

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2017 Nationwide Permit Review
Nationwide Permit 39**

**Commercial and Institutional Developments
(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.

A PCN is required for all activities authorized by NWP 39.

Please complete Sections I and II.

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. Will the discharge of dredged or fill material into waters of the United States, associated with **NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51 and 52**, occur within or directly affecting Designated Critical Resource Waters, including wetlands adjacent to such waters? (Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.)

- N/A Yes (The proposed discharge does not qualify for a NWP) No

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

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

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

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

9. If the proposed activity requires a PCN, does the PCN 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?

N/A Yes No (Incomplete PCN)

10. If the proposed activity involves new construction and/or replacement of culverted road crossings, at a minimum, are the width of the base flow culvert(s) approximately equal to the average channel width AND will they not reduce or increase stream depth?

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

11. Will NWP 39 be used in conjunction with NWP 12, 14, 29, 43, 51 and/or 52 for an activity that is considered a single and complete project?

N/A Yes (Activity does not qualify for use of NWP 39) No

12. If the proposed activity involves impacts to stream beds, are the impacts to the stream bed provided in both linear feet and acreage?

N/A Yes No (Incomplete PCN)

13. If the proposed activity involves utility lines that are horizontal directional drilled 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)?

N/A Yes No (Incomplete PCN)

14. If the proposed activity involves utility lines that are trenched, will the excavated material be returned to the trench, will any remaining material be relocated and retained on an upland disposal site, will any substrate containing roots, rhizomes, seeds, and other natural material be kept viable and replaced at the surface of the excavated site, AND will the impacted wetlands be replanted with native wetland species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native:

N/A Yes No (Activity does not qualify for use of NWP 39).

15. If the proposed activity involves utility lines and clearing of vegetation from stream banks is proposed, will stream banks be stabilized using bioengineering techniques and/or the planting of deep-rooted native species?

N/A Yes No (Activity does not qualify For use of NWP 39).

16. If the proposed activity involves utility lines buried in waters of the United States and construction techniques to prevent draining, such as anti-seep collars, will NOT be used, has appropriate documentation to support that such techniques are not required to prevent drainage of waters of the United States been provided by the prospective permittee?

N/A Yes No (Incomplete PCN)

17. Does the proposed activity involve a maintained utility crossing?

Yes * (PCN required) No

18. If the proposed activity involves a maintained utility crossing, does the PCN include a justification for the proposed width of the maintained crossing that impacts waters of the United States?

N/A Yes No (Incomplete PCN)

19. Will the proposed activity include a discharge of dredged or fill material for the construction of stormwater management facilities in perennial streams?

N/A Yes (Activity does not qualify for use of NWP 39) No

II. Nationwide Permit 39

A PCN is required for all activities authorized by NWP 39.

1. Does the proposed activity involve the discharge of dredged or fill material into non-tidal waters of the United States for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures?

Yes No (Activity does not qualify for use of NWP 39)

2. Do the attendant features include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields?

N/A Yes No

3. Does the proposed activity involve the construction of new golf courses and/or new ski areas?

N/A Yes (Activity does not qualify for use of NWP 39). No

4. Does the discharge associated with the proposed activity cause the loss of greater than ½- acre of non-tidal waters of the United States?

N/A Yes (Activity does not qualify for use of NWP 39). No

5. Does the discharge associated with the proposed activity cause the loss of more than 300 linear feet of intermittent and ephemeral stream bed?

N/A Yes (Agency coordination required. Refer to GC #32 (d) (2) (ii) and (3)) No

6. If the discharge associated with the proposed activity causes the loss of more than 300 linear feet of intermittent and ephemeral stream bed, has the District Engineer waived the 300 linear foot limit?

N/A Yes No (Activity does not qualify for use of NWP 39).

7. Does the discharge associated with the proposed activity cause the loss of more than 300 linear feet of perennial stream bed?

N/A Yes (Activity does not qualify for use of NWP 39) No

8. Does the discharge associated with the proposed activity occur within a non-tidal wetland adjacent to tidal waters?

N/A Yes (Activity does not qualify for use of NWP 39) No

9. If the discharge associated with the proposed activity involves impacts to stream bed, does the loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the NWP exceed 1/2- acre?

N/A Yes (Activity does not qualify for use of NWP 39) No

10. If the proposed activity involves the construction of wind energy generating structure, solar tower, overhead transmission line, will a copy of the PCN and NWP verification be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities?

N/A Yes

Checklist Completed By: _____

Date: _____