



**US Army Corps
of Engineers®**
Wilmington District

Regulatory Flood Response in North Carolina

Fact Sheet
October 2024

BUILDING STRONG

The following information is intended to aid in determining what may/may not require a permit from the U.S. Army Corps of Engineers (USACE) following the damage in Western North Carolina from Tropical Storm Helene. We strongly advise the public to contact us with any questions regarding permitting:

- Regulatory Office Mainline: 252-740-5719
- Regulatory e-mail: NCPPermit-Wetlands@usace.army.mil

NOTE: Every effort will be made to return voice messages and e-mails the same day they are received.

A majority of work within waters of the U.S. (WOTUS) following the recent storm events is expected to qualify for an exemption or verification under one or more activities authorized by the Nationwide Permit (NWP) program. WOTUS include, but are not limited to, lakes/ponds, reservoirs, rivers, streams, intermittent streams, natural drainage courses, and wetlands. Information regarding the Wilmington District Regulatory Program, including NWP's and submitting a permit application (if applicable) can be found at:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Contact/>

The following apply to work in WOTUS:

- **Exemptions:** In accordance with [33 CFR 323.4\(a\)\(2\)](#), any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404 of the CWA: "Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design."
 - ❖ No permit is required for maintenance, repair, or replacement of moorings or pile-supported structures including floats, stairs/pads, and boat/float lifts as well as other miscellaneous structures within inland, non-navigable waters if there is no discharge of dredged or fill material.
- **Discharge of dredged or fill material:** Permits are required for the discharge of fill material into waters of the U.S. pursuant to Section 404 of the Clean Water Act (CWA), unless otherwise exempt. Many activities to remediate storm damage may be exempt from permitting under the CWA if they involve returning sites to pre-disaster conditions (for example, replacing

rip rap within areas that were previously stabilized with rip rap, or replacing a driveway and culvert).

- **Structures located in or over navigable waters:** Permits are required for work or structures in or over navigable waters pursuant to Section 10 of the Rivers and Harbors Act of 1899. Navigable waters are defined as those waters that are subject to the ebb and flow of the tide and/or are presently used or have been used in the past or may be susceptible for use to transport interstate or foreign commerce (33 CFR 329.4). Navigable waters of the United States over which the Wilmington District currently exercises regulatory jurisdiction under the authority of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act may be found on the "[Section 10 Waters](https://www.saw.usace.army.mil/Portals/59/siteimages/Public%20Affairs/regulatory/SAW%20Navigable%20Waters%20List%20Public%2020230405.pdf?ver=HcgRuPX1gSiD0rMpTF6hMg%3d%3d)" portion of our website.
<https://www.saw.usace.army.mil/Portals/59/siteimages/Public%20Affairs/regulatory/SAW%20Navigable%20Waters%20List%20Public%2020230405.pdf?ver=HcgRuPX1gSiD0rMpTF6hMg%3d%3d>

NWP authorized activities:

Certain flood response activities within WOTUS may qualify for verification under of one or more of the following NWPs:

- ❖ NWP 3. Maintenance
- ❖ NWP 13. Bank Stabilization
- ❖ NWP 14. Linear Transportation Projects
- ❖ NWP 37. Emergency Watershed Protection and Rehabilitation
- ❖ NWP 45. Repair of Uplands Damaged by Discrete Events

NWPs in North Carolina:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Permits/2017-Nationwide-Permits/>

2021 NWP summary chart:

https://www.saw.usace.army.mil/Portals/59/siteimages/Public%20Affairs/regulatory/SummaryTable_2021%20NWPs_December%202021.pdf?ver=I XaHbXY666gDQkOwysL1Q%3d%3d

A non-**Pre-Construction Notification (PCN)** refers to certain types of activities that can be conducted without needing to submit a **PCN** to the USACE. Nationwide permits are designed to streamline the permitting process for common activities that have minimal environmental impact.

- **Non-PCN Activities:** Some nationwide permits allow for certain activities to proceed without the need for a PCN, making it easier and faster for project proponents to obtain the necessary approvals. Each Nationwide permit outlines specific reporting requirements.
- **Eligibility Criteria:** To qualify for a non-PCN nationwide permit, projects must meet specific eligibility criteria and comply with general conditions outlined by the USACE.
- **Consultation:** Even if a project qualifies for a non-PCN nationwide permit, a PCN is required if the NWP activities have the potential to affect a threatened or endangered species, listed critical habitat, and/or historic properties, if they will affect a Wild and Scenic River, or if the NWP activity will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized Civil Works project (a "USACE project").

- **Water Quality Certification:** For NWP's without a PCN requirement, project proponents will need to contact the appropriate certifying authority for their project directly to discuss any Clean Water Act Section 401 Water Quality Certification requirements.
<https://www.deq.nc.gov/about/divisions/water-resources/permitting/401-buffer-permitting-branch>
NCDWR Contact Information: <https://www.deq.nc.gov/about/contact/regional-offices>

Standard Permits:

In cases where proposed work is not exempt, and does not qualify for one or more NWP's, a standard permit may be required. You may apply for a standard permit through a website tool, and joint permit application: https://edocs.deq.nc.gov/Forms/Pre-Construction_Notification_Form

How to Apply: Currently, the Wilmington District and the North Carolina Division of Water Resources (NCDWR) have a Joint Permit Application (JPA) procedure for Nationwide or Regional Permit Applications or Pre-Construction Notifications (PCNs) within the Wilmington District. At this time, JPA processes are not available via the RRS. Applicants can submit JPAs through the following NCDWR link: https://edocs.deq.nc.gov/Forms/Pre-Construction_Notification_Form

Records: We strongly advise that you properly document and maintain records that may be useful for evaluating your permit request, including photos. Taking before/after photos and sketching existing/proposed conditions is highly recommended. Please note the before/after footprint of fill and document the length or rip rap/stabilization and the pre- and post- size of structures replaced.

When submitting an application or request, please ensure it includes the following:

- Name
- Contact Information
- Summary of concern
- Project Location (County, Address, PIN, Coordinates)
- Project drawings
- Pictures
- Any other information which would assist the Corps in reaching an expedited permit decision.

The Wilmington District Regulatory team remains poised to assist you with your permitting needs or questions.