

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2021 Nationwide Permit Review
Nationwide Permit 14**

**Linear Transportation Projects
(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 all activities authorized by NWP 14. 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/Permitting-Process/>

Complete Sections A-C

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

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 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

10. For NWP 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)**

11. For NWP 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

12. For NWP 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, or other materials that may serve the purpose of 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

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

Yes (The discharge is not authorized) No N/A

and the NWP cannot be used)

14. For NWPs 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

15. For NWPs 12, 14, 29, 39, 46, 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 #16-18, 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 #16-18, 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 NWPs”.

Note 3: For below questions #16-18, the term “stream bed” also includes features determined to be a “tributary” or “relatively permanent water.”

16. For NWPs 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

17. For NWPs 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

18. For NWPs 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 14

1. Are the proposed activities required for crossings of waters of the United States associated with the construction, expansion, modification or improvement of linear transportation crossings (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States.?

- Yes **No (Activity does not qualify for use of NWP 14).**

2. Will the discharge associated with the proposed linear transportation project cause the loss of greater and ½-acre of non-tidal waters of the United States?

- N/A **Yes (Activity does not qualify for use of NWP 14)** No

3. Will the discharge associated with the proposed linear transportation project cause the loss of greater and 1/3-acre of tidal waters of the United States?

N/A **Yes (Activity does not qualify for use of NWP 14)** No

4. Will the proposed activity involve stream channel modification, including bank stabilization?

Yes No

5. If the proposed activity involves stream channel modification, is the stream channel modification limited to the minimum necessary to construct or protect the linear transportation project AND are such modifications in the immediate vicinity of the project?

N/A Yes **No (Activity does not qualify for use of NWP 14)**

6. Does the proposed activity involve temporary structures, fills, and work, including the use of temporary mats, that are necessary to construct the linear transportation project?

Yes No

7. For proposed activities that involve temporary structures, fills, and/or work, including the use of temporary mats, will the 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?

N/A Yes **No (Activity does not qualify for use of NWP 14)**

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

N/A Yes **No (Activity does not qualify for use of NWP 14)**

9. For proposed activities that involve temporary structures, fills, and/or work, including the use of temporary mats, will the temporary fills be removed in their entirety, the affected areas returned to pre-construction elevations, AND the affected areas revegetated as appropriate?

- N/A Yes **No (Activity does not qualify for use of NWP 14)**

10. Does the proposed activity involve non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars?

- Yes (Activity does not qualify for use of NWP 14)** No

11. Will the proposed activity involve the loss of more than 1/10-acre of waters of the United States?

- Yes (PCN required)** No

12. Will the proposed activity involve the discharge in a special aquatic site, including wetlands?

- Yes (PCN required)** No

13. Does the proposed activity cross a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations?

- Yes (Each crossing is considered a Single and complete project for Purposes of NWP authorization.)** No

14. 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 NWP's 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) NWP's 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>

Yes (NWP 14 can be used. Linear transportation projects must comply With 33 CFR 330.6(d)) **No (Activity does not qualify for use of NWP 14)**

15. Does the proposed activity involve the discharge of dredged or fill material for the construction of a farm roads or forest roads, or temporary roads for moving mining equipment?

Yes (The proposed activity may qualify for an exemption under Section 404(f) of the Clean Water Act. See 33 CFR 323.4, which Can be viewed at

<https://www.ecfr.gov/current/title-33/chapter-II/part-323/section-323.4>

No

16. For proposed activities that require a PCN, does the PCN 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 a PCN (See NWP General Condition 32 (b)(4)?

- Yes (The PCN must include the Above listed NWPs, RGPs and/or IP and the PCN will be evaluated in Accordance with Section D of the NWPs, “District Engineer’s Decision”. Mitigation may be required to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects. See General Condition 23)**
- No

Checklist Completed By: _____

Date: _____