SAVANNAH DISTIRCT
2012 NATIONWIDE PERMIT REGIONAL CONDITIONS

A. The Georgia Department of Natural Resources (Georgia DNR) issued a conditional Water Quality Certification and conditional concurrence with the federal consistency determination under the Coastal Zone Management Act for reauthorization of the use of Nationwide Permits (NWPs) to authorize impacts to waters of the United States (US) in Georgia. **The conditions include requirements that Georgia DNR be notified prior to beginning work on any and all NWP authorized projects.** Specifically, Georgia DNR requirements and notification procedures are set forth in Appendix A, which states that for uses of NWPs requiring submission of a Pre-Construction Notification (PCN) to the Savannah District prior to commencing work in waters of the United States (US), a copy of the PCN with project plans must also be submitted to the Georgia DNR, Environmental Protection Division (Georgia EPD) and, where applicable, to the Georgia DNR, Coastal Resources Division (Georgia CRD). For NWP authorized projects that do not require submission of a PCN to the Savannah District, a completed Georgia DNR Notification Form that is in Appendix A must be submitted to Georgia EPD and, where applicable, to Georgia CRD, prior to commencing work. Refer to Appendix A for detailed instruction on when and where to submit a PCN or a Georgia DNR Notification Form to Georgia DNR and/or Georgia CRD.

B. Pre-Construction Notification: (NOTE: In addition to the Savannah District's PCN requirements below, there are additional PCN requirements for certain uses of NWP 13, 18, 21, 22, 41, 51 and 52 that are listed in the Nationwide Permit Program, which is available at http://www.sas.usace.army.mil/regulatory/index.html.)

1. A PCN is required for all uses of NWPs 3(b), 7, 8, 11, 12, 14, 15, 17, 23, 27, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 48, 49, and 50.

2. A PCN is required for all uses of NWP 13 in perennial streams. (NOTE: Unless a specific type of stream is identified in a RC, the term "stream" includes ephemeral, intermittent and perennial streams.)

3. A PCN is required for use of NWPs 3(a), 3(c), 5, 6, 13, 19 and 41 for impacts to 0.1 acre or more of wetlands/open water and/or 100 linear feet or more of stream.

4. A PCN is required for all uses of NWPs within 2000 feet of a National Wildlife Refuge, any National Park Service property, a National Estuarine Research Reserve, a Georgia State Park or an approved mitigation bank.

5. A PCN is required for use of any NWP to construct a new utility line activity or a linear transportation project in waters of the US.

6. A PCN is required for all uses of NWPs in Habitat Areas of Particular Concern (HAPCs), a subset of Essential Fish Habitat. Relevant to projects occurring in Georgia's tidal waters, the South Atlantic Fishery Management Council designates oyster aggregations and tidal inlets as HAPCs.

C. The Following Information must be Submitted for a PCN to be Considered Complete: (NOTE: The 45-day NWP process will not begin until a PCN is determined complete by the Savannah District.)

1. A complete PCN Form (Appendix B).

2. All information required at NWP General Condition (GC) 31(b), "Contents of a Pre-Construction Notification."

3. A description of measures taken to avoid and/or minimize aquatic impacts and an explanation of why further avoidance and minimization measures would not be practicable.

4. A copy of the US Fish and Wildlife Service "Initial Project Scoping (IPaC)" printout identifying federally-listed threatened and endangered species that may occur in the vicinity of the project site. http://ecos.fws.gov/ipac/

5. A statement as to whether essential fish habitat (EFH) would be adversely impacted. http://www.habitat.noaa.gov/protection/efh/.

6. A statement as to whether cultural resources are known to be present on or near the project site and if a survey has been performed. http://www.nr.nps.gov/

7. A statement as to whether the city, county or state requires a water quality management plan for the project site prior to construction.

8. A statement that the project would comply with any applicable Federal Emergency Management Administration-approved state or local floodplain management requirements. www.fema.gov/

9. A statement as to whether the project is located in or adjacent to a State 303(d) listed stream and if so, the name of the stream. http://cfpub.epa.gov/surf/locate/index.cfm

10. A statement as to whether a project is located in or adjacent to a State designated trout stream or water. www.dnr.state.ga.us/

11. A mitigation plan, if required. (NOTE: See Section F, below.)

12. Photographs documenting preconstruction conditions of the site. Photographs shall include waters of the US that are representative of the site and where work and/or authorized impacts would occur. (NOTE: Upon completion of the project, post construction photographs shall be attached and returned with the compliance certification form.)

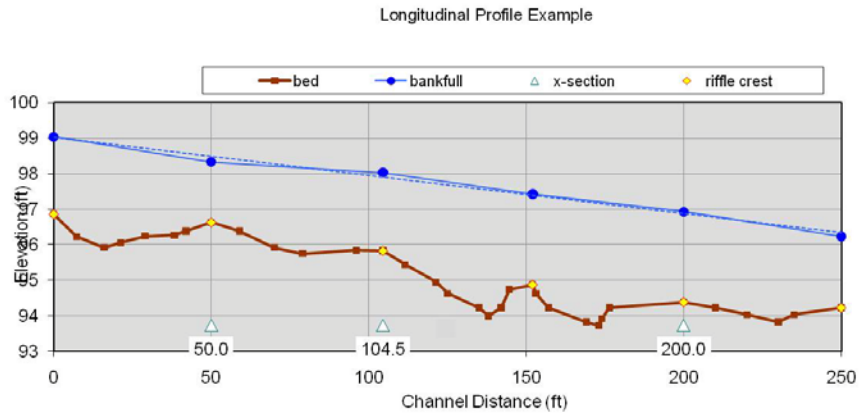
13. All PCNs for projects with a culverted crossing of a perennial stream shall provide the following information: (NOTE: See Section E below for additional culvert design information.)

    a. Culvert type and size.

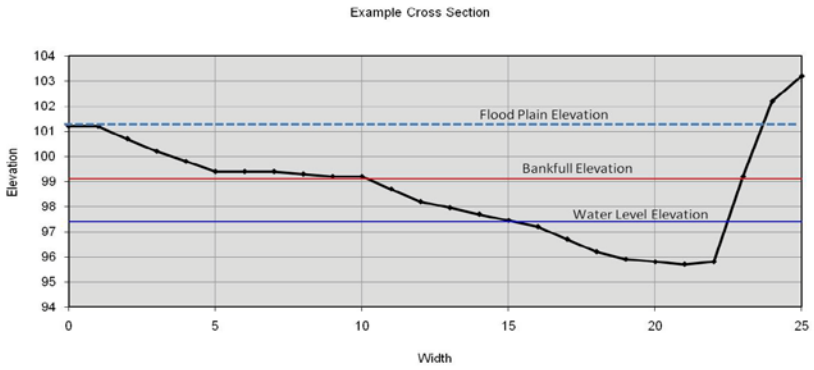
b. Depth the culvert inlet and outlet culvert will be embedded in the stream bottom.

c. Designed culvert slope along the stream channel.

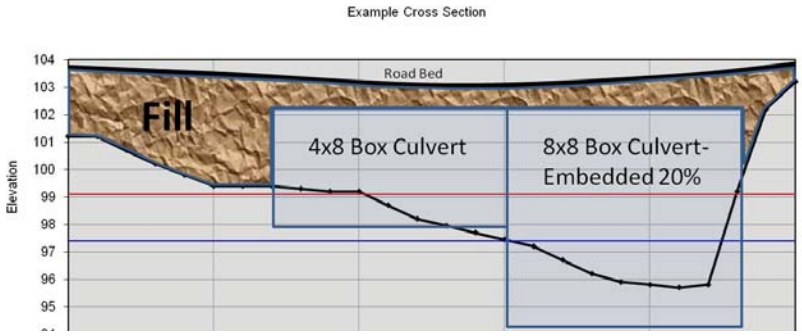
d. A profile of the stream bottom (longitudinal profile) beginning at least 50 feet upstream of the culvert inlet and continuing at least 50 feet downstream of the culvert outlet. Profile measurements shall begin at the head of a riffle and end at the head of a riffle. The change in elevation from head of riffle to head of riffle can be used for the designed slope.



e. Three cross-sectional scale diagrams of the stream channel and banks measured at the beginning, middle, and end of the proposed culvert location. The cross-sections shall depict the stream width and height at the current water elevation, bank-full elevation and flood-plain elevation. Calculate bank-full cross-sectional area at all 3 cross-sections.



f. A scale cross-sectional diagram showing proposed as-built conditions, including location of the culvert in the channel, channel bottom elevation, road surface and areas of cut and fill. This diagram shall represent the middle cross-section.



14. A PCN for a project that includes the construction of a storm water detention/retention facility in waters of the US must also include the following information:

a. A clear statement of the basic (primary) purpose of the detention/retention facility.

b. A description of the upland-based facility/system that will be utilized to pre-treat storm water prior to discharge into the in-stream/wetland detention/retention facility.

c. A detailed alternatives analysis pursuant to the Section 404(b)(1) Guidelines of the Clean Water Act. This analysis must demonstrate that all other available stormwater and sediment/erosion treatment controls will be implemented and that in-stream detention/retention is the only available practicable alternative that would meet the basic project purpose. This analysis shall also include all project site specific factors that may render other stormwater detention/retention measures impractical, such as: steep slopes; rock substrate; narrow floodplain; and pre-existing development.

15. A PCN for a new construction utility line activity or linear transportation project must include the following information:

a. A map depicting all waters of the US located in or directly adjacent to the right-of-way of the total linear project. (NOTE: The term total linear project is discussed in the NWP definition of "single and complete linear project." For the proposes of these RCs, examples of a total linear project include, but are not limited to: a new bypass highway that begins along a highway on the east side or an urban area and terminates along the same highway on the west side of the urban area; an aerial transmission line that begins at an existing substation and terminates at a new industrial park; and a buried sewer line that begins at a new subdivision and terminates at an existing sewer main.)

b. A map depicting the location of each "single and complete linear project" and all other work occurring in waters of the US along the right-of-way for the total linear project. This map shall clearly identify the type of work that would occur in waters of the US.

c. A description of all work and resulting losses of and/or impacts to waters of the US as identified at Regional Condition 15.b above.

d. If a PCN for a utility line activity does not propose use of NWP 12, the PCN must include a discussion explaining why use of another NWP would be more appropriate.

e. If a PCN for a linear transportation project does not propose use of NWP 14, the PCN must include a discussion explaining why use of another NWP would be more appropriate.

16. A PCN for use of NWPs 3(b), 19 and 35 must include a "Tier I" evaluation, in accordance with the Inland Testing Manual. The "Tier I" evaluation must contain adequate information necessary to document whether there is "reason to believe" that the material to be dredged may be contaminated. If the Savannah District determines that "Tier II" testing is necessary, the PCN will not be considered complete until a "Tier II" testing report is submitted. The Inland Testing Manual is available at http://el.erdc.usace.army.mil/elmodels/pdf/inlandb.pdf.

17. A PCN for use of NWPs 7, 12, 14, 18, 27, 29, 31, 34, 38, 39, 41, 42 and 43 must include a delineation of all waters of the US present in the project area.

18. A PCN for use of NWP 27 must document the prior condition of the site.

19. A PCN for use of NWP 31 must include sufficient baseline and disposal site information.

20. A PCN for use of NWP 33 must include a restoration plan.

21. A PCN for use of NWP 43, for a new facility, must include a maintenance plan.

22. A PCN for use of NWP 44 must include a description of all waters impacted, measures taken to minimize impact and a reclamation plan.

D. General Restrictions:

1. NWPs cannot be used to authorize a storm water detention/retention facility in a perennial stream. A Department of the Army standard permit application is required for these projects.

2. NWPs cannot be used to authorize a storm water detention/retention facility in a state designated trout stream or water. A Department of the Army standard permit application is required for these projects.

3. NWPs cannot be used to authorize projects that would impact compensatory mitigation sites or an approved compensatory mitigation bank, unless that project's purpose is to enhance the mitigation site or bank. A Department of the Army standard permit application is required for these projects.

4. All work conducted under the NWPs shall be located, outlined, designed, constructed and operated in accordance with the requirements contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended, and the Coastal Supplement to the Georgia Stormwater Management Manual, as amended. Utilization of plans and specifications contained in "Manual for Erosion and Sediment Control, (Latest Edition)," published by the Georgia Soil

and Water Conservation Commission, will aid in achieving compliance with these requirements. The latest edition of these manuals can be accessed at www.gaswcc.org and www.gaepd.org.

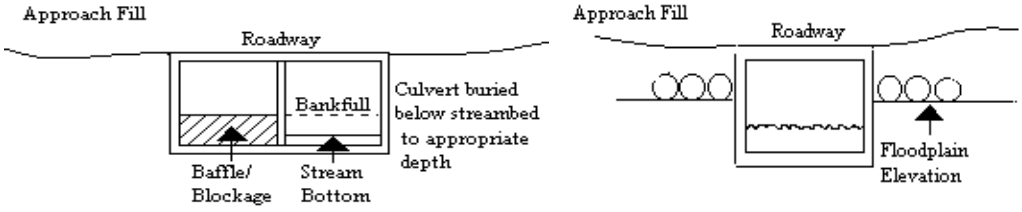
5. No work shall be conducted under any NWP that requires discharge of wet or otherwise uncured concrete below the ordinary high water mark, unless the concrete is contained within waterproof forms until the concrete cures.

6. Use of NWPs 12**,** 14, 23, 33, 43 and 44 is prohibited for any project in waters of the US that support anadromous fish, or in those waters that previously supported such fish and where restoration of fish migrations and populations is possible. The established limits for these waters are listed in the attached Appendix C and include adjacent and tributary waters located within 1000 feet of these identified waters. This prohibition does not apply to NWP 12 projects that would not involve a discharge of dredged or fill material or mechanized land clearing in waters (i.e. directional bore line installation and overhead utility crossings). Exemption from this condition will be considered on a case-by-case basis, in coordination with the National Marine Fisheries Service. An exemption may be granted when it is determined that the project would have minimal impact on anadromous fish or their restoration.

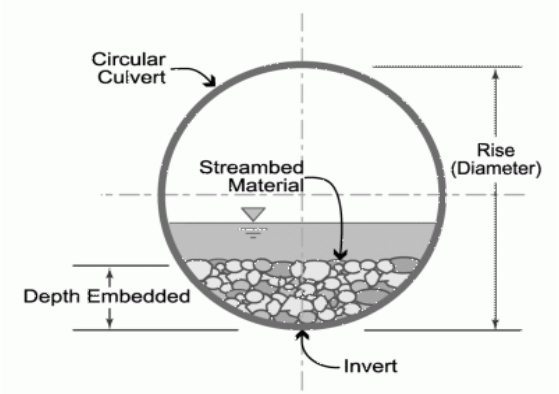
E. Culvert Restrictions for Perennial Streams:

1. The width of the base flow culvert(s) shall be approximately equal to the average channel width. Culvert(s) shall not permanently widen/constrict the channel or reduce/increase stream depth. Multiple pipe culverts may not be used to receive base flows.

2. Bank-full flows shall be accommodated through maintenance of the existing bank-full cross-sectional area.



3. The upstream and downstream invert of culverts (except bottomless culverts) installed in perennial streams will be buried/embedded to a depth of 20% of the culvert height to allow natural substrate to colonize the structure's bottom and encourage fish movement.



4. Culvert slope shall be consistent with average stream segment slope, but shall not exceed 4 percent.

5. Culverts shall be of adequate size to accommodate flooding and sheet flow in a manner that does not cause flooding of associated uplands or disruption of hydrologic characteristics that support aquatic sites on either side of the culvert.

6. Where adjacent floodplain is available, flows exceeding bankfull shall be accommodated by installing equalizer culvert at the floodplain elevation.

7. Unless specifically described in the PCN, use of undersized culvert to attain stormwater management or waste treatment is not authorized.

8. See Appendix D for additional culvert design information.

F. Mitigation:

1. **Loss of waters of the US** is defined in Section F of the NWPs and primarily concerns maximum allowable impacts associated with the use of NWPs. Examples of losses of waters of the US include, but are not limited to: the area of wetland, stream, ditch and/or other linear water displaced by a culvert, pipe, fill or other structure placed for a road crossing; the area of wetland, stream or other water filled by the footprint of a dam; the area of wetland, stream or other water permanently or semi-permanently flooded as the result of dam construction; the area of wetland that is excavated to create an open water area (pond); and excavation of a ditch through wetlands and the adjacent wetland area where wetland hydrology is removed. The US Army Corps of Engineers (USACE) has discretion to determine loss of waters of the US and resulting functional aquatic losses for determination of potential mitigation requirements.

2. For the purpose of clarification of these RCs, **adverse impact to waters of the US** includes, but is not limited to, losses/changes in aquatic function resulting from activities that cause a loss of waters of the US; and losses/changes in aquatic function resulting from activities that cause an impact to waters of the US, but do not result in a loss of waters. Examples of adverse impacts to waters of the US include, but are not limited to: placement of rip-rap on the bank of a stream; burying a utility line through wetland, where the wetland is restored to preconstruction contours; mechanized land clearing, where stumps are removed; and non-mechanize tree cutting, where stumps are left in place, and the wetland soil surface and/or root-

mat remain predominantly undisturbed. The USACE has discretion to determine adverse impacts to waters of the US and resulting functional aquatic losses for determination of potential mitigation requirements.

3. Compensatory mitigation plans for NWP proposed projects must be in accordance with: General Condition 22 of the NWP Program; the most recent version of the Savannah District Standard Operating Procedure, Compensatory Mitigation, Wetlands, Openwater & Streams (SOP); and the 2008 Final Compensatory Mitigation Rule (33 CFR Parts 325 and 332).

4. As stated in the Final Compensatory Mitigation Rule, the **preferred** method of compensatory mitigation for impacts to waters of the US is the purchase of credits from an approved commercial mitigation bank. Documentation of use of the Savannah District "Bank Credit Purchase Guide" is required for NWP projects involving the purchase of mitigation bank credits. Credits purchased prior to approval by the USACE may not be recognized as compensatory mitigation for authorized impacts.

5. The use of in-lieu-fee mitigation as compensation for NWP authorized impacts **may only be considered appropriate** if commercial mitigation bank credits are not available and must be authorized by the USACE prior to the purchase.

6. A compensatory mitigation plan may be required for the use of any NWP for a project that would result in an adverse impact to and/or the loss of 0.1 acre or more of wetlands and/or 100 linear feet or more of non-tidal stream.

7. For projects involving adverse impacts to and/or the loss of wetlands and streams, if either the 0.1 acre or 100 linear foot threshold is met and the USACE determines that mitigation is required, a compensatory mitigation plan is required for all adverse impacts and losses.

8. All impacts to wetlands and open waters must be calculated and reported in acres. Stream impacts must be calculated separately and reported in both linear feet **and** acres.

9. For NWPs that have both an acre limit loss of waters of the US and a linear foot stream loss limit, the acreage of stream loss (i.e., the length of the stream bed filled or excavated times the average width of the stream, from the ordinary high water mark to ordinary high water mark) applies towards that acre limit loss of waters of the US. For example, if a proposed NWP 39 activity involves filling 0.1 acre of wetlands and 100 linear feet of a stream bed with an average width of 10 feet, the acreage loss of waters of the US for that activity would be calculated as follows: $0.1 + [(100 \times 10) / 43{,}560] = 0.123$ acre.

G. NWP Specific Regional Conditions:

1. NWP 3(b). Excavation of accumulated sediment or other material is not authorized by this NWP in areas adjacent to existing private or commercial dock facilities, piers, canals dug for boating access, marinas, boat ramps, or boat slips.

2. NWP 3(b). Use of rip-rap will not exceed an average of one cubic yard per running foot placed below the ordinary high water mark or the high tide line, unless the criterion is waived in writing by the District Engineer, or his assigned delegate.

3. NWP 4. Use of mechanized harvesting devices is prohibited.

4. NWP 7. Associated intake structures must employ the best practicable means to minimize entrainment or impingement of fish and other aquatic life, and the inflow velocity of intake structures is limited to not more than 0.5 foot per second.

5. NWP 7. For the purposes of this NWP, activities related to the construction of outfall structures means activities in the immediate vicinity which are necessary to construct or operate the outfall (e.g., pumps, rip rap, coffer dam). This does not include ancillary activities such as construction access roads, utility lines, buildings, etc.

6. NWP 12. Utility lines must be aligned to minimize the length of wetland/stream crossings, and/or to minimize impacts to wetlands/streams.

7. NWP 12. For buried utility lines, the width of the right-of-way corridor (i.e., impact area) cannot exceed 50 feet in wetlands. For buried utility lines subject to Federal Energy Regulatory Commission (FERC) standards, the right-of-way corridor (i.e., impact area) cannot exceed the maximum width of FERC-prescribed by standards.

8. NWP 12. Construction of individual pump stations is limited to 0.1 acre of wetland impact; substations cannot be constructed within the banks of a stream.

9. NWP 12. Excavated material that is temporarily side cast in waters of the US shall be returned to the trench or removed within 60 days, unless a 30-day extension is requested and approved by the District Engineer, or his assigned delegate.

10. NWP 12. In wetlands, excavated material shall be returned to the trench and any remaining material shall be relocated to an approved disposal site. Substrate containing roots, rhizomes, seeds, etc., must be kept viable and replaced at the surface of the excavated site. Stream banks that are cleared of vegetation shall be stabilized with deep-rooted native species similar to nearby reference sites. Each individual wetland/stream project shall be stabilized immediately following completion of utility line placement at that project.

11. NWP 12. Anti-seep collars, or other structures designed to prevent under-draining, will be installed on all buried utility lines in wetlands. If no anti-seep/drain device(s) is proposed, the applicant must provide information documenting that such a device is not required to prevent wetland drainage.

12. NWP 12. Isolation methods (flume/coffer dam or pumped diversion) will be used to install utility lines in perennial streams. Flume/coffer dam isolation methods may include aqua-dams, pea gravel, sand bags, cured concrete blocks, steel or wood wall, sheet pile, or similar design. Flume/coffer dam isolation shall be done in stages, moving dams as needed so that downstream reaches are not dewatered. Material to build granular coffer dams shall be clean and

washed, and shall not be taken from the stream channel. Pumped diversion shall not be used where there are fish passage concerns; before pumping water from the work area, fish shall be salvaged from the isolated area and returned safely to the downstream portion of the watercourse. The area where the pump discharges shall be lined with clean rock to prevent erosion and release of suspended sediments downstream. For both methods, streambanks shall be stabilized with geotextile fabric, at a minimum, before the isolation methods are removed.

13. NWP 12. Permanent above-grade access/maintenance roads and above-grade utility lines (excluding overhead electric lines) are not authorized by this NWP. Permanent at-grade access roads shall impact no more than 200 linear feet of wetland at an individual wetland crossing. NWP 14 cannot be used in conjunction with NWP 12 to extend a road crossing beyond 200 feet.

14. NWP 12. For the purpose of calculating the loss of waters of the US resulting from the construction of utility line access/maintenance roads associated with a total linear project, the geographic area of consideration will be a "State of Georgia Hydrologic Map Cataloging Unit (i.e., 8-Digit Unit)." Loss of waters of the US will be considered for all utility line access/ maintenance roads associated with a total linear project. The total loss of waters of the US for a total linear project in a Cataloging Unit cannot exceed 10 acres of wetlands and/or 1500 linear feet of stream. For total linear project loss calculations, the acreage of stream loss will not be included in the 10 acre wetland limit.

15. NWP 12. If adverse impacts and/or loss of waters of the US resulting from the construction of a total linear project would cumulatively be 0.1 acre or more of wetland and/or 100 or more linear feet of stream, mitigation may be required for all impacts and losses for the total linear project. Examples of impacts to and losses of waters of the US are discussed at Regional Conditions F 1 and 2 above.

16. NWP 14. For the purpose of calculating cumulative loss of waters of the US resulting from the construction of a total linear project, the geographic area of consideration will be an individual "State of Georgia Hydrologic Map Cataloging Unit (i.e., 8-Digit Unit)." The total loss of waters of the US resulting from total linear project in a Cataloging Unit cannot exceed 10 acres of wetlands and/or 1500 linear feet of stream. For total linear project total loss calculations, the acreage of stream loss will not be included in the 10 acre limit.

17. NWP 14. If adverse impacts and/or loss of waters of the US resulting from the construction of a total linear project (multiple single and complete linear projects) would cumulatively be 0.1 acre or more of wetland and/or 100 or more linear feet of stream, mitigation may be required for all impacts and losses for the total linear project. Examples of impacts to and losses of waters of the US are discussed at Regional Conditions F 1 and 2 above.

18. NWP 14. A single and complete linear project (a single crossing of waters of the US) cannot result in the loss of 300 or more linear feet of perennial stream.

19. NWP 14. Ditches and medians associated with road projects must be designed to prevent drainage of wetlands, and finished road elevations cannot be lower than surrounding wetlands.

20. NWP 14. All road projects constructed through wetlands/streams must begin on an existing natural high ground area (upland) and end on existing natural high ground.

21. NWP 23. This NWP cannot be used for projects that would impact more than 500 linear feet of stream or 1.5 acres of wetlands for construction of a single and complete linear or non-linear project; or more than 1,500 feet of stream or 10 acres of wetlands for a total linear project within a Cataloging Unit.

22. NWP 37. All projects authorized under NWP 37 must be under construction or under contract for construction within 1 year of authorization. If not, the permittee must resubmit the PCN to the Savannah District and meet related notification requirements (e.g. to Georgia DNR) prior to commencing the activity.

23. NWP 37. This NWP cannot be used for projects that involve removal of debris other than in the immediate up and downstream reaches (300 feet) adjacent to bridges and other stream crossings; bank clearing which involves complete removal of trees and/or removal of logs/dead trees which are buried in the bank; channel deepening beyond original bottom; and/or levee construction.

24. NWP 41. Use of NWP 41 is prohibited for projects that would cause or perpetuate drainage of wetlands or other waters of the US, and/or result in the removal or modification of riparian vegetation that provides shade, bank stabilization, nutrients, cover, or other features that are beneficial to fish and wildlife.

25. NWP 41. This NWP does not authorize work in natural streams that have been subjected to some previous channelization.

26. NWP 41. Excavated materials shall be removed from the site. However, excavated materials may be placed on existing adjacent berms or on other previously used disposal sites, provided no additional wetlands are impacted and the material is stabilized to prevent erosion.

27. NWP 42. This NWP does not authorize golf courses or other projects that require use of herbicides, insecticides, fertilizers and/or other similar potentially toxic or hazardous materials, unless effective containment and/or barriers are to be implemented and fully maintained for the duration of the project, to prevent such contamination from entering waters of the US. The PCN must include documentation of compliance with this condition.

28. NWP 43. A stormwater management facility cannot result in the loss of more than 1/3 acre of wetlands. Cumulative project-related wetland impacts, including permanent, temporary, and/or secondary impacts (e.g., temporary storm water retention) are limited to 1 acre of wetlands. Impacts that result in the conversion of forested wetlands to a scrub shrub, emergent or some other shallow water wetland community are not considered temporary and/or secondary.

29. NWP 45. All work verified under this NWP associated with repair, rehabilitation or replacement of structures or fills must be completed within two years of the storm, flood, fire or other discrete event. If after two years from the discrete event, the authorized activities have not

been completed, the permittee must submit a PCN requesting authorization under a new NWP. This NWP only authorizes activities within two years of the discrete event.

Appendices:

A. Georgia DNR Requirements and Notification Procedures
B. Pre-Construction Notification Form
C. List of Anadromous Fisheries Waters
D. USFWS Culvert Design Information

Useful Websites:

http//www.nr.nps.gov/
http://athens.fws.gov/endangered/counties_endangered.html
www.gaswcc.org.
www.fema.gov/
http://crd.dnr.state.ga.us/
http://cfpub.epa.gov/surf/locate/index.cfm
www.dnr.state.ga.us
http://www.epa.gov/region4/water/watersheds/priority.htm#FL