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May 11, 2007

Lieutenant Colonel Edward R. Fleming, Commander
U.S. Army Corps of Engineers
69A Hagood 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 Fleming:

The South Carolina Department of Health and Environmental Control's (Department) Bureau of Water and the 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 April 25, 2007, 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 April 25, 2007 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.

Certification and Finding of Consistency

401 Water Quality Certification issued without conditions

3. Maintenance
4. Fish & Wildlife Harvesting, Enhan, Attract Devices, & Activities
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 Activities
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Activities
33. Temporary Construction, Access, and Dewatering
36. Boat Ramps
38. Cleanup of Hazardous and Toxic Wastes
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
45. Repair of Uplands Damaged by Discrete Events
47. Pipeline Safety Progr Designated Time Sensitive Insp & Repairs
48. Existing Commercial Shellfish Aquaculture Activities

Coastal Zone Consistency Certification issued without conditions

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish & Wildlife Harvesting, Enhan, Attract Devices, & Activities
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
27. Aquatic Habitat Restoration, Estabmt & Enhancement Activities
28. Modifications of Existing Marinas
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Activities
33. Temporary Construction, Access, and Dewatering

401 Water Quality Certification issued without conditions

Coastal Zone Consistency Certification issued without conditions

- 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
- 47. Pipeline Safety Progr Designated Time Sensitive Insp & Repairs
- 48. Existing Commercial Shellfish Aquaculture Activities

401 Water Quality Certification issued with conditions

Coastal Zone Consistency Certification issued with conditions

- 23. Approved Categorical Exclusions
- 30. Moist Soil Management for Wildlife
- 37. Emergency Watershed Protection and Rehabilitation
- 42. Recreational Facilities
- 44. Mining Activities

- 30. Moist Soil Management for Wildlife
- 44. Mining Activities

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

Coastal Zone Consistency Certification denied

- 16. Return Water From Upland Cont. Disposal Areas
- 17. Hydropower Projects
- 21. Surface Coal Mining Activities
- 34. Cranberry Production
- 46. Discharges in Ditches
- 49. Coal Remining Activities
- 50. Underground coal Mining Activities

- 16. Return Water From Upland Cont. Disposal Areas
- 17. Hydropower Projects
- 21. Surface Coal Mining Activities
- 23. Approved Categorical Exclusions
- 24. Indian Tribe or State Administered Section 404 Programs
- 34. Cranberry Production
- 35. Maintenance Dredging of Existing Basins
- 42. Recreational Facilities
- 46. Discharges in Ditches
- 49. Coal Remining Activities
- 50. Underground coal Mining Activities

This is the Department's final action on the forty-four (44) above referenced Nationwide Permits. A Request for a Final Review Conference was received on May 10, 2007, regarding five of the Nationwide Permits, specifically Nationwide Permit 12, 14, 29, 39, and 43. However, the position taken in the April 25, 2007 Notice of Department Decision is the agency's last written position on these five NWP subject to modification pending the outcome of the administrative review process.

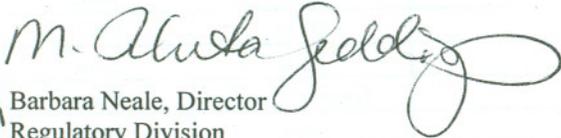
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May 11, 2007

If you have any questions, please contact Heather Preston at (803) 898-3105 or prestohs@dhec.sc.gov or Barbara Neale at (843) 953-0245 or nealeb@dhec.sc.gov.

Sincerely,



M. Rheta Geddings, Assistant Chief
Bureau of Water
Environmental Quality Control



 Barbara Neale, Director
Regulatory Division
Office of Ocean and Coastal Resource Management

Nationwide Permit Number & Topic	401 Cert Action	CZC Cert Action
1 Aids to Navigation	N/A	Issue
2. Structures in Artificial Canals	N/A	Issue
3. Maintenance	Issue	Issue
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	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	Deny
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 w/ Cond	Issue w/ Cond
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	Issue
37. Emergency Watershed Protection and Rehabilitation	Issue w/ Cond	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	Deny
* 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	Deny	Deny
47. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs	Issue	Issue
48 Existing Commercial Shellfish Aquaculture Activities	Issue	Issue
49. Coal Remining Activities	Deny	Deny
50. Underground Coal Mining Activities	Deny	Deny

* indicates NWP's under administrative review