

NATIONWIDE PERMIT CONDITIONS

GENERAL CONDITIONS:

The following general conditions must be followed in order for any authorization by a NWP to be valid:

- 1. Navigation.** No activity may cause more than a minimal adverse effect on navigation.
- 2. Proper maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
- 3. Erosion and siltation controls.** Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
- 4. Aquatic life movements.** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
- 5. Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 6. Regional and case-by-case conditions.** The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e) and with any case specific conditions added by the Corps or by the State or tribe in its section 401 water quality certification.
- 7. Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)
- 8. Tribal rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 9. Water quality certification.** In certain states, an individual Section 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).

10. Coastal zone management. In certain states, an individual State coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d))

11. Endangered Species.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

(b) Authorization of an activity by a nationwide permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at <http://www.fws.gov/~r9endspp/endspp.html> and http://kingfish.spp.mnfs.gov/tmcintyr/prot_res.html#ES and Recovery, respectively.

12. Historic properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. Notification.

(a) **Timing:** Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity: (1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division