

Alabama Department of Environmental Management
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December 15, 2020

Colonel Sebastien P. Joly
District Commander
U. S. Army Corps of Engineers, Mobile District
109 St. Joseph Street
Mobile, Alabama 36619

RE: U. S. Army Corps of Engineers Nationwide Permits (NWP) Program
State of Alabama Coastal Consistency Concurrence
2020 NWP Reissuance
ACAMP-2016-301.1 | COE-2020-0002

Dear Colonel Joly:

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 must 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 must not be located within or 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 must 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 must 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 must not be located within or 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 must 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 must not be located within or in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
- B. There must be no placement of new riprap in previously unarmored areas.
- C. There must 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 must 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 must 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 must 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 must 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 must not be located within or 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 must 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 preproject elevations and wetland areas must be revegetated.
- E. The permittee must provide compensatory mitigation for any authorized permanent wetland impacts and must submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
- F. The permittee must 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 must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. Nationwide Permit 14 may not be used to authorize wetland dredge or fill activities on residential or commercial lots, except on legally platted lots or parcels in existence on or before 14 August 1979. This condition does not apply to uses of regional benefit such as roads, highways, railways, trails, airport runways, and taxiways.
- 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 must provide compensatory mitigation for any authorized permanent wetland impacts and must submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
- E. The permittee must 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 must 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 must 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) must 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 must 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 must be no dredging or filling of wetlands, except on legally platted lots or parcels in existence on or before 14 August 1979.
 - C. Nationwide Permit 18 must not be used to authorize fill to accommodate construction of swimming pools, boat ramps, tennis courts, lawns, play areas or other ancillary projects or activities not directly related to the construction of residential dwellings and/or associated access drives and parking.
 - D. Activities authorized under Nationwide Permit 18 must not be located in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.
 - E. 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.
 - F. The permittee must provide compensatory mitigation for any authorized permanent wetland impacts and must submit supporting documentation (e.g. certificate of credit purchase) to the ADEM Mobile-Coastal office for verification.
 - G. The permittee must 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 must 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 must 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 must 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 must 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 must 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 must 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 must 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 must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. There must 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 must 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 must 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 must 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 must 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 must 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 must not be located within or in close proximity to existing wetlands, submersed grassbeds, or natural oyster reefs and shall not result in adverse impacts to those resources.
 - B. Nationwide Permit 36 must not allow 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 must 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 must not be located within or 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 must 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. Activities and structures authorized under Nationwide Permit 48 must not be located within or 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.
 - B. There must be no placement or addition of fill onto State-Owned Submerged Lands.
 - C. The permittee must 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 must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
 - B. The permittee must 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 must 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.
- 54. Living Shorelines**
- A. The permittee must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
 - B. Activities and structures authorized under Nationwide Permit 54 must not be located within or in close proximity to existing 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.

NWP C Electric Utility Line and Telecommunications Activities

- A. The permittee must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. Activities and structures authorized under NWP C must not be located within or in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.

NWP D Utility Line Activities for Water or Other Substances

- A. The permittee must submit a copy of the PCN required by the Corps to the ADEM Mobile-Coastal office.
- B. Activities and structures authorized under NWP D must not be located within or in close proximity to existing submersed grassbeds or natural oyster reefs and shall not result in adverse impacts to those resources.

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 NWPs are being conducted in a manner that protects water quality and coastal resources.

These coastal consistency concurrences only addresses activities which are also regulated under the enforceable policies of the ACAMP as codified in ADEM Admin. Code R. 335-8. These concurrences do not convey any property rights in either real or personal property, or any exclusive privileges, nor do they 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 purports to vest in any person title to lands now owned by the State of Alabama nor may it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in anyone's possession. These concurrences do not obviate the responsibility of any applicant to acquire all other needed permits nor do these concurrences, in any way, imply that proposed activities comply with the requirements of any other jurisdictional entity nor do they imply that the projects can or should be approved by any other jurisdictional entity.

The following NWPs 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

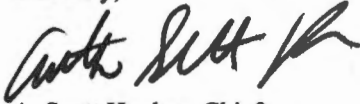
NWP A – Seaweed Mariculture Activities

NWP B – Finfish Mariculture Activities

NWP E – Water Reclamation and Reuse Facilities

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

cc: DCNR.Coastal@dcnr.alabama.gov