



Alabama Department of Environmental Management
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March 6, 2017

Colonel Jim DeLapp
Commander, Mobile District
U. S. Army Corps of Engineers
P.O. Box 2288
Mobile, AL 36628-0001

RE: U. S. Army Corps of Engineers 2017 Nationwide Permits (NWP) Program
Mobile District Notice: SAM-2016-00407-MBM
ADEM Tracking Code: 2016-301-FC-FAA-COE

Dear Colonel DeLapp:

The Alabama Coastal Area Management Program (ACAMP) was developed by the state of Alabama in accordance with the passage and codification of the 1976 Alabama Coastal Area Act (Act No. 534) in order to manage certain land and water activities within the Alabama Coastal Area (Coastal Area). The ACAMP derives authority from Act No. 534 and the 1982 Alabama Environmental Management Act (Act No. 82-612) for the purpose of promoting, improving, and safeguarding the lands and waters located in the Coastal Area of the state through a comprehensive and cooperative program designed to preserve, enhance, and develop such valuable resources for the present and future well-being and general welfare of the citizens of the state. Act No. 534 adheres to the federal rules and regulations established by the Coastal Zone Management Act of 1972, as amended and as such, the ACAMP is a federally-approved coastal program and receives financial benefits in the form of federal grants for its implementation, (*USC 16 §§1451-1466*). The Coastal Area is defined as the area that lies between the continuous 10-foot contour in Mobile and Baldwin counties seaward to the outer limits of the United States territorial sea (*Code of Alabama 1975 §9-7-10(1)*). The 10-foot contour refers to a continuous line on a map joining points of equal elevation above mean sea level.

The ACAMP is implemented by two state agencies: the Alabama Department of Conservation & Natural Resources (ADCNR) and the Alabama Department of Environmental Management (ADEM). ADCNR is responsible for administration, planning, and public engagement functions, while ADEM is responsible for permitting, monitoring, and regulatory functions. Under its regulatory authority, the ADEM reviewed - for consistency with the ACAMP - each of the above referenced new, modified, and reissued NWPs which were advertised in the 06 January 2017 publication of the Federal Register. As a part of its review, the ADEM considered all materials submitted and associated with 2017 NWP program proposal, including comments submitted by the public.

The NWPs listed below have been determined by the ADEM, based on their scope or nature, not to have a significant impact on coastal resources when implemented in accordance with the specific conditions described herein and are therefore categorically certified to be **consistent with the ACAMP** - pursuant to ADEM Administrative Code 335-8-1-.03(4).

1. Aids to Navigation

No additional coastal consistency conditions.

2. Structures in Artificial Canals

The permittee shall obtain all appropriate authorizations required by the Alabama Department of Conservation and Natural Resources – State Lands Division (ADCNR-SLD) prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.



3. Maintenance

- A. Activities authorized under Nationwide Permit 3 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities

The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

5. Scientific Measurement Devices

- A. Activities authorized under Nationwide Permit 5 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

6. Survey Activities

No additional coastal consistency conditions.

7. Outfall Structures and Associated Intake Structures

- A. Activities authorized under Nationwide Permit 7 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. There shall be no placement of new riprap in previously unarmored areas.
- C. There shall be no construction of new outfall and/or intake structures on properties fronting the Gulf of Mexico, Pelican Bay, Weeks Bay, Dauphin Island Audubon Sanctuary, or the Point aux Pines wetland system owned by the Board of Trustees of the University of Alabama.
- D. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

8. Oil and Gas Structures on the Outer Continental Shelf

No additional coastal consistency conditions.

9. Structures in Fleeting and Anchorage Areas

The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

11. Temporary Recreational Structures

The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

12. Utility Line Activities

- A. The permittee shall submit a copy of the Pre-Construction Notification (PCN) required by the Corps to the ADEM Mobile-Coastal office.
- B. Activities authorized under Nationwide Permit 12 shall not be located in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.
- C. The permittee must demonstrate avoidance and minimization of wetland impacts to the maximum extent practicable. Wetland impacts may be considered only after utilization of all available uplands.
- D. The permittee shall undertake restoration of any wetland areas or State waterbottoms temporarily impacted as a result of activities authorized under Nationwide Permit 12. Disturbed areas must be returned to project elevations and wetland areas must be revegetated.

- E. The permittee shall provide compensatory mitigation for any authorized permanent wetland impacts and shall submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
- F. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

14. Linear Transportation Crossings

- A. The permittee shall submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. There shall be no placement of permanent fill in wetlands as part of new construction or expansions of multiple unit residential, commercial, or institutional developments.
- C. The permittee must demonstrate avoidance and minimization of wetland impacts to the maximum extent practicable. Wetland impacts may be considered only after utilization of all available uplands.
- D. The permittee shall provide compensatory mitigation for any authorized permanent wetland impacts and shall submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
- E. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

15. U.S. Coast Guard Approved Bridges

The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

16. Return Water from Upland Contained Disposal Areas

- A. The permittee shall ensure the salinity of return waters from dredge disposal sites is similar to the salinity of the receiving waters.
- B. The discharge from the upland contained disposal area(s) shall not cause a violation of State water quality standards or applicable conditions of the State Clean Water Act Section 401 Water Quality Certification.

17. Hydropower Projects

No additional coastal consistency conditions.

18. Minor Discharges

- A. The permittee shall submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office. The PCN must include a copy of the legal plat.
- B. There shall be no dredging or filling of wetlands, except on legally platted lots or parcels in existence on or before 14 August 1979.
- C. Activities authorized under Nationwide Permit 18 shall not be located in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.
- D. The permittee must demonstrate avoidance and minimization of wetland impacts to the maximum extent practicable. Wetland impacts may be considered only after utilization of all available uplands.
- E. The permittee shall provide compensatory mitigation for any authorized permanent wetland impacts and shall submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
- F. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

19. Minor Dredging

- A. Activities authorized under Nationwide Permit 19 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. Dredging is prohibited in the Gulf of Mexico or Pelican Bay in an area from the ADEM Construction Control Line to a point 1,500 feet seaward of Mean High Tide.

- C. Dredging is prohibited in the Gulf of Mexico in an area from the City of Gulf Shores Construction Control Line to a point 1,500 feet seaward of Mean High Tide.
 - D. Dredged material shall be placed in an upland disposal area and properly contained to prevent re-entering the waterway or wetlands unless specifically authorized by other approved permits or exemptions.
 - E. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.
- 20. Response Operations for Oil and Hazardous Substances**
The permittee shall undertake restoration of any wetland areas or State waterbottoms temporarily impacted as a result of activities authorized under Nationwide Permit 20. Disturbed areas must be returned to preproject elevations and wetland areas must be revegetated.
- 22. Removal of Vessels**
- A. The permittee shall undertake restoration of any wetland areas or State waterbottoms temporarily impacted as a result of activities authorized under Nationwide Permit 22. Disturbed areas must be returned to preproject elevations and wetland areas must be revegetated.
 - B. Vessel removal related to a catastrophic natural disaster (e.g. hurricane, discrete flooding event, etc.) is not authorized during the time an applicable Temporary State/Regional General Permit for Emergency Vessel Removal related to the natural disaster recovery is in effect.
- 23. Approved Categorical Exclusions**
No additional coastal consistency conditions.
- 25. Structural Discharges**
- A. Activities authorized under Nationwide Permit 25 shall not be located in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.
 - B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.
- 27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities**
- A. The permittee shall submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
 - B. There shall be no construction of open water areas in existing wetlands unless the impacted wetland acreage is replaced elsewhere within the restoration, establishment, and/or enhancement project area.
 - C. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.
- 28. Modifications of Existing Marinas**
- A. The permittee shall submit notification to the ADEM Mobile-Coastal office prior to reconfiguration of existing docking facilities at marinas having 10 or more wet slips.
 - B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.
- 31. Maintenance of Existing Flood Control Facilities**
No additional coastal consistency conditions.
- 32. Completed Enforcement Actions**
No additional coastal consistency conditions.
- 33. Temporary Construction, Access and Dewatering**
No additional coastal consistency conditions.
- 35. Maintenance Dredging of Existing Basins**

- A. Dredged material shall be placed in an upland disposal area and properly contained to prevent re-entering the waterway or wetlands unless specifically authorized by other approved permits or exemptions.
- B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

36. Boat Ramps

- A. Activities authorized under Nationwide Permit 36 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. There shall be no construction of boat ramps on properties fronting the Gulf of Mexico, Pelican Bay, Weeks Bay, Dauphin Island Audubon Sanctuary, or the Point aux Pines wetland system owned by the Board of Trustees of the University of Alabama.
- C. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

37. Emergency Watershed Protection and Rehabilitation

No additional coastal consistency conditions.

38. Cleanup of Hazardous and Toxic Waste

No additional coastal consistency conditions.

45. Repair of Uplands Damaged by Discrete Events

- A. Activities authorized under Nationwide Permit 45 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

46. Discharges in Ditches and Canals

No additional coastal consistency conditions.

48. Commercial Shellfish Aquaculture Activities

- A. The permittee shall submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office, ADCNR Marine Resources Division, and the ADCNR-SLD.
- B. Activities structures authorized under Nationwide Permit 48 shall not be located in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources. The permittee may be required to submit a submersed grassbed survey to the ADEM Mobile-Coastal office prior to commencement of work.
- C. There shall be no placement or addition of fill onto State-Owned Submerged Lands.
- D. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

53. Removal of Low-Head Dams

- A. The permittee shall submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. The permittee shall undertake the restoration of any wetland areas or State waterbottoms temporarily impacted as a result of activities authorized under Nationwide Permit 53. Disturbed areas must be restored to preproject elevations and wetland areas must be revegetated.
- C. The permittee shall obtain all appropriate authorizations required by the ADCNR-SLD prior to commencement of activities that would impact or be located over State-Owned Submerged Lands.

Recognizing that projects are site specific in nature and scope and that conditions may change during project implementation, the ADEM reserves the right to require a permittee to submit additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure that

activities authorized under one or more NWP's are being conducted in a manner that protects water quality and coastal resources.

This categorical certification addresses activities which are regulated under the enforceable policies of the ACAMP as codified in ADEM Admin. Code R. 335-8 and does not, in any way, imply that those activities would therefore comply with the requirements of any other jurisdictional entity. This categorical certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purport to vest in any applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in an applicant's possession.

The following NWP's have been found to be inconsistent with the ACAMP and are not authorized for use within the coastal area of Alabama without individual review of the applicant's certification of coastal consistency.

- 10. **Mooring Bouys**
- 13. **Bank Stabilization**
- 21. **Surface Coal Mining Activities**
- 24. **Indian Tribe or State Administered Section 404 Programs**
- 26. **Reserved**
- 29. **Residential Developments**
- 30. **Moist Soil Management for Wildlife**
- 34. **Cranberry Production Activities**
- 39. **Commercial and Institutional Developments**
- 40. **Agricultural Activities**
- 41. **Reshaping Existing Drainage Ditches**
- 42. **Recreational Facilities**
- 43. **Stormwater Management Facilities**
- 44. **Mining Activities**
- 47. **Reserved**
- 49. **Coal Remining Activities**
- 50. **Underground Coal Mining Activities**
- 51. **Land-Based Renewable Energy Generation Facilities**
- 52. **Water-Based Renewable Energy Generation Pilot Projects**
- 54. **Living Shorelines**

Call, write, or email the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter. The ADEM contact for this and other coastal zone management issues is J. Scott Brown. He may be reached by telephone at 251. 304.1176 or via e-mail (jsb@adem.alabama.gov).

Sincerely,



A. Scott Hughes, Chief
Field Operations Division

ASH/jsb

cc: Joy Earp, USACE (Sent Via Email Only: Joy.B.Earp@usace.army.mil)
Phillip Hinesley, ADCNR (Sent Via Email Only: Phillip.Hinesley@dcnr.alabama.gov)