



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
SOUTH ATLANTIC DIVISION
60 FORSYTH STREET SW, ROOM 10M15
ATLANTA, GA 30303-8801

MAR 29 2012

CESAD-PDO

MEMORANDUM FOR COMMANDER, WILMINGTON DISTRICT

SUBJECT: Supplemental Decision Documents for the Nationwide Permits Published in the February 21, 2012, *Federal Register*

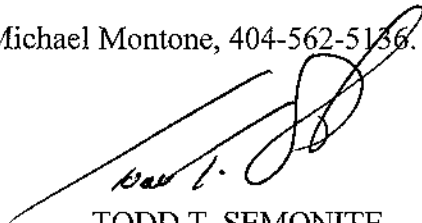
1. Reference memorandum, CESAWRG, 12 March 2012, subject: Supplemental Environmental Documentation for the Wilmington District Nationwide Permit Regional Conditions
2. In the February 21, 2012, issue of the *Federal Register* (77 FR 10184-10290), the US Army Corps of Engineers (Corps) announced the reissuance of 48 existing Nationwide Permits (NWP) and the issuance of two new NWP. In this *Federal Register* notice, the Corps also announced the reissuance of 28 existing NWP general conditions and three new NWP general conditions. The NWP and the general conditions go into effect on March 19, 2012.
3. For each of the reissued and new NWP, HQUSACE issued a decision document that contains an Environmental Assessment (EA), Statement of Findings, public interest review, and if the NWP authorizes discharges of dredged or fill material into waters of the United States, a Section 404(b)(1) Guidelines analysis. HQUSACE has determined that division engineers will issue supplemental decision documents to address locally important factors relating to the public interest, compliance with the Section 404(b)(1) Guidelines, and any potential adverse effects on the human environment, to ensure that the NWP authorize only those activities that result in minimal individual and cumulative adverse effects on the aquatic environment.
4. Each supplemental decision document also discusses, as appropriate, regional conditions that are necessary to ensure that activities authorized by the NWP result in minimal individual and cumulative adverse effects on the aquatic environment.
5. Based on the considerations discussed in each of the supplemental decision documents, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that each NWP that will take effect in the Wilmington District, including the limitations, terms and conditions, and applicable regional conditions of each of those NWP, will authorize only those activities that result in minimal individual and cumulative adverse effects on the aquatic environment.

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6. It is my understanding that on February 15, 2012, Mr. James H. Lecky, the Director, Office of Protected Resources, National Marine Fisheries Service (NMFS), signed a Biological Opinion (BiOp) pursuant to the Endangered Species Act (ESA) regarding "The US Army Corps of Engineers Nationwide Permit Program." Major General Michael J. Walsh, the Deputy Commanding General for Civil and Emergency Operations of the US Army Corps of Engineers, has advised that the BiOp is currently being reviewed by Corps Headquarters and by the Headquarters, Department of the Army. According to Major General Walsh, Corps Headquarters professional staff strongly disagrees with many important aspects of the BiOp on scientific, technical, practical, and legal grounds. Consequently, this Division will not attempt to interpret or implement the recent BiOp, but instead will wait for further guidance and direction from Corps Headquarters on this subject. However, this Division has already consulted or will be consulting with the appropriate regional offices of the NMFS to develop regional conditions for the nationwide general permits (NWPs) to ensure compliance with the ESA. Moreover, this Division is willing to continue to work with the appropriate regional offices of the NMFS to further improve and enhance compliance with the ESA for all Corps nationwide general permits.

7. My point of contact for this action is Michael Montone, 404-562-5136.

A handwritten signature in black ink, appearing to read "Todd T. Semonite", written over a horizontal line.

TODD T. SEMONITE
Major General, USA
Commanding

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