



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

Braxton C. Davis
Director

Dee Freeman
Secretary

March 13, 2012

Steven A. Baker, Colonel
District Commander
Wilmington District Office
US Army Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403-1343

SUBJECT: CD12-018 Through CD12-067 - Consistency Concurrence for the Proposed Reissuance of Nationwide Permits, the Issuance of New Nationwide Permits, and the Reauthorization of General Conditions, and the Reauthorization of Definitions by the US Army Corps of Engineers, North Carolina (DCM#20110034 through DCM#20110085)

Dear Col. Baker:

The Division of Coastal Management (DCM) received on March 22, 2011 a consistency determination from the US Army Corps of Engineers (Corps) finding that the proposed reauthorization of the existing forty-eight Nationwide Permits, the addition of two new Nationwide Permits, the reauthorization of thirty General Conditions, and reauthorization thirty-five definitions would be consistent with North Carolina's coastal management program. The submission was filed incomplete on March 22, 2011 as it did not meet the requirements of 15 CFR 930.39. Upon the receipt of the final versions of the Nationwide Permits, the consistency submission was filed complete on February 17, 2012.

North Carolina's coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, Chapter 7 of Title 15A of North Carolina's Administrative Code, and the land use plan of the County and/or local municipality in which the proposed project is located. It is the objective of the Division of Coastal Management (DCM) to manage the State's coastal resources to ensure that proposed Federal activities would be compatible with safeguarding and perpetuating the biological, social, economic, and aesthetic values of the State's coastal waters.

The table below is a matrix for correlating the Corps Nationwide Permits with the respective DCM project numbers and consistency concurrences.

Corps Nationwide Permit Matrix			
Nationwide Permit	DCM Project Number	DCM CD Number	Notes
1	20110034	CD12-018	
2	20110035	CD12-019	
3	20110036	CD12-020	
4	20110037	CD12-021	
5	20110038	CD12-022	

Corps Nationwide Permit Matrix			
Nationwide Permit	DCM Project Number	DCM CD Number	Notes
6	20110039	CD12-023	
7	20110040	CD12-024	
7	20110041	CD12-025	
9	20110042	CD12-026	
10	20110043	CD12-027	
11	20110044	CD12-028	
12	20110045	CD12-029	
13	20110046	CD12-030	
14	20110047	CD12-031	
15	20110048	CD12-032	
16	20110049	CD12-033	
17	20110050	CD12-034	
18	20110051	CD12-035	
19	20110052	CD12-036	
20	20110053	CD12-037	
21	20110054	CD12-038	
22	20110055	CD12-039	
23	20110056	CD12-040	
24	20110057	CD12-041	
25	20110058	CD12-042	
26	20110059	None	Reserved
27	20110060	CD12-043	
28	20110061	CD12-044	
29	20110062	CD12-045	
30	20110063	CD12-046	
31	20110064	CD12-047	
32	20110065	CD12-048	
33	20110066	CD12-049	
34	20110067	CD12-050	
35	20110068	CD12-051	
36	20110069	CD12-052	
37	20110070	CD12-053	
38	20110071	CD12-054	
39	20110072	CD12-055	
40	20110073	CD12-056	
41	20110074	CD12-057	
42	20110075	CD12-058	
43	20110076	CD12-059	
44	20110077	CD12-060	
45	20110078	CD12-061	
46	20110079	CD12-062	
47	20110080	None	Reserved
48	20110081	CD12-063	
49	20110082	CD12-064	
50	20110083	CD12-065	
51	20110084	CD12-066	
52	20110085	CD12-067	

DCM has reviewed the submitted information pursuant to the management objectives and enforceable policies of Subchapters 15A NCAC 07H and 15A NCAC 07M of Chapter 7 of Title 15A of North Carolina's Administrative Code which are a part of the State's certified coastal management program and concurs, as conditioned below, that

the proposed Federal activity is consistent, to the maximum extent practicable, with the enforceable policies of North Carolina's coastal management program.

- The Corps is encouraged to revise Wilmington District General Condition 2.3 (Coastal Area Management Act (CAMA) Areas of Environmental Concern) as identified below.

Non-federal applicants for any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA) must also obtain the required CAMA permit. ~~Construction~~ "Development" activities for non-federal projects may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – 69 Darlington Avenue, Wilmington, NC 28403 or Washington Field Office P.O. Box 1000 2407 West 5th Street, Washington, NC 27889).

- The Corps is encouraged to revise Wilmington District General Condition 4.7 (NWP#23 – Approved Categorical Exclusions) as identified below.

No development activities authorized by this NWP may begin until the permittee obtains a consistency determination concurrence or a CAMA permit from the North Carolina Division of Coastal Management, if either is required.

- The Corps is encouraged to revise Wilmington District General Condition 4.21.1 (NWP # 48 -Commercial Shellfish Aquaculture Activities) as identified below.

No development activities authorized by this NWP may begin until the permittee obtains a consistency determination concurrence or a CAMA permit from the North Carolina Division of Coastal Management, if either is required.

This letter of concurrence is contingent on the Federal agency agreeing with the condition stated above. In the event that the Federal agency does not agree with the condition of concurrence, this letter effectively becomes a letter of State "Objection". Should the Federal agency not agree with the condition stated above, a letter of non-agreement should be sent to DCM. The procedures of 15 CFR 930.43 would then need to be followed.

Should the proposed action be modified (in terms of the Nationwide Permits themselves or revisions to the thirty Nationwide General Conditions and thirty-five definitions), a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered by the proposed development, a supplemental consistency certification may be required. If you have any questions, please contact Stephen Rynas at 252-808-2808. Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,



Doug Huggett
Manager, Major Permits and Consistency Unit

Cc: Frank Jennings, Division of Coastal Management
David Moye, Division of Coastal Management
Roy Brownlow, Division of Coastal Management
Debbie Wilson, Division of Coastal Management