



General State Certification No.: SC NWP State Cert 2021
Effective Date: May 13, 2021
Expiration Date: May 13, 2026

**STATE OF SOUTH CAROLINA
 GENERAL STATE CERTIFICATION**

A General State Certification to authorize activities in accordance with S.C. Code Ann. §§ 48-1-10 et seq. and S.C. Code Ann. Regulation 61-101, and S.C. Code Ann. § 48-39-10 et seq. and the S.C. Coastal Zone Management Program document is hereby issued by the South Carolina Department of Health and Environmental Control (DHEC or the Department) for the Nationwide Permits (NWPs) listed below and in accordance with the General and Special conditions listed in Sections II and III below:

Nationwide Permit Finalized by the US Army Corps of Engineers	Applicable State Certification
12. Oil or Natural Gas Pipeline Activities	401 Water Quality and Coastal Zone Consistency Certification
29. Residential Developments	401 Water Quality and Coastal Zone Consistency Certification
39. Commercial and Institutional Developments	401 Water Quality and Coastal Zone Consistency Certification
42. Recreational Facilities	Coastal Zone Consistency Certification only
44. Mining Activities	401 Water Quality Certification only
51. Land-Based Renewable Energy Generation Facilities	Coastal Zone Consistency Certification only
57. Electric Utility Line and Telecommunications Activities	401 Water Quality and Coastal Zone Consistency Certification
58. Utility Line Activities for Water and Other Substances	401 Water Quality and Coastal Zone Consistency Certification

I. Background:

On September 15, 2020, the U.S. Army Corps of Engineers (Corps) issued a proposed rule in the *Federal Register* (85 FR 57298) that announced the reissuance of all the existing NWPs and the proposal to issue five new NWPs. In response to the September 15th proposed rule, the Department initiated actions to certify the proposed NWPs and on December 14, 2020, the Department issued a final certification in accordance with Section 401 of the Federal Clean Water Act (CWA), as amended, and a certification of consistency with the Coastal Zone Management Act (48-39-10 *et seq.*).

On January 13, 2021, the Corps published a final rule in the *Federal Register* (86 FR 2744). In this

notice, the Corps announced that it was reissuing only 12 of the existing NWP's and four new NWP's.

On March 8, 2021, the Corps' Charleston District issued their Final Regional Conditions for the 16 NWP's. In that notice, the Charleston District denied the Section 401 Water Quality Certification (401 Certification) for NWP 12, 29, 39, 44, 57 and 58 as well as the Coastal Zone Consistency (CZC) for NWP's 12, 29, 39, 42, 44, 51, 57 and 58.

The purpose of this General State Certification is to authorize, in accordance with the conditions below, the 401 and CZC Certifications that were denied by the Corps' Final Regional Conditions.

II. General Conditions

- a. All applicants requesting coverage under this General State Certification must provide documentation that a Pre-Filing Meeting Request was submitted to DHEC at least 30 days prior to submitting a certification request. (See <https://scdhec.gov/new-401-certification-pre-filing-certification-requests-instructions> for details.)
- b. All applicants requesting coverage under this General State Certification must provide a copy of the provisional notification from the Corps as well as a copy of the Pre-Construction Notification.
- c. Activities in the Critical Areas (as defined in 48-39-10, R 30.1(D) and R 30.10) require a direct permit from SCDHEC OCRM. SCDHEC OCRM's action on direct critical area permits will serve as the consistency determination for the critical area activity.
- d. Impacts for discharges to streams must be provided in linear feet.

III. Special Conditions

In addition to the General Conditions noted above, all activities must comply with the Special Conditions outlined below specific to the NWP for which authorization is requested.

a. Nationwide Permit 12 – Oil or Natural Gas Pipeline

Conditions of the 401 Water Quality Certification:

1. This NWP is not certified for pipelines with more than 10 aquatic site crossings (not including directionally bored crossings).
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
3. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions of the Coastal Zone Consistency Certification:

1. Impacts to aquatic sites associated with the construction of temporary, permanent and maintenance easements must be limited to a total width of 50' (including filling, excavation and clearing) except where required for safety reasons.

b. Nationwide Permit 29 – Residential Developments

Conditions for the 401 Water Quality Certification:

1. The impounding of water and creating of lakes or ponds is not authorized.
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
3. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions for the Coastal Zone Consistency Certification:

1. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.

c. Nationwide Permit 39 – Commercial and Institutional Developments

Conditions for the 401 Water Quality Certification:

1. The impounding of water and creating of lakes or ponds is not authorized by this NWP.
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
3. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions for the Coastal Zone Consistency Certification:

1. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.

d. Nationwide Permit 42 – Recreational Facilities

Regional Conditions of the Coastal Zone Consistency Certification:

1. The use of this NWP must be limited to nature trails/horse trails, bike paths, small bridges or walkways. These activities must be a maximum of 8' wide and involve hand clearing only (Golf courses, ski areas, buildings and campgrounds are not approved).
2. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.

e. Nationwide Permit 44 – Mining Activities

Conditions for the 401 Water Quality Certification:

1. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.

f. Nationwide Permit 51 – Land-Based Renewable Energy Generation Facilities

Conditions of the Coastal Zone Consistency Certification:

1. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.
2. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

g. Nationwide Permit 57 – Electric Utility Line and Telecommunications Activities

Conditions of the 401 Water Quality Certification:

1. This NWP is not certified for utility lines with more than 10 aquatic site crossings (not including directionally bored crossings).
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
3. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions of the Coastal Zone Consistency Certification:

1. Impacts to aquatic sites associated with the construction of temporary, permanent and maintenance easements must be limited to a total width of 50' (including filling, excavation and clearing) except where required for safety reasons.

h. Nationwide Permit 58 – Utility Line Activities for Water and Other Substances

Conditions of the 401 Water Quality Certification:

1. This NWP is not certified for utility lines with more than 10 aquatic site crossings (not including directionally bored crossings).
2. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
3. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions of the Coastal Zone Consistency Certification:

1. Impacts to aquatic sites associated with the construction of temporary, permanent and maintenance easements must be limited to a total width of 50' (including filling, excavation and clearing) except where required for safety reasons.

V. Authority

This General State Certification shall become effective on the date signed by DHEC.

By Authority of the South Carolina Department of Health and Environmental Control

Deborah Press

Signature

5/13/2021

Date

Water Quality Division Director

Title