properties (to assist in complying with Section 106 of the [National Historic Preservation Act of 1966](#)). Copies of any coordination with SHPO should be provided, to include material submitted to SHPO for review, as well as response(s) received. Copies of screening forms and supplemental materials should also be provided if the project was reviewed under an existing Section 106 Programmatic Agreement with SHPO;
 - h. Biological Assessment Report to include an assessment of potential impacts to Federally Threatened and Endangered Species and copies of habitat surveys. Copies of any coordination with USFWS and/or NMFS should be provided, to include material submitted to USFWS and/or NMFS for review, as well as the response(s) received;
 - i. Essential Fish Habitat (EFH) Assessment or statement stating why no EFH Assessment was conducted. Copies of any coordination with NMFS should be provided, to include material submitted to NMFS for review, as well as the response(s) received;
 - j. Mitigation Plan (to comply with the 2008 Mitigation Rule and the 2010 SAC Guidelines for Preparing a Mitigation Plan or the current documents superseding either of these two documents);

- k. Documentation of coordination that occurred with resource agencies, as required by II. Special Condition 6.

4. Pre-Construction Notification Timing.

- a. For projects considered Improvement Projects (see table above): SCDOT shall not begin work on a proposed project until receipt of written verification from the Corps that the activity may proceed under one of the Regional General Permits described herein.
- b. For projects considered Maintenance Projects (see table above): If the Corps has not requested additional information, nor approved a request for authorization for one of the RGPs, SCDOT may commence work 45 calendar days past the date from the District Engineer's receipt of the complete PCN.

Note: It is SCDOT's responsibility (through FHWA, as appropriate) to determine and document that the project will have "no effect" on listed species or that consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) is complete; **and** that the project has "no potential to cause effects" on historic properties or that consultation required under Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) is complete **and** that the project will cause "no adverse effects" to EFH, or that consultation under the Magnuson-Stevens Act is complete. If the PCN is considered incomplete due to potential impacts to federally threatened or endangered species and/or critical habitat (Federal Endangered Species Act), historic properties (Section 106 of the [National Historic Preservation Act of 1966](#), or essential fish habitat (EFH), SCDOT cannot begin the activity until receiving written notification from the Corps that consultation requirements have been met.

In addition, if the District Engineer notifies SCDOT in writing (within 45 calendar days of receipt of a PCN) that an individual permit is required, SCDOT cannot begin the activity in waters of the US until an individual permit has been obtained.

V. REQUIRED AUTHORIZATIONS:

Prior to performing any of the work authorized herein, the permittee shall obtain all necessary state permits from the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management and any other required Federal, State, or local authorizations.

VI. PENALTIES FOR VIOLATIONS:

Authorization obtained under these Regional General Permits limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act, and may result in the District Engineer seeking judicial relief to have SCDOT remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

VII. LIMITS OF FEDERAL LIABILITY:

In issuing these permits, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the US in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

VIII. REVOCATION OF THE GENERAL PERMIT:

These permits may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by these General Permits will be processed as Individual or Nationwide Permits.

IX. DURATION OF THE GENERAL PERMIT.

These Regional General Permits will cover activities started within five (5) years and completed within six (6) years after the initial date of issuance unless these RGPs are revoked in the interim. At the end of the first year and every succeeding year, the Corps of Engineers will review activities authorized by these Regional General Permits to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Rachel A. Honderd, PMP
Lieutenant Colonel, U.S. Army
Commander and District Engineer

Date

or her Designee

Travis Hughes
Chief, Regulatory Division

Pre-Construction Notification Form for SCDOT GP SAC #s TBD

Project Name _____ **SAC #** _____

County: _____

The following must be completed with each RGP Request. There should be a box checked for each numbered item with all blanks filled in with appropriate information. If a blank is not applicable, state NA. The PCN will not be considered complete unless an answer is provided for every numbered item and the appropriate information listed for each item is enclosed.

1. ☐ What is the purpose of the project? _____

2. ☐ Completed Joint Federal and State Application Form (enclosed). If additional space is needed, additional sheets may be attached, referencing specific sections of the Joint Application, as appropriate. # 41 is not required for RGP Applications.
3. ☐ Delineation of waters of the US. The PCN packet must contain a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps to include information consistent with Charleston District's requirements for delineations and jurisdictional determination submittals (see <http://www.sac.usace.army.mil/missions/regulatory.aspx>).
4. ☐ Federal Highway Administration has completed a NEPA document entitled _____ and dated _____. A copy of the NEPA document is included in PCN packet.

☐ Federal Highway Administration has not completed a NEPA document because ☐ there is no federal funding associated with this project, or ☐ it is incomplete at the time of DA submittal.
5. ☐ Proposed Plans (enclosed). A location map, plan view, and cross sectional diagram should be provided. For bridge replacement projects, a bridge profile is needed.
6. ☐ Impacts. Total Impacts to Wetlands are _____ acre(s) and/or _____ linear feet of waters of the US. This includes _____ acre(s) of impacts to tidally-influenced waters/ wetlands.
7. ☐ Provide a detailed discussion of how impacts were avoided and minimized from the initial phase of the project plans to the project plan that is currently being proposed.

Note: Attach additional sheets, if needed.

8. Historic Properties. See Section II (2).
☐ There are no Section 106 Properties that will be affected by the proposed project (no potential to cause effects).

☐ There are Section 106 Properties in the area but they will not be impacted by the proposed project. Provide copies of all correspondence with SHPO. Explain: _____

9. Threatened and Endangered Species. See Section II (3).
☐ There will be no effect on any federally threatened or endangered species or critical habitat. A Biological Assessment is included.

☐ The proposed project is not likely to adversely affect (list appropriate federally threatened or endangered species) _____

_____The Biological Assessment and copies of all correspondence with USFWS and/or NMFS is included.
10. ☐ There will be no impacts to EFH.

☐ The project will impact _____ acres of EFH. The EFH Assessment and copies of all correspondence with NMFS is enclosed. Any NMFS Conservation Recommendations must be clearly addressed and incorporated into the project in order for the PCN to be considered complete.
11. ☐ Floodplain Management Statement: Provide a statement that the proposed project complies with any applicable Federal Emergency Management Agency (FEMA) Flood Insurance Program regulations, and/or any State, County, or local regulations and whether the proposed project may cause increases in the base flood elevations to adjacent properties. _____

12. ☐ In order to compensate for the impacts to WOUS, the following is proposed as compensatory mitigation. Compensatory Mitigation Worksheets are enclosed. _____

Prepared By: _____
Consultant or SCDOT Representative Name (Printed) and Signature

Date: _____

Reviewed By: _____
SCDOT Representative Name (Printed) and Signature

Date: _____

Note: Attach additional sheets, if needed.