

**State of South Carolina**  
**Department of Health and Environmental Control**  
**2600 Bull Street**  
**Columbia, S. C. 29201**

Public Notice No. DHEC-NWP-2002

Public Notice Date: February 28, 2002

NOTICE OF PROPOSED DECISION  
401 Water Quality Certification  
Coastal Zone Management Program Certification

The Department, proposes to take action for Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act, and for certification of consistency with the S.C. Coastal Zone Management Program in accordance with 15 CFR 930, for reissuance, some with modification of 44 existing U.S. Army Corps of Engineers' Nationwide Permits (NWP).

After reviewing the U.S. Army Corps of Engineers' proposal to amend the Nationwide Permit program regulations to reissue and modify the Nationwide Permits, Department Staff determined that provided the proposed actions listed in the following table are implemented and proposed conditions are adhered to, there is a reasonable assurance that work authorized by the herein will be conducted in a manner consistent with the certification requirements of Section 401 of the Federal Clean Water Act and the Coastal Zone Management Program in accordance with 15 CFR 930. The Office of Ocean and Coastal Resource Management must issue its own permit for any activity covered by the nationwide permits in the critical areas of South Carolina's Coastal Zone. Individuals applying for Nationwide Permits should be so advised. This does not preclude compliance with 15 CFR 930 for direct federal activities.

Accordingly, the Department proposes to act on the Nationwide permits as listed in the attached table. In reference to proposed Coastal Zone Management Program consistency certifications, "Issue with Conditions" means that the Nationwide Permit can be made consistent with the Coastal Zone Management Program if the proposed regional conditions are adopted by the U.S. Army Corps of Engineers.

The Corps issued the final notice in the Federal Register on January 15, 2002. The evaluation of the proposed work was conducted by the Bureau of Water and the Office of Ocean and Coastal Resource Management and a copy of the staff assessment supporting the proposed decision is enclosed.

The final 401 Water Quality Certification and Coastal Zone Management Program Consistency actions will be taken if a request for an adjudicatory hearing is not granted by the Department. Persons wishing to appeal these actions must submit in writing a request for an adjudicatory hearing which contains the following: an identification of the requestor, a statement of the grounds for request and the relief sought, and an indication of whether or not the requestor proposes to proffer witnesses, evidence, or exhibits.

Requests for an adjudicatory hearing must be served on the Board of Health and Environmental Control within fifteen (15) days following the date of this notice. The Department will grant or deny a request for an adjudicatory hearing after considering whether the person making the request has standing to seek a determination under the definition of "Contested Case" and other pertinent definitions as contained in Code of Laws of South Carolina 1976, Chapter 61, Rule 61-72 entitled "Procedures for Contested Cases."

The adjudicatory hearing request must be submitted to The Board of the Department of Health and Environmental Control, Attn: Clerk of the Board, Office of the Commissioner, 2600 Bull Street, Columbia, S.C. 29201. A request must be received by 5:00 pm on March 15, 2002. A copy of such request must also be submitted to the Division of Water Quality and the Office of Ocean and Coastal Resource Management.

Additional information on the adjudicatory hearing may be obtained by contacting the Legal Office, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201, or by calling 803/898-3350.

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M. Rheta Geddings, Director

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Robert D. Mikell



| 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 w/ Cond   | Issue w/ Cond   |
| 4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and | Issue           | Issue           |
| 5. Scientific Measurement Devices  | Issue           | Issue           |
| 6. Survey Activities   | Issue           | Issue           |
| 7. Outfall Structures and Maintenance                                    | Issue w/ Cond   | Issue w/ Cond   |
| 8. Oil and Gas Structures  | 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 w/ Cond   | Issue w/ Cond   |
| 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 w/ Cond   | Issue w/ Cond   |
| 19. Minor Dredging   | Issue w/ Cond   | Issue w/ Cond   |
| 20. Oil Spill Cleanup  | Issue w/ Cond   | Issue           |
| 21. Surface Coal Mining Activities                                       | Deny            | Deny            |
| 22. Removal of Vessels   | Issue w/ Cond   | Issue w/ Cond   |
| 23. Approved Categorical Exclusions                                      | Issue w/ Cond   | Deny            |
| 24. State Administered Section 404 Programs                              | N/A             | Deny            |
| 25. Structural Discharges  | Issue           | Issue           |
| 26. [Reserved]   | N/A             | N/A             |
| 27. Stream and Wetland Restoration Activities                            | Issue w/ Cond   | Issue w/ Cond   |
| 28. Modifications of Existing Marinas                                    | N/A             | Deny            |
| 29. Single-family Housing  | 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 w/ Cond   | Issue w/ Cond   |
| 32. Completed Enforcement Actions  | Issue w/ Cond   | Issue w/ Cond   |
| 33. Temporary Construction, Access and Dewatering                        | Issue w/ Cond   | Issue w/ Cond   |
| 34. Cranberry Production Activities                                      | Deny            | Deny            |
| 35. Maintenance Dredging of Existing Basins                              | N/A             | Deny            |
| 36. Boat Ramps   | Issue w/ Cond   | Issue w/ Cond   |
| 37. Emergency Watershed Protection and Rehabilitation                    | Issue w/ Cond   | Issue w/ Cond   |
| 38. Cleanup of Hazardous and Toxic Waste                                 | Issue w/ Cond   | Issue w/ Cond   |
| 39. Residential, Commercial, and Institutional Developments              | Issue w/ Cond   | Issue w/ Cond   |
| 40. Agricultural Activities  | Issue w/ Cond   | Issue w/ Cond   |
| 41. Reshaping Existing Drainage Ditches                                  | Issue w/ Cond   | Issue w/ Cond   |
| 42. Recreational Facilities  | Issue w/ Cond   | Deny CondDeny   |
| 43. Stormwater Management Facilities                                     | Issue w/ Cond   | Deny            |
| 44. Mining Activities  | Issue w/ Cond   | Issue w/ Cond   |