

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2021 Nationwide Permit Review
Nationwide Permit 12
Oil or Natural Gas Pipeline Activities
(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 and/or if other actions that may be required during a PCN review.

A PCN may be required for activities authorized by NWP 12. Each question in Section A and B of the checklist refers to a specific 2021 NWP Regional Condition (RC). The 2021 NWP Regional Conditions can be found at <https://www.sac.usace.army.mil/Missions/Regulatory>

Complete Sections A-C

A. Water Quality Certification (WQC) and/or Coastal Zone Consistency (CZC)

1. For proposed activities that a) do not require the submittal of a PCN, b) involve the discharge of dredged or fill material, AND c) are authorized by this NWP, an Individual 401 WQC or waiver from SCDHEC is required. Has the prospective permittee obtained an Individual 401 WQC or waiver prior to the commencement of work? (RC D.17 & AND F.1)

- Yes (CZC may also be required, if applicable)** **No (Must obtain Individual 401 WQC or waiver prior to commencement of work. Work not authorized by the NWP until issued. CZC may also be required, if applicable)** **N/A**

2. For proposed activities that a) do not require the submittal of a PCN AND b) are located in the Coastal Plain of South Carolina, an Individual CZC determination or presumed concurrence is required from SCDHEC. Has the prospective permittee obtained an Individual CZC determination or presumed concurrence prior to the commencement of work? (RC D.17 & AND F.2)

- Yes (WQC may also be required, if applicable)** **No (Must obtain Individual CZC determination or presumed concurrence prior to commencement of work. Work not authorized by the NWP until issued. WQC may be required, if applicable)** N/A

3. For proposed activities that a) require the submittal of a PCN AND b) involve the discharge of dredged or fill material, an Individual 401 WQC or waiver from SCDHEC is required. Has the prospective permittee obtained an Individual 401 WQC or waiver? (RC D.17 & AND F.1)

- Yes (CZC may also be required, if applicable.)** **No (Must obtain Individual 401 WQC or waiver prior to Corps verification of NWP. CZC may be required, if applicable)** N/A

4. For proposed activities that a) require the submittal of a PCN AND b) are located in the Coastal Plain of South Carolina, an Individual CZC determination or presumed concurrence is required from SCDHEC. Has the prospective permittee obtained an Individual CZC determination or presumed concurrence? (RC D.17 & AND F.2)

- Yes (If WQC was issued or waived, if required, Corps can verify NWP)** **No (If WQC was issued or waived, if required, Corps can issue provisional verification. The Individual CZC determination or presumed concurrence is required prior to commencement of work)** N/A

5. For proposed activities that are located within the Critical Area of the Coastal Zone, a Critical Area Permit (CAP), which also serves as the CZC, from SCDHEC is required. Has the prospective permittee obtained a CAP? (RC D.17 & AND F.3)

- Yes (If WQC was issued or waived, if required, Corps can verify NWP)** **No (If WQC was issued or waived, if required, Corps can issue a provisional verification. CZC presumed concurrence or CAP is required prior to commencement of work).** N/A

B. Regional Conditions:

1. Does the prospective permittee understand that use of the nationwide permits does not preclude requirements to obtain all other applicable Federal, State, county, and local government authorizations? (RC C.1)

Yes

2. Would the proposed activity occur in areas known or suspected to have sediment contamination? (RC C.2)

Yes (Activity cannot be authorized by a NWP) No

3. Would the proposed activity, both temporary and permanent, be located in a FEMA designated floodway? (RC C.3)

Yes (PCN required) No

4. Would the proposed activity be located in or adjacent to an authorized USACE Civil Works project, including Federal Navigation projects, as listed below? (RC C.4)

- a. **USACE Civil Works projects:** Buck Creek in Horry County, Eagle Creek in Dorchester County, Kingstree Branch in Williamsburg County, Sawmill Branch in Berkeley and Dorchester Counties, Scotts Creek in Newberry County, Socastee Creek in Horry County and Turkey Creek in Sumter County, Wilson Branch in Chesterfield County, Edisto River in Orangeburg and Dorchester Counties, North Edisto River in Aitken and Orangeburg Counties, Folly Beach in Charleston County, Hunting Island Beach, waste water treatment plant and water line in Beaufort County, Myrtle Beach in

Georgetown and Horry County, Pawleys Island Beach in Georgetown County, Edisto Island Beach in Charleston County, Crab Bank in Charleston County, Morris Island Lighthouse in Charleston County, Miller Corner Disposal area Phragmites Control in Georgetown County, Cape Marsh Management area (Santee Coastal Reserve) in Charleston County, Murphy Island in Charleston County, Pocotaligo River and Swamp in Clarendon and Sumter Counties, Pinopolis Dam in Berkeley County, Battery Pringle in Charleston County, Castle Pinckney in Charleston County, Pompion Hill Chapel along the Cooper River in Berkeley County, Drayton Hall in Charleston County, Indian Bluff in Orangeburg County, Singleton Swash at Shore Drive in Horry County, Turkey Creek Bridge at Pineview Drive in Lancaster, Big Dutchman Creek Bridge at West Oak Drive in Rock Hill, SC, Calabash Branch Bridge at Tom Joye Road in Clover, Blue Branch Bridge at Fortanberry Road in Gaffney, Glenn Creek Bridge at Sulphur Springs Road in Spartanburg County, Cow Castle Creek (Bowman) in Orangeburg County, Cowpen Swamp at Simpson Creek in Horry County, Crabtree Swamp in Horry County, Saluda River (North, South, and Middle Fork) in Greenville County, Shot Pouch Creek in Sumter County, Simpson Creek in Horry County, and Todd Swamp in Horry County.

Yes (PCN required) No

- b. **Defined Federal Navigation projects:** Ashley River (0.5 miles east of Hwy 7 bridge downstream to the Atlantic Intracoastal Waterway (AIWW)), Atlantic Intracoastal Waterway ((AIWW) GA/SC line to SC/NC line), Brookgreen Garden Canal, Calabash Creek, Charleston Harbor (including the Cooper River, Town Creek, Shem Creek to Coleman Blvd and Mount Pleasant Channel), Folly River, Georgetown Harbor (Winyah Bay, Sampit River and Bypass Channel), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Shipyard River, Savannah River (Below Augusta) and Town Creek McClellanville (i.e., Five Fathoms Creek, AIWW to Bulls Bay).

Yes (PCN required) No

- c. **Undefined Federal Navigation projects:** Adams Creek, Archers Creek (From intersection with Beaufort River for 2 miles), Edisto River (River mile 0.00 to 175.0), Great Pee Dee River (Waccamaw River via Bull Creek then to Smith Mills, then to Cheraw), Lynches River/Clark Creek (Clark Creek to Lynches River, River Mile 0.0 to 56.0), Mingo Creek (to Hemmingway Bridge), Salkehatchie River (5 miles above Toby's Bluff to Hickory Hill, River mile 20.4 to 62.3), Santee River (Closed to navigation at mile 87 (Santee Dam)), Waccamaw River (river mile 0.0 to 90 (state line)), Wateree

River (Mouth to Camden), and Village Creek (Morgan River to Porpoise Fish Co., 2.2 miles).

Yes (PCN required) No

5. If the proposed activity would be located in or adjacent to an authorized Federal Navigation project, as referenced in Regional Condition C.4.b, does the project drawings include the following information: (1) State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure or fill where it is closest to the Federal channel; (2) the distance from watermost edge of the proposed structure or fill to the nearest edge of the Federal channel; AND (3) Mean Low Water line and the Mean High Water line. (RC C.5)

N/A **Yes (PCN required)** **No (Revise the drawings to include this information).**

6. For all NWP's requiring a PCN AND when the activity involves the discharge of dredged or fill material into waters of the U.S. associated with mechanized land clearing that results in the permanent conversion of forested or scrub-shrub wetlands to herbaceous wetlands, does the PCN include the following information: (1) a written description and/or drawings of the proposed conversion activity and (2) acreage of the permanent conversion? (RC C.6)

Yes **No (The PCN should be revised to include this information)** N/A

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

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

8. For NWP's 3, 11, 12, 13, 14, 15, 20, 22, 33, 57, 58 and 59, does the proposed activity include temporary structures, fills and/or work, including the use of temporary mats? (RC D.3)

Yes No

9. For NWP's 3, 11, 12, 13, 14, 15, 20, 22, 33, 57, 58 and 59, if the proposed activity includes temporary structures, fills and/or work, including the use of temporary mats, would the temporary activities exceed a period of 180 days? (RC D.3)

Yes (Additional Corps approval is required) No N/A

10. For NWP's 12, 57 and 58, does the proposed activity include the temporary sidecast of material AND would the sidecast material exceed a period of 180 days? (RC D.3)

Yes (Activity does not qualify for use of the NWP) No N/A

11. For NWP's 3, 11, 12, 13, 14, 15, 20, 22, 33, 57, 58 and 59, if the proposed activity includes temporary structures, fills and/or work, including the use of temporary mats, would the temporary structures, fills and/or work, including temporary mats, be removed as soon as the work is complete AND the disturbed areas be restored to pre-construction contours and conditions? (RC D.3)

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

12. For NWP's 3, 11, 12, 13, 14, 15, 20, 22, 33, 57, 58 and 59, does the proposed activity involve the use of temporary mats, including timber mats, metal, synthetic and/or artificial mats, or other materials that may serve the purpose of mats? (RC D.3)

Yes No

13. For NWP's 3, 11, 12, 13, 14, 15, 20, 22, 33, 57, 58 and 59 that require PCNs AND involve temporary structures, fills and/or work, including the use of temporary mats, does the PCN include the following information: (1) a written description and/or drawings of the proposed temporary activities that will be used during project construction; (2) the timeframe that the proposed temporary activities will be in place; and (3) specifications of how pre-construction contours will be re-established and verified after construction? (RC D.4)

Yes **No (PCN should be revised to include this information)** N/A

14. For NWP's 12, 57 and 58, does the proposed activity involve the discharge of dredged or fill material into waters of the U.S. associated with mechanized land clearing that results in the permanent conversion of forested or scrub-shrub wetlands to herbaceous wetlands for a maintained right-of-way? (RC D.18)

Yes (A PCN is required) No

15. For NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58, that would be located in the ACE Basin National Estuarine Research Reserve or the North Inlet Winyah Bay National Estuarine Research Reserve AND involve the discharge of dredged fill material, would the proposed activity occur within, or directly affecting, critical resource waters, including wetlands adjacent to such waters? (RC D.5)

Yes (The discharge is not authorized and the NWP cannot be used) No N/A

16. For NWP's 12, 57 and 58 activities that involve horizontal directional drilling beneath navigable waters of the United States (i.e. section 10 waters), does the PCN include a proposed remediation plan (i.e. frac-out plan)? (RC D.7)

Yes No (The PCN should include a remediation plan. If one is not included one will be requested) N/A

17. For NWP's 12, 14, 29, 39, 46, 51, 52, 57 and 58 activities that involve crossings, are the culverts adequately sized to maintain flow? (RC D.8)

Yes No (The culverts should be adequately sized) N/A

18. For NWP's 12, 14, 29, 39, 51, 52, 57 and 58 activities that involve crossings AND submittal of a PCN, does the PCN include the minimum size and number of the proposed culverts/pipes? (RC D.8)

Yes No (The PCN should include this information. If not included, the information may be requested) N/A

Note 1: For below questions #19-21, as stated in the January 13, 2021, issue of the Federal Register (86 FR 2744), stream bed is defined as “The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water mark, are not considered part of the stream bed.”

Note 2: For below questions #19-21, the impacts to a stream bed should be calculated in acreage. As stated in the Preamble of the January 13, 2021, issue of the Federal Register (86 FR 2744) on page 2765, “Stream bed width should be measured from ordinary high water mark to ordinary high water mark, perpendicular to the longitudinal direction of the stream channel. That is consistent with the definition of ‘stream bed’ in Section F. of the NWP’s”.

Note 3: For below questions #19-21, the term “stream bed” also includes features determined to be a “tributary” or “relatively permanent water.”

19. For NWP’s 12, 14, 18, 43, 51, 57 and 58, would the activity cause the loss of greater than 0.005 acre of stream bed? (RC D.9)

Yes (A PCN is required) No N/A

20. For NWP’s 12, 14, 18, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57, 58 and 59 would the activity cause the loss of greater than 0.005 acre of stream bed? (RC D.10)

Yes (Compensatory Mitigation will be Required and the PCN should include a compensatory mitigation plan) No N/A

21. For NWP’s 12, 14, 18, 21, 27, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57, 58 and 59, would the activity cause the loss of greater than 0.05 acre of stream bed? (RC D.11)

Yes (The activity does not meet RC D.11 and does not qualify for use of the NWP) No N/A

C. Nationwide Permit 12

1. Does the proposed activity involve the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities in waters of the United States AND would result in a loss of no greater than ½-acre of waters of the United States for each single and complete project?

Yes **No (Activity does not qualify for use of NWP 12)**

2. Does the proposed activity involve the discharge of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of oil and natural gas pipelines?

Yes **No (Activity does not qualify for use of NWP 12)**

3. Would the activities result in a change in pre-construction contours of waters of the United States?

Yes (Activity does not qualify for use of NWP 12) No

3. Does the activity meet the definition of an “oil or natural gas pipeline”, which is defined as any pipe or pipeline for the transportation of any form of oil or natural gas, such as gasoline, jet fuel, diesel fuel, heating oil, petrochemical feedstocks, waxes, lubricating oils, and asphalt?

Yes **No (Activity does not qualify for use of NWP 12)**

4. If the activity involves trench excavation, would the material resulting from the excavation be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces?

Yes **No (See #5 below)** N/A

5. If the activity involves trench excavation and the material would be temporarily sidecast into waters of the United States for more than three months, has the district engineer extended the period of temporary side casting for no more than a total of 180 days, where appropriate?

Yes **No (Activity does not qualify for use of a NWP 12)** N/A

6. If the activity involves trench excavation in wetlands, would the top 6 to 12 inches be backfilled with topsoil from the trench?

Yes No N/A

7. If the activity involves trench excavation, would the trench be constructed or backfilled in such a manner as to drain waters of the United States?

Yes **(Activity does not qualify for use of a NWP 12)** No N/A

8. Will any exposed slopes and stream banks be stabilized immediately upon completion of the utility line crossing of each waterbody?

Yes **No (Activity does not qualify for use of a NWP 12)** N/A

9. If the proposed activity involves construction, maintenance, or expansion of substation facilities (e.g, oil or natural gas or gaseous fuel custody transfer stations, boosting stations, compression stations, metering stations, pressure regulating stations) associated with an oil or natural gas pipeline in non-tidal waters of the United States, does the activity, in combination with all other activities included in one single and complete project, result in the loss of greater than ½-acre of waters of the United States?

Yes (Activity does not qualify for use of NWP 12) No N/A

10. If the proposed activity involves construction, maintenance, or expansion of substation facilities, would the discharges associated with the substation facility occur in wetlands adjacent to non-tidal waters of the United States?

Yes (Activity does not qualify for use of NWP 12) No N/A

11. If the proposed activity involves the construction or maintenance of foundations for above-ground oil or natural gas pipelines in wall waters of the United States, would the foundations be of the minimum size necessary?

Yes **No (Activity does not qualify for use of NWP 12)** N/A

12. Does the proposed activity involve the construction of access roads for the construction or maintenance of oil and gas pipelines?

Yes No

13. If the proposed activity involves the construction of access roads, would the activity, in combination with all other activities included in one single and complete project, cause the loss of greater than ½-acre of non-tidal waters of the United States?

Yes (Activity does not qualify for use of NWP 12) No N/A

14. If the proposed activity involves construction of access roads, would the discharges associated with the access roads occur in non-tidal wetlands adjacent to tidal waters of the United States?

Yes (Activity does not qualify for use of NWP 12) No N/A

15. If the proposed activity involves construction of access roads, would the access roads be of the minimum width necessary, be constructed so that the length of the road minimizes any adverse effects on waters of the United States, be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads) AND/OR be properly bridged or culverted to maintain surface flow if above pre-construction contours?

Yes **No (Activity does not qualify for use of NWP 12)** N/A

16. Would the oil and natural gas pipelines be constructed over section 10 waters and/or would the electric utility lines or telecommunication lines be are routed in or under section 10 waters without a discharge of dredged or fill material?

**Yes (PCN required,
a section 10
permit is required)** No N/A

17. Does the proposed activity include the construction/installation of temporary structure, fills, and work necessary for remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purposes of installing or replacing oil or natural gas pipelines?

Yes No N/A

18. If remediation activities are necessary, would the remediation activities be done as soon as practicable to restore the affected waterbody?

Yes **No (may result in
non-compliance of
NWP 12)** N/A

19. If the proposed activities involve temporary structures, fills, and/or work, including the use of temporary mats, would appropriate measures 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, access fills, or dewatering of construction sites?

Yes **No (Activity does not
qualify for use of
NWP 12)** N/A

20. If the proposed activities involve temporary fills, would the temporary fills consist of materials AND be placed in a manner that will not be eroded by expected high flows?

Yes **No (Activity does not
qualify for use of
NWP 12)** N/A

21. If the proposed activity involves temporary structures, fills, and/or work, including the use of temporary mats, would the temporary structures, fills, and/or work including the use of temporary mats, be removed in their entirety, the affected areas returned to pre-construction elevations, AND the affected areas revegetated as appropriate?

Yes **No (Activity does not qualify for use of NWP 12)** N/A

22. Does the proposed activity require a section 10 permit? (PCN requirement 1)

Yes (PCN required) No

23. If the proposed activity includes a discharge, would the discharge result in a loss of greater than 1/10-acre of waters of the United States? (PCN requirement 2)

Yes (PCN required) No N/A

24. Is the proposed oil or natural gas pipeline activity associated with an overall project that is greater than 250 miles in length AND the project purpose is to install a new pipeline (vs. conduct repair or maintenance activities) along the majority of the distance if the overall project length? (PCN requirement 3)

Yes (PCN required) No

25. If the proposed oil or gas pipeline is greater than 250 miles in length, does the PCN include the locations and proposed impacts (in acres or other appropriate unit of measure) for all crossings of waters of the United States that require DA authorization, including those crossings authorized by an NWP would not otherwise require a PCN? (PCN requirement 3)

Yes **No (Incomplete PCN)** N/A

26. If the oil or natural gas pipeline be constructed, installed, or maintained in navigable waters of the United States within the coastal United States, would a copy of the NWP verification letter be sent to NOAA, NOS by the Corps? (Note 1 in NWP 12)

Yes (Corps PM will send a copy of the NWP verification to NOAA NOS for charting) N/A

27. Does the oil or natural gas pipeline activities cross a single waterbody more than one time at separate and distant locations, or multiple water bodies at separate and distant locations? (Note 2 in NWP 12)

- Yes (Each crossing is Considered a single and complete project for purposes of the NWP authorization)** **No** **N/A**

28. Does the proposed activity comply with 33 CFR 330.6(d) which states the following:

Combining nationwide permits with individual permits. Subject to the following qualifications, portions of a larger project may proceed under the authority of the NWPs while the DE evaluates an individual permit application for other portions of the same project, but only if the portions of the project qualifying for NWP authorization would have independent utility and are able to function or meet their purpose independent of the total project. When the functioning or usefulness of a portion of the total project qualifying for an NWP is dependent on the remainder of the project, such that its construction and use would not be fully justified even if the Corps were to deny the individual permit, the NWP does not apply and all portions of the project must be evaluated as part of the individual permit process.

(1) When a portion of a larger project is authorized to proceed under an NWP, it is with the understanding that its construction will in no way prejudice the decision on the individual permit for the rest of the project. Furthermore, the individual permit documentation must include an analysis of the impacts of the entire project, including related activities authorized by NWP.

(2) NWPs do not apply, even if a portion of the project is not dependent on the rest of the project, when any portion of the project is subject to an enforcement action by the Corps or EPA.

33 CFR 330.6(d) can be viewed at

<https://www.ecfr.gov/current/title-33/chapter-II/part-330/section-330.6>

(Note 2 in NWP 12)

- Yes (NWP 12 can be used. Oil or natural gas projects must comply With 33 CFR 330.6(d))** **No (Activity does not qualify for use of NWP 12)**
- N/A**

29. If the proposed activity includes access roads used for both construction and maintenance, would the access roads meet the terms and conditions of this NWP? (Note 3 in NWP 12)

Yes **No (Activity does not qualify for use of NWP 12)** N/A

30. If the proposed activity includes access roads used solely for the construction of the oil or natural gas pipeline, would the access road be removed upon completion of the work AND in accordance with the requirements for temporary fills? (Note 3 in NWP 12)

Yes **No (Activity does not qualify for use of NWP 12)** N/A

31. Will the proposed activity involve pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States? (Note 4 in NWP 12)

Yes (These activities are considered bridges and may require a permit from the USCG) No N/A

32. If the proposed activity involves pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States, will the work also involve a discharge of dredged or fill material into waters of the United States? (Note 4 in NWP 12)

Yes (A section 404 permit will be required for the discharge- see NWP 15) **No (These activities are considered bridges and may require a permit from the USCG)** N/A

33. Does the proposed activity involve oil or natural gas pipeline maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures? (Note 5 in NWP 12)

Yes No

34. If the proposed NWP 12 activity requires a PCN AND additional activities would occur that require Department of the Army authorizations, does the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require PCN (see paragraph (b) of general condition 32). (Note 6 in NWP 12)

Yes

No (Incomplete PCN)

N/A

Checklist Completed By: _____

Date: _____