

Nationwide Permit 401 and CZC General Conditions

Certified March 15, 2002

General Conditions: These conditions apply to all of the nationwide permits (NWP) unless otherwise noted. A project proposed for authorization under a nationwide permit should not be considered unless it meets all of the following general conditions plus any special conditions listed for each NWP.

1. DHEC considers a "single and complete project" to mean the overall project proposed or accomplished by a single owner/developer and it includes all land within the project boundary under single ownership. It is not interpreted to mean only the land area directly impacted by each NWP request. Impacts to Geographical Areas of Particular Concern (GAPC) sites or adjacent waterbodies or wetlands resulting from an activity will be considered during the review of these actions.
2. After the fact applications for NWPs will generally not be accepted by DHEC.
3. The nationwide permits are not applicable to Outstanding Resource Waters, Trout Waters (as defined in R. 61-68) or aquatic sites located adjacent to those areas. The nationwide permits are also not applicable to springheads.
4. The nationwide permits are not applicable to areas identified by SCDHEC as having impaired uses (as defined by 303(d) of the Clean Water Act).
5. The applicant must implement best management practices during construction to minimize erosion and migration of sediments off site. These practices may include use of mulches, hay bales, silt fences, or other devices capable of preventing erosion and migration of sediments. These devices must be maintained in a functioning capacity until the area is permanently stabilized upon project completion. All disturbed land surfaces must be stabilized upon project completion.
6. Upon project completion, all disturbed riverbeds, stream/creekbeds and/or wetlands must be restored to their original contours and conditions to the maximum degree practicable. Also, all disturbed upland areas must be permanently stabilized with a vegetative cover (native species). This may include sprigging, trees, shrubs, vines or ground cover. Also, wetlands should be revegetated, if necessary.
7. Only clean earthen material free of all potential sources of pollution must be used as fill and all filled areas must be stabilized with a vegetative cover after construction to minimize erosion.
8. All necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.
9. All excess excavated materials must be placed on high land and properly contained and permanently stabilized to prevent erosion.
10. Excavated material must not be stockpiled in the adjacent wetlands, but placed on barges or on high ground, when possible. If the excavated material is temporarily placed in wetlands, it must be placed at intervals to allow for adequate circulation of water in the adjacent waters, including wetlands.
11. The applicant must comply with any approved County Erosion and Sediment Control and/or Stormwater Ordinances.
12. Any equipment used within the wetland must be equipped with high floatation tires to minimize rutting and compaction, or should be operated from floating barges.

13. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.

14. All nationwide permit applications must be accompanied by a Corps of Engineers wetland delineation or approximation identifying **all** wetlands (jurisdictional and nonjurisdictional), depressional areas or other special aquatic sites within the project area.

15. For projects requiring fill in wetlands, the applicant must demonstrate that impacts to wetlands have been avoided, unavoidable impacts to wetland areas have been minimized, and finally provide suitable compensation for any unavoidable wetland impacts. This sequencing should be presented in all permit applications. Additional sequencing regarding appropriate compensation (onsite, within watershed, outside watershed, etc.) must also be demonstrated. Where compensatory mitigation is required, on-site mitigation, in accordance with the provisions of the S. C. Coastal Zone Management Program in the Coastal Zone, must be pursued if at all possible. Compensatory mitigation must be determined using the USACOE Standard Operating Procedure (SOP), and is required for all impacts (permanent and/or temporary) to waters of the U.S. greater than 0.1-acre and stream impacts greater than 50 linear feet unless waived by SCDHEC. Mitigation plans must be included in the application submitted to the Corps of Engineers by the applicant and in the **Nationwide Permit Certification Request** letter forwarded to SCDHEC by the Corps. Proof of purchase of mitigation credits or execution of the deed restriction, restrictive covenant, or conservation easement document, if part of the submitted mitigation plan, must be submitted to both the Corps of Engineers and SCDHEC within 60 days of issuance of the nationwide permit by the Corps of Engineers. Although the permit may be issued pending resolution of a mitigation plan, the work authorized by that permit may not commence until the mitigation plan is approved and finalized.

16. The Permittee must notify the South Carolina Institute of Archaeology and Anthropology in accordance with South Carolina Underwater Antiquities Act of 1991 (Article 5, Chapter 7, Title 54 Code of Laws of South Carolina, 1976) in the event archaeological or paleontological remains are found during the course of work. Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or nonrecent (i.e., older than 100 years) vessel ruins. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

17. Permittee must notify the South Carolina Department of Archives and History (Historic Preservation Division, Post Office Box 11669, Columbia, South Carolina 29211) if any archaeological materials are unearthed prior to or during construction. Archaeological materials consists of any items, fifty years or older, which were made or used by man. These items include, but are not limited to stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeleton remains. These materials may be present on the ground surface and/or under the surface of the ground.

18. Use of multiple NWP's on one tract or land parcel must be in accordance with 33 CFR Appendix C - General Condition #15. In those instances where a PCN is required to be submitted to the Corps (use of NWP 12 - 40 in combination with another NWP 12 - 40), a **Nationwide Permit Certification Request** letter must be submitted to DHEC for concurrence.

19. Activities in the Critical Areas (as defined in 48-39-10, R 30.1(D) and R 30.10) require a direct permit from SCDHEC-OCRM. OCRM's action on direct critical area permits will serve as its consistency determination for the critical area activity.