

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2017 Nationwide Permit Review
Nationwide Permit 32**

**Completed Enforcement Actions
(10/404)**

SAC #: _____

Applicant Name: _____

Waterway/Location: _____

Project Name: _____

The purpose of this Nationwide Permit (NWP) checklist is to assist with determining if a proposed activity qualifies for use of this NWP. The checklist will also assist with determining when a Pre-Construction Notification (PCN) is be required, if a PCN is incomplete, and other actions that may be required during a PCN review.

I. Regional Conditions:

1. Will the proposed activity alter or temporarily occupy or use a USACE federally authorized Civil Works project (a "USACE" project") regulated by 33 U.S.C. 408?

Yes* (PCN required) No

2. If the proposed activity requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use USACE federally authorized "USACE" project, has the Charleston District issued the section 408 permission to alter, occupy, or use the USACE project?

N/A Yes No (Activity cannot be authorized by a NWP until 408 permission is issued)

3. Is the proposed activity located in waters that are designated critical habitat under section 7 of the Endangered Species Act or waters that are proposed critical habitat? (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/)

Yes* (PCN required –Corps PM to determine if coordination with NMFS PRD is necessary) No

4. Is the proposed project located within a designated floodway within the FEMA Special Flood Hazard Area (SFHA)?

Yes (The permittee must comply with with Regional Condition #14.) No

5. Is the proposed project located within a designated FEMA Special Flood Hazard Area (SFHA)?

Yes (The permittee must comply with with Regional Condition #15.) No

6. Does the proposed activity comply with the Regional Conditions #1-#9?

Yes No (Activity does not qualify for use of a NWP)

7. Does the activity comply with all of the NWP General Conditions?

Yes No (Activity does not qualify for use of a NWP)

II. Nationwide Permit #32

1. Does the proposed activity involve any structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either: **(i)** The terms of a final written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or the terms of an EPA 309(a) order on consent resolving a violation of Section 404 of the Clean Water Act, provided that: (a) The activities authorized by this NWP cannot adversely affect more than 5 acres of non-tidal waters or 1 acre of tidal waters; (b) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this NWP; and (c) The district engineer issues a verification letter authorizing the activity subject to the terms and conditions of this NWP and the settlement agreement, including a specified completion date; or **(ii)** The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or **(iii)** The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR subpart G) under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 312 of the National Marine Sanctuaries Act, Section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a Corps permit is required?

Yes No (Activity does not
qualify for use of NWP 32)

2. Before reaching any settlement agreement, has the Corps ensured compliance with the provisions of 33 CFR part 326 and 33 CFR 330.6(d)(2) and (e)?

Yes No (Activity does not
qualify for use of NWP 32)

3. Note: Compliance is a condition of the NWP itself; non-compliance of the terms and conditions of an NWP 32 authorization may result in additional enforcement action (e.g., a Class I civil administrative penalty). Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of the court decision, consent decree, or juricial/non-judicial settlement agreement. This NWP does not apply to any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit.

Yes

Checklist Completed By: _____

Date: _____