



March 7, 2017

Lieutenant Colonel Matthew W. Luzzatto, P.E., PMP
 U.S. Army Corps of Engineers
 69AHagood Avenue
 Charleston, SC 29403-5107

Re: Certification in Accordance with Section 401 of the Clean Water Act, as amended.
 Certification of Consistency with the S.C. Coastal Zone Management Program

Dear Lieutenant Colonel Luzzatto:

Certification and Finding of Consistency

The South Carolina Department of Health and Environmental Control's (Department) Bureau of Water and Office of Ocean and Coastal Resource Management have reviewed the U.S. Army Corps of Engineers' proposal to amend the Nationwide Permit program regulations. In accordance with agency procedures, the Department issued a Notice of Department Decision on February 17, 2017, taking action on these Nationwide Permits. Department staff determined that provided the proposed actions listed below (and in the attached table) are implemented and the proposed conditions outlined in the February 17, 2017 Notice of Department Decision are adhered to, there is a reasonable assurance that work authorized will be conducted in a manner consistent with the certification requirements of Section 401 of the Federal Clean Water Act (CWA), as amended, and the Coastal Zone Management Act (48-39-10 et.seq.).

In accordance with the provisions of Section 401, we certify that the indicated Nationwide Permits, subject to the provided conditions, are consistent with applicable provisions of Section 303 of the CWA, as amended. We also hereby certify that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307 of the CWA. The attached general conditions apply to all Nationwide Permits.

401 Water Quality Certification issued without conditions	Coastal Zone Consistency Certification issued without conditions
3. Maintenance 4. Fish & Wildlife Harvesting, Enhan, Attract Devices, & Act. 5. Scientific Measurement Devices 6. Survey Activities 7. Outfall Structures and Associated Intake Structures 13. Bank Stabilization 15. U.S. Coast Guard Approved Bridges 18. Minor Discharges 19. Minor Dredging 20. Oil Spill Cleanup 22. Removal of Vessels 25. Structural Discharges 27. Aquatic Habitat Restoration, Estabmt& Enhancement Act. 30. Moist Soil Management for Wildlife 31. Maintenance of Existing Flood Control Facilities 32. Completed Enforcement Activities 33. Temporary Construction, Access, and Dewatering 37. Emergency Watershed Protection and Rehabilitation	1. Aids to Navigation 2. Structures in Artificial Canals 3. Maintenance 4. Fish & Wildlife Harvesting, Enhan, Attract Devices, & Act 5. Scientific Measurement Devices 6. Survey Activities 7. Outfall Structures and Associated Intake Structures 8. Oil and Gas Structures on the Continental Shelf 9. Structures in Fleeting and Anchorage Areas 10. Mooring Buoys 11. Temporary Recreational Structures 13. Bank Stabilization 15. U.S. Coast Guard Approved Bridges 18. Minor Discharges 19. Minor Dredging 20. Oil Spill Cleanup 22. Removal of Vessels 25. Structural Discharges

- 38. Cleanup of Hazardous and Toxic Wastes
- 40. Agricultural Activities
- 41. Reshaping Existing Drainage Ditches
- 45. Repair of Uplands Damaged by Discrete Events
- 48. Existing Commercial Shellfish Aquaculture Activities

- 27. Aquatic Habitat Restoration, Estabmt& Enhancement Act
- 28. Modifications of Existing Marinas
- 30. Moist Soil Management for Wildlife
- 31. Maintenance of Existing Flood Control Facilities
- 32. Completed Enforcement Activities
- 33. Temporary Construction, Access, and Dewatering
- 36. Boat Ramps
- 37. Emergency Watershed Protection and Rehabilitation
- 38. Cleanup of Hazardous and Toxic Wastes
- 40. Agricultural Activities
- 41. Reshaping Existing Drainage Ditches
- 45. Repair of Uplands Damaged by Discrete Events
- 48. Existing Commercial Shellfish Aquaculture Activities

401 Water Quality Certification issued with conditions

- 12. Utility Line Activities
- 14. Linear Transportation Projects
- 23. Approved Categorical Exclusions
- 29. Residential Developments
- 36. Boat Ramps
- 39. Commercial and Institutional Development
- 42. Recreational Facilities
- 43. Stormwater Management Facilities
- 44. Mining Activities
- 46. Discharge in Ditches

Coastal Zone Consistency Certification issued with conditions

- 12. Utility Line Activities
- 14. Linear Transportation Projects
- 23. Approved Categorical Exclusions
- 29. Residential Developments
- 39. Commercial and Institutional Development
- 42. Recreational Facilities
- 44. Mining Activities
- 46. Discharge in Ditches

Denial and Finding of Inconsistency

The Department has determined that there is not a reasonable assurance that work authorized by the following Nationwide Permits will be conducted in a manner consistent with the certification requirements of Section 401 of the CWA, as amended, or the Coastal Zone Management Act (48-39-10 et seq.). In accordance with the provisions of Section 401 and the S.C. Coastal Zone Management Program, we deny 401 Water Quality Certification and Coastal Zone Consistency Certification for these Nationwide Permits.

401 Water Quality Certification denied

- 16. Return Water From Upland Cont. Disposal Areas
- 17. Hydropower Projects
- 21. Surface Coal Mining Activities
- 34. Cranberry Production
- 49. Coal Remining Activities
- 50. Underground coal Mining Activities
- 51. Land-Based Renewable Energy Generation Facilities
- 52. Land-Based Renewable Energy Generation Pilot Projects
- 53. Removal of Low-Head Dams
- 54. Living Shorelines

Coastal Zone Consistency Certification denied

- 16. Return Water From Upland Cont. Disposal Areas
- 17. Hydropower Projects
- 21. Surface Coal Mining Activities
- 24. Indian Tribe or State Administered Section 404 Programs
- 34. Cranberry Production Activities
- 35. Maintenance Dredging of Existing Basins
- 43. Stormwater Management Facilities
- 49. Coal Remining Activities
- 50. Underground coal Mining Activities
- 51. Land-Based Renewable Energy Generation Facilities
- 52. Land-Based Renewable Energy Generation Pilot Projects
- 53. Removal of Low-Head Dams
- 54. Living Shorelines

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If you have any questions, please contact Heather Preston at (803) 898-3105 or prestohs@dhec.sc.gov or Rheta Geddings DiNovo at (843) 953-0256 or dinovorg@dhec.sc.gov.

Sincerely,



Heather S. Preston, Director
Division of Water Quality
Bureau of Water
Environmental Quality Control



Rheta Geddings DiNovo, Director
Regulatory Division
Office of Ocean and Coastal Resource Management

2017 Nationwide Permit Number & Topic	401 Cert Action	CZC Cert Action (Outside of Direct Critical Area)
1. Aids to Navigation	N/A	Issue
2. Structures in Artificial Canals	N/A	Issue
3. Maintenance	Issue	Issue
4. Fish & Wildlife Harvesting, Enhancement, & Attraction Devices & Activ.	Issue	Issue
5. Scientific Measurement Devices	Issue	Issue
6. Survey Activities	Issue	Issue
7. Outfall Structures and Associated Intake Structures	Issue	Issue
8. Oil and Gas Structures on the Outer Continental Shelf	N/A	Issue
9. Structures in Fleeting and Anchorage Areas	N/A	Issue
10. Mooring Buoys	N/A	Issue
11. Temporary Recreational Structures	N/A	Issue
12. Utility Line Activities	Issue w/ Cond	Issue w/ Cond
13. Bank Stabilization	Issue	Issue
14. Linear Transportation Projects	Issue w/ Cond	Issue w/ Cond
15. U.S. Coast Guard Approved Bridges	Issue	Issue
16. Return Water From Upland Contained Disposal Areas	Deny	Deny
17. Hydropower Projects	Deny	Deny
18. Minor Discharges	Issue	Issue
19. Minor Dredging	Issue	Issue
20. Oil Spill Cleanup	Issue	Issue
21. Surface Coal Mining Operations	Deny	Deny
22. Removal of Vessels	Issue	Issue
23. Approved Categorical Exclusions	Issue w/ Cond	Issue w/Cond
24. Indian Tribe or State Administered Section 404 Programs	N/A	Deny
25. Structural Discharges	Issue	Issue
26. [Reserved]	N/A	N/A
27. Aquatic Habitat Restoration, Establishment & Enhancement Activities	Issue	Issue
28. Modifications of Existing Marinas	N/A	Issue
29. Residential Developments	Issue w/ Cond	Issue w/ Cond
30. Moist Soil Management for Wildlife	Issue	Issue
31. Maintenance of Existing Flood Control Facilities	Issue	Issue
32. Completed Enforcement Actions	Issue	Issue
33. Temporary Construction, Access and Dewatering	Issue	Issue
34. Cranberry Production Activities	Deny	Deny
35. Maintenance Dredging of Existing Basins	N/A	Deny
36. Boat Ramps	Issue w/ Cond	Issue
37. Emergency Watershed Protection and Rehabilitation	Issue	Issue
38. Cleanup of Hazardous and Toxic Waste	Issue	Issue
39. Commercial and Institutional Developments	Issue w/ Cond	Issue w/ Cond

40. Agricultural Activities	Issue	Issue
41. Reshaping Existing Drainage Ditches	Issue	Issue
42. Recreational Facilities	Issue w/ Cond	Issue w/Cond
43. Stormwater Management Facilities	Issue w/ Cond	Deny
44. Mining Activities	Issue w/ Cond	Issue w/ Cond
45. Repair of Uplands Damaged by Discrete Events	Issue	Issue
46. Discharges in Ditches	Issue w/Cond	Issue w/Cond
47. [Reserved]	N/A	N/A
48. Existing Commercial Shellfish Aquaculture Activities	Issue	Issue
49. Coal Remining Activities	Deny	Deny
50. Underground Coal Mining Activities	Deny	Deny
51. Land-Based Renewable Energy Generation Facilities	Deny	Deny
52. Water-Based Renewable Energy Generation Pilot Projects	Deny	Deny
53. Removal of Low-Head Dams	Deny	Deny
54. Living Shorelines	Deny	Deny