

JOINT
PUBLIC NOTICE

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

and

S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

and

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

REGULATORY DIVISION

19 March 2004

Refer to: P/N # 19-MAR-2004-NWP

The purpose of this notice is to advise the public of a change in the way that Pre-Construction Notifications for Nationwide Permits are reviewed by the Charleston District, U.S. Army Corps of Engineers (Corps). In an effort to reduce the manpower required to administer the NWP program, the Corps plans to begin issuing provisional NWP authorization letters within the state of South Carolina.

The current process consists of the Corps reviewing a Preconstruction Notification (PCN) to determine if the proposed work complies with the terms and conditions of a specific Nationwide Permit (NWP) and the Charleston District Regional Conditions. Once the Corps makes this determination, a copy of the PCN is forwarded to the appropriate South Carolina Department of Health and Environmental Control (SCDHEC) office.

SCDHEC reviews the proposed work for consistency with the state NWP conditions, and issues a 401 Water Quality certification and/or a Coastal Zone Management consistency determination. Once the state certification is issued, the Corps issues a NWP authorization letter notifying the applicant that the proposed work is authorized by a NWP.

The new process will consist of the Corps reviewing a PCN to determine if the proposed work complies with the terms and conditions of a specific NWP and the Charleston District Regional Conditions. Once the Corps makes this determination, the Corps will issue a provisional NWP authorization letter. The Corps will provide the applicant and the appropriate SCDHEC office with a copy of the authorization letter. In addition, SCDHEC will be provided with a complete copy of the PCN so that they may issue a 401 Water Quality Certification and/or a Coastal Zone Management consistency determination, and evaluate the proposed work for compliance with the state NWP conditions. Once the state authorization is issued, the applicant will be required to provide the Corps with a copy of the state authorization letter, including any project specific conditions and/or modified drawings.

The provisional NWP authorization letter will clearly indicate that the permittee must obtain a 401 Water Quality Certification and/or a Coastal Zone Management consistency determination prior to initiating any work authorized therein. The applicant will be required to provide the Corps with a copy of the state authorization and to implement any compensatory mitigation (if mitigation is required) before they begin work. If the permittee

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fails to obtain or provide the necessary state authorization letter to the Corps before they commence work, the permittee will be considered in violation of the terms and conditions of the Corps' provisional NWP authorization letter and appropriate enforcement action will be taken.

Effective immediately, the Corps will begin issuing provisional NWP authorization letters. The provisional NWP authorization letter should clarify for applicants when the Corps has completed its evaluation and at what point the applicant should contact the State concerning the status of a Section 401 Water Quality Certification and/or Coastal Zone Management consistency determination. The Corps believes that the applicant will benefit from working directly with the appropriate reviewing agency. This process should result in more timely evaluations and resolution of concerns regarding a PCN.

The Corps anticipates that it may be necessary for SCDHEC to condition or modify certain projects before they issue a 401 Water Quality Certification and/or a Coastal Zone Management consistency determination. Although the Corps' provisional NWP authorization letter will be issued prior to the necessary state authorizations, the applicant must understand that the state 401 Water Quality Certification and/or Coastal Zone Management consistency determination, including any compensatory mitigation, conditions, , or project modifications, is required in order to meet the terms and conditions of a NWP authorization and is therefore made part of the Corps' NWP authorization letter.

If there are any questions concerning this public notice, please contact me at 843-329-8044 or toll free at 1-866-329-8187.



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U.S. Army Corps of Engineers