

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

The following Regional Conditions have been approved by the Charleston District for the Nationwide Permits (NWP) published in the January 6, 2017, Federal Register as authorized under General Condition #27. Regional conditions are authorized to modify NWPs 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.

Note: The acronym “PCN” used throughout the Regional Conditions refers to *Pre-Construction Notification*.

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 United States., 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. Stabilization refers to the minimization of erosion and migration of sediments off site.
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 United States*.
3. Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering waters of the United States, including wetlands that are adjacent to the authorized activity.
4. Any excess excavated materials not utilized as authorized back fill must be placed and contained on uplands and permanently stabilized to prevent erosion into waters of the United States, including wetlands.
5. Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited unless specifically authorized in 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. If you discover any previously unknown historic, cultural or archeological remains and

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artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological 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.

8. Use of nationwide permits does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.
9. No NWP is authorized in areas known or suspected to have sediment contamination, with the exception of NWP 38, and NWP 53 when used in combination with NWP 38.
10. In accordance with General Condition #31, “Activities Affecting *Structures* or Works Built by the United States,” a *PCN* must be submitted if a NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE” project”). See General Condition #32 for *PCN* content and timing requirements and particularly paragraph (b)(10) for an activity that requires permission from the Corps pursuant to 33 U.S.C. 408. An activity in South Carolina that requires section 408 permission is not authorized by a NWP until the Charleston District issues the section 408 permission to alter, occupy, or use the USACE project, and the District Engineer issues a written NWP verification.
11. For all proposed activities that would be located in or adjacent to an authorized Federal Navigation project, as listed in Regional Condition #18, the *PCN* must include project drawings that have the following information: a) location of the edges of the Federal channel; b) setback distances from the edge of the channel; c) the distance from watermost edge of the proposed *structure* or fill to the nearest edge of the channel and the Mean High and Mean Low water lines; and d) coordinates of both ends of the watermost edge of the proposed *structure* or fill (NAD 83 State Plane Coordinates in decimal degrees). This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
12. For all proposed activities that would be located in waters that are designated critical habitat under section 7 of the Endangered Species Act, and waters that are proposed critical habitat, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32. Refer to the following National Oceanic and Atmospheric Administration (NOAA) Fisheries website for the most up-to-date information regarding Critical Habitat designations under the jurisdiction of the National Marine Fisheries Service (NMFS):
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/

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13. For all proposed activities that would be located within a FEMA designated floodway, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32.
14. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that the National Flood Insurance Program (NFIP) prohibits any development within a designated floodway within the FEMA Special Flood Hazard Area (SFHA), including placement of fill, without a “No Impact Certification” approved by the local NFIP flood plain manager. If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.
15. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that development activities in a designated FEMA Special Flood Hazard Area (SFHA) are subject to the floodplain management regulations of the National Flood Insurance Program (NFIP). If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.

For Specific Nationwide Permits:

16. **For NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51 and 52**, in accordance with General Condition # 22(a), Designated Critical Resource Waters, the discharges of dredged or fill material into waters of the United States within, or directly affecting, critical resource waters, including wetlands adjacent to such waters, are NOT authorized by these NWPs. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
17. **For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54**, in accordance with General Condition # 22(b), Designated Critical Resource Waters, a *PCN* is required for any activity proposed in designated critical resource waters including wetlands adjacent to those waters. Refer to General Condition #32 for *PCN* requirements. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
18. **For NWP 1, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 19 and 36**, the prospective permittee must submit a *PCN* to the District Engineer for any activity that would be located in or 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

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(including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.

19. **For NWP**s 3, 11, 12, 13, 14, 15, 20, 22 and 33, temporary *structures*, fills, and/or work, including the use of temporary mats, are only authorized for a period of 90 days per temporary impact area and/or phase of the overall project. The permittee may submit a written request at least 15 days prior to the expiration of the original period of 90 days requesting an extension of up to an additional 90 days. The Charleston District Engineer may extend the 90-day period up to an additional 90 days, not to exceed more than a total of 180 days, where appropriate. After expiration of the authorized period (i.e., initial 90 days or up to an additional 90 days), all temporary *structures*, fills, and/or work, including the use of temporary mats, for the temporary impact area and/or phase of the overall project must be removed and the disturbed areas restored to pre-disturbance conditions. Activities that require the use of temporary *structures*, fills, and/or work, including the use of temporary mats, in excess of 180 days will require Individual Permit authorization from the Corps prior to construction.
20. **For NWP**s 3, 11, 12, 13, 14, 15, 20, 22 and 33, that require *PCNs* and that involve temporary *structures*, fills, and/or work, including the use of temporary mats, the *PCN* must include a written description and/or drawings of the proposed temporary activities that will be used during project construction. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
21. **For NWP**s 29, 39, 40, 42, 43, 44, 51 and 52, impacts to stream beds** must be provided in both linear feet and acreage.
22. **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*.
23. **For NWP**s 12, 14, 29, 39, 46, 51 and 52, all *PCNs* 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 United States. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
24. **For NWP**s 12, 14, 29, 39, 46, 51 and 52, that include the new construction and/or replacement of culverted road crossings, at a minimum, the width of the base flow culvert(s) shall be approximately equal to the average channel width and will not reduce or increase stream depth. This is a minimum requirement that does not replace local and State requirements for roadway design.
25. **For NWP**s 12, 14, 18 and 27, the *discharge* must not cause the *loss* of more than 300 linear feet of stream bed**, unless for *intermittent* and *ephemeral* stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the *discharge* will result in no more than minimal adverse environmental effects.
26. **For NWP**s 12, 14, 18 and 27, the *discharge* cannot cause the *loss* of more than 300 linear feet

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of *perennial stream* beds**.

27. **For NWPs 12, 14, and 18**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the proposed *discharge* will impact more than 25 linear feet of streambed. This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
28. **For NWP 3**, paragraph (a) and (c) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, if the proposed *discharge* of dredged or fill material will cause the loss of greater than 1/10-acre of waters of the United States or if the proposed *discharge* of dredged or fill material will be located within a special aquatic site, which includes but is not limited to, wetlands, mudflats, vegetated shallows, *riffle and pool complexes*, sanctuaries, and refuges.
29. **For NWP 3**, paragraph (a) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, for the repair, rehabilitation or replacement of existing utility lines constructed over *navigable waters* of the United States (i.e., Section 10 waters) and existing utility lines routed in or under *navigable waters* of the United States (i.e., Section 10 waters), even if no *discharge* of dredged or fill material occurs.
30. **For NWP 3**, paragraph (b) activities, excavation of accumulated sediment or other material is not authorized in areas within the immediate vicinity of existing *structures* (e.g., private or commercial dock facilities, piers, canals dug for boating access, marinas, boat slips, etc.).
31. **For NWPs 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* cannot exceed 0.5 feet/second.
32. Activities authorized by **NWP 7** must occur in the immediate vicinity of the outfall, and must be necessary for the overall construction or modification of the outfall. **NWP 7** shall not be used to authorize 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.
33. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)** that involve horizontal directional drilling beneath *navigable waters* of the United States (i.e., section 10 waters), the *PCN* must include a proposed remediation plan (i.e., frac-out plan). This requirement is in addition to the *PCN* requirements listed in General Condition #32.
34. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, 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, and other natural material must be kept viable and replaced at the surface of the excavated site. Impacted wetlands will be replanted with native wetland

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species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native.

35. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, stream banks that are cleared of vegetation will be stabilized using bioengineering techniques and/ or the planting of deep-rooted native species.
36. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, construction techniques to prevent draining, such as anti-seep collars, will be required for utility lines buried in waters of the United States when necessary. If no construction techniques to prevent draining are proposed, the prospective permittee must provide appropriate documentation to support that such techniques are not required to prevent drainage of waters of the United States.
37. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve temporary *structures*, fills, and/or work. To be complete, the *PCN* must also include the specifications of how pre-construction contours will be re-established and verified after construction. This notification requirement is in addition to the notification criteria listed for this NWP.
38. **For utility line activities authorized by NWP 12, (as well as utility lines associated with projects authorized by NWP 29 and 39)**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the activity will involve maintained utility crossings. To be complete, the *PCN* must also include a justification for the required width of the maintained crossing that impacts waters of the United States. This notification requirement is in addition to the notification criteria listed for this NWP.
39. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the construction of a sub-station in waters of the United States. To be complete, the *PCN* must also include a statement of avoidance and minimization for the *loss of waters of the United States* impacted by the utility line sub-station. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
40. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the permanent conversion of forested wetlands to herbaceous wetlands. To be complete, the *PCN* must also include the acreage of conversion impacts of waters of the United States and a *compensatory mitigation* proposal or a statement of why *compensatory mitigation* should not be required. This requirement is in addition to the *PCN* requirements listed in General Condition #32.

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41. **For NWP 13 activities, NWP 54 activities, and living shoreline projects authorized by NWP 27** that require submittal of a *PCN*, the *PCN* must include the following information:
- a. Habitat type along the shoreline;
 - b. The presence of stabilization *structures* in the vicinity of the project;
 - c. Cause/s, extent, and approximate rate of erosion (if known);
 - d. Site specific information which may include: shoreline orientation, slope, bank height, tidal range, nearshore bathymetry, fetch, substrate stability, etc.;
 - e. Rationale for selecting the preferred stabilization technique;
 - f. A statement that structural materials toxic to aquatic organisms will not be used and if stone is proposed, a statement that only clean stone, free of exposed rebar, asphalt, plastic, soil, etc., will be used; and
 - g. A statement that filter fabric will be used as appropriate when stone or other heavy material is proposed.

These requirements are in addition to the *PCN* requirements listed in General Condition #32.

42. Projects qualifying for **NWP 27 and/or NWP 54** 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.
43. **For NWP 29**, the *loss of waters of the United States* is limited to a maximum of 1/4-acre for a single family residence.
44. **For NWPs 29 and 39**, the *discharges* of dredged or fill material for the construction of *stormwater management facilities* in *perennial streams* are not authorized.
45. **For NWP 33**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, for temporary construction, access, and dewatering activities that occur in non-tidal waters of the United States, including wetlands. In addition, the *PCN* shall include a restoration plan.
46. **For NWP 36**, only one boat ramp may be constructed on a single lot or tract of land (e.g., each lot within a subdivision).
47. **For NWP 38**, the *PCN* must contain the following information:
- a. 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;
 - b. 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; and

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c. a plan for the monitoring, operation, or maintenance of the restored area.

This requirement is in addition to the *PCN* requirements listed in General Condition #32.

48. **For NWP 41**, a *PCN* must be submitted to the District Engineer for projects that require mechanized land clearing in waters of the United States, including wetlands, in order to access or perform reshaping activities.
49. **NWP 41** is prohibited in channelized streams or stream relocation projects that exhibit natural stream characteristics and/or perform natural stream functions.
50. **For NWP 48**, changing from bottom culture to floating or suspended culture will require submittal of a *PCN* to the District Engineer. Additionally, new aquaculture activities involving suspended or floating culture will require submittal of a *PCN* to the District Engineer. Refer to the *PCN* requirements listed in General Condition #32. Note: If the District Engineer determines that the proposed floating or suspended culture will result in more than minimal adverse environmental effects, an Individual Permit will be required for the proposed activity.
51. **For NWP 48**, when a new commercial shellfish aquaculture activity will occur adjacent to property that is not owned by the prospective permittee, the activity will require submittal of a *PCN* to the District Engineer. The *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A map or depiction that shows the adjacent property(ies) and adjacent property owners' contact information. Note: This information may be obtained online from the applicable county's tax information pages.
 - b. A signed letter(s) of "no objection" to the proposed commercial shellfish activity from each of the adjacent property owner(s). Each letter shall include the name, mailing address, property address, property Tax Map Parcel (TMS) number, and signature of the property owner.
52. **For NWP 53**, the *PCN* must include a Tier I evaluation, in accordance with the Inland Testing Manual, for the project area immediately upstream of the low-head dam. If the Tier I evaluation indicates contaminated sediments are present, a Tier II evaluation may be required.
53. **For NWP 54 projects and living shoreline and/or oyster restoration projects authorized by NWP 27**, the *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A plan view project sketch that shows the proposed project footprint; the Mean High Water (MHW) Line; the Mean Low Water (MLW) Line; marsh line (if applicable); shoreline; width of the waterway at the project location; location of adjacent *structures*,

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such as docks and boat ramps (if applicable); distance of the project footprint from the MHW line; distance of the project footprint from adjacent *structures*; and proposed location of informational or navigation markers. Refer to c. and d. below, if applicable. Note: Refer to Regional Condition #11 if the proposed project is located in or adjacent to an authorized Federal Navigation project for the additional information that will be required.

b. A cross-section sketch that shows the height of the proposed project above substrate and the water depth at MHW Line and MLW Line in relation to the proposed project.

c. For projects that are 18 inches or less in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell and wooden sills, informational signs to alert boaters to the presence of the project area will be required. The *PCN* must include a depiction and description of proposed informational signs. The signs must be made of reflective material or must include reflective tape on the sign or sign post. The signs must be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: The prospective permittee shall be made aware that the U.S. Coast Guard (USCG) may require the project area to be marked. Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding possible markers and/or lighting requirements. The permittee shall install all markers and/or lighting as required by the USCG. In the event that the USCG does not require markers or lighting, the permittee shall mark the project area with Corps approved informational signs as described above. Note 3: These requirements will be added to the NWP verification as special conditions.

d. For projects that are more than 18 inches in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell, and wooden sills, the prospective permittee must mark the project area with diamond-shaped white day markers with orange border and black print stating “Danger Obstruction”. The signs shall be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding potential project specific approval of the markers. The permittee shall install all markers and/or lighting as required by the USCG. In the event the USCG does not require these or other markers and/or lighting, the “Danger Obstruction” markers are still required by the Corps. Note 3: These requirements will be added to the NWP verification as special conditions.

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** For the purpose of these regional conditions, the term “stream bed” also includes features determined to be a “tributary” and a “relatively permanent water.”

Note 1: For the purpose of these regional conditions, bankfull is defined as the top-of-bank to top-of bank of the channel in a cross-sectional view.

Note 2: Regional conditions # 14, #15, and #53d were revised on September 7, 2017.