



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM-RD-A
Special Public Notice No. SAM-2014-0120-DEM

SPECIAL PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS

STATE CERTIFICATION OF NATIONWIDE PERMIT #48 FOR
COMMERCIAL SHELLFISH AQUACULTURE ACTIVITIES

TO WHOM IT MAY CONCERN:

By letter dated January 28, 2014, the Alabama Department of Environmental Management (ADEM) provided general concurrence for activities described in Nationwide Permit (NWP) #48 conditional upon continued compliance with the Alabama Coastal Area Management Plan (ACAMP) and adherence to the state conditions listed below:

- a. A copy of the PCN required by the USACE shall be submitted concurrently to the ADEM coastal program office, ADCNR-MRD, and the ADCNR-SLD coastal program office;
- b. NWP#48 shall not be issued for any activities located in or in close proximity to submersed grassbeds;
- c. NWP#48 shall not be issued for off-bottom shellfish aquaculture activities for projects which include the placement or addition of fill on state-owned submerged lands;
- d. NWP#48 shall not be issued for off-bottom shellfish aquaculture activities in areas where coastal wetlands and/or natural existing oyster reefs are located and;
- e. Prior to commencement of aquaculture activities, the applicant must provide defensible evidence to the ADEM that the area of proposed activity is not located in close proximity to submersed grassbeds. The ADEM, USACE, and/or ADCNR-SLD, together or separate, at their discretion, may require submission of a submerged grassbed survey.

Any proposed project must meet the above state conditions, the NWP general conditions and also the specific terms and conditions of NWP 48, listed below:

NWP 48 - Commercial Shellfish Aquaculture Activities. Discharges of dredged or fill material in waters of the United States or structures or work in navigable waters of the United States necessary for commercial shellfish aquaculture operations in authorized project areas. For the purposes of this NWP, the project area is the area in which the operator is currently authorized to conduct commercial shellfish aquaculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any other easement, lease, deed, or contract which establishes an enforceable property interest for the operator.

This NWP authorizes the installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the United States. This NWP also authorizes discharges of dredged or fill material into waters of the United States necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities. Rafts and other floating structures must be securely anchored and clearly marked.

This NWP does not authorize:

- (a) The cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody;
- (b) The cultivation of an aquatic nuisance species as defined in the *Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990*; or,
- (c) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the United States as waste.

This NWP also authorizes commercial shellfish aquaculture activities in new project areas, provided the project proponent has obtained a valid authorization, such as a lease or permit issued by an appropriate state or local government agency, and those activities do not directly affect more than 1/2-acre of submerged aquatic vegetation beds.

Notification: The permittee must submit a pre-construction notification to the district engineer if:

- (1) dredge harvesting, tilling, or harrowing is conducted in areas inhabited by submerged aquatic vegetation;
- (2) the activity will include a species not previously cultivated in the waterbody;
- (3) the activity involves a change from bottom culture to floating or suspended culture; or
- (4) the activity occurs in a new project area.

For specifics of the pre-construction notification see general condition 31 of the Nationwide Permit Program at website <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>

In addition to the information required by paragraph (b) of general condition 31, the preconstruction notification must also include the following information:

- (1) a map showing the boundaries of the project area, with latitude and longitude coordinates for each corner of the project area;
- (2) the name(s) of the cultivated species;
- (3) whether canopy predator nets are being used; and
- (4) proof that the operator/applicant is currently authorized to conduct commercial shellfish aquaculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any other easement, lease, deed, or contract which establishes an enforceable property interest for the operator.

Note 1: The permittee should notify the applicable U.S. Coast Guard office regarding the project.

Note 2: To prevent introduction of aquatic nuisance species, no material that has been taken from a different waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable regional aquatic nuisance species management plan.

Note 3: The *Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990* defines "aquatic nuisance species" as "a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters."

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Nationwide Permit Program: NWP's are activity specific, and are designed to relieve some of the administrative burdens associated with permit processing for both the applicant and the federal government. Some activities authorized by NWP's, such as NWP 48-Commercial Shellfish Aquaculture Activities, require pre-construction notification to the District Engineer before commencing with the work. This notification requirement to the District Engineer is necessary to ensure that activities authorized by these NWP's have minimal individual and cumulative adverse impacts on the aquatic environment. Please refer to the NWP general conditions that can be viewed at the above referenced website.

Federal/State agency requirements. For information on additional requirements, please contact the following:

Alabama Department of Conservation
and Natural Resources
Marine Resources Division
Attention: Mr. Jason Hermann
Post Office Box 189
Dauphin Island, Alabama 36528
251-861-2882
Jason.hermann@dcnr.alabama.gov

Alabama Department of Conservation
and Natural Resources
State Lands Division
Attention: Mr. Will Brantley
64 North Union Street
Montgomery, Alabama 36104
334-242-3484
will.brantley@dcnr.alabama.gov

Alabama Public Health Department
Attention: Mr. Greg Dunn
3512 Godwin Ct, Suite C
Mobile, Alabama 36693
251-662-7511
Thomas.dunn@adph.state.al.us

U.S. Coast Guard
Private Aids Section
500 Poydras Street, Suite 1230
New Orleans, Louisiana 70130
504-671-2330
D8OANpaton@uscg.mil

If you have any questions concerning this publication, you may contact the project manager, **Mr. Donald E. Mroczko**, via e-mail at donald.e.mroczko@usace.army.mil or telephone number **(251) 690-3185**.

MOBILE DISTRICT
U.S. Army Corps of Engineers