



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

NOTICE

This Department of the Army permit contains important permit conditions. Please read the permit and all conditions carefully.

Work authorized by this permit may be inspected for compliance at any time.

It is your responsibility, as permittee, to ensure that all work authorized by the permit, including all work performed by contractors, be performed in strict compliance with all terms and conditions of the permit. Failure to do so may result in a determination by the District Engineer to suspend, modify, or revoke your permit (33 CFR 325.7). It may also subject you to the enforcement procedures contained at 33 CFR 326.4 and 326.5, including civil and criminal action and the possible imposition of civil penalties and criminal fines up to \$50,000.00 per day per violation.

You are also reminded to complete and submit to this office the notice of commencement and completion forms attached to this authorization.

If you have any questions about, or need to modify, any of the terms and conditions of this permit, you are requested to contact the Philadelphia District Office at (215) 656-6728.

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US Army Corps
of Engineers
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DEPARTMENT OF THE ARMY
STATE PROGRAMMATIC GENERAL PERMIT
DELAWARE-SPGP-20

PERMITTEE AND PERMIT NUMBER:

CENAP-OP-R-Delaware State Programmatic General Permit 20 (SPGP-20)

ISSUING OFFICE:

Department of the Army
U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building, 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the conditions specified below.

PROJECT DESCRIPTION: This general permit authorizes the construction of proposed and maintenance of existing piers, docks, gangways/ramps, stairs/ladders, mooring piles, boat lifts, modular floating platforms for jet skis and larger vessels, breakwaters and the replacement of existing serviceable bulkheads.

This general permit does not authorize the following activities: a) Any dredging or any other activity not specified in this general permit; b) Piers, docks, boat lifts and breakwaters constructed of solid fill; c) Floating docks in submerged aquatic vegetation; d) Construction of cantilevered structures beyond the authorized width of pier/dock structures; e) The storage of petrochemicals, pollutants, or hazardous products on docks or piers; f) Any structures or work within the Chesapeake and Delaware Canal or the Lewes and Rehoboth Canal - proposed work/structures within these waterways will require submission of a separate permit application to the Philadelphia District Engineer; g) Non-residential projects within the Delaware River, Delaware Bay, Nanticoke River or their tributaries; or h) Any structure or fill activity in areas named in Acts of Congress or Presidential Proclamations as Natural Landmarks, National Rivers, National Wilderness Areas, National Wildlife Refuges, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such areas as may be established under Federal Law for similar and related purposes, such as estuaries and marine sanctuaries. This general permit is not applicable for work reasonably related to another activity requiring an individual Department of the Army permit application and approval by the District Engineer, Corps of Engineers.

The District Engineer retains discretionary authority to require, on a case-by-case basis, submission of an individual Department of the Army permit application for proposed work when it is determined that such a review would be in the public interest (i.e., potential for significant impact on environmental resources, effect on navigation, etc.).

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PROJECT LOCATION: This general permit is applicable to navigable waters of the United States located within the geographic boundaries of the Philadelphia District, U.S. Army Corps of Engineers within the State of Delaware.

PERMIT CONDITIONS:

General Conditions:

1. This general permit will expire on **December 31, 2024**. The time limit for completing the work authorized by this general permit ends on this date. In the event that this General Permit is reissued/extended, any activity which has been authorized under the terms and conditions of this General Permit will remain authorized until such time that the required State permit/authorization issued with the general permit expires, provided the authorized activity complies with any subsequent re-authorization or modification of this general permit.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 3, below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you sell the property associated with this general permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization (see Transfer of Permit below).
4. If a conditioned water quality certification has been issued for your project by the Delaware Department of Natural Resources and Environmental Control (DDNREC), you must comply with conditions specified in the certification as special conditions to this general permit. This is specific to Section 404 discharges. All work performed under the authorization of this general permit must be consistent with the Delaware Coastal Zone Management (CZM) program. Any conditions in the required State authorization required for compliance with the State CZM program are conditions of this authorization by reference.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the conditions of your general permit.

Special Conditions:

1. In order for work and structures to be approved by this general permit the work and structures must be reviewed and receive the approval(s) of the DDNREC Subaqueous Lands Act (Title 7, Delaware Code, Chapter 72). All work shall be conducted in accordance with those plans or project description as approved by the DDNREC unless otherwise specified by this office. Additionally, in order for work to be approved under this general permit, the permittee must be furnished a copy of this general permit from the DDNREC at the time of the permittee's receipt of State approval.
2. This general permit is not applicable to work which is authorized by the State due to failure of the State to make a permit decision within the review period mandated by State Law and/or regulation, unless the State has reviewed the project, determined it compliant with applicable State rules and regulations and the terms of this general permit, and issues a State permit. This general permit is

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not applicable when work is authorized by the State as part of a settlement agreement or administrative consent order unless the State has reviewed the project, determined it compliant with applicable State rules and regulations and the terms of this general permit, and issues a State permit.

3. The applicant shall notify the Philadelphia Corps District at least 10 days prior to the commencement of authorized work by completing and signing the enclosed Notification/Certification of Work Commencement Form (Enclosure 1). The applicant shall notify the Philadelphia Corps District within 10 days of the completion of the authorized work by completing and signing the enclosed Notification/Certification of Work Completion/Compliance Form (Enclosure 2). All notifications required by this condition shall be in writing and shall be transmitted to this office by mail or by e-mail at NAPREGULATORY@usace.army.mil.
4. The Corps may impose other special conditions on a project authorized pursuant to SPGP-20 where it is determined necessary to minimize adverse environmental effects or based upon any other factor of the public interest.
5. Any activities not specifically identified and authorized herein shall constitute a violation of the conditions of this permit, in whole or in part, and may result in the institution of such legal proceedings as the United States Government may consider appropriate.
6. All structures, including piers, docks, breakwaters and bulkheads authorized by this general permit, shall conform to the following specifications except where otherwise noted in the special conditions:
 - a. No more than one (1) pier/dock complex and other mooring structures constructed for a maximum of four (4) mooring spaces per buildable lot (see definitions).
 - b. No more than two (2) residential community structures (see definition) shall be permitted per residential community development for a maximum of 25 mooring spaces. Residential community structures are authorized to serve the water access needs of more than two (2) waterfront lots or residences.
 - c. No more than 25 mooring spaces per municipal project or commercial project (see definition).
 - d. For buildable lots, the maximum width of piers shall be four (4) feet and the maximum width of docks shall be five (5) feet, except where otherwise specified (see Special Condition 9). When boat lifts or a floating dock structure are constructed, then the maximum width of the structure shall be six (6) feet.
 - e. For residential community structures, municipal projects and commercial projects, the maximum width of piers shall be six (6) feet, the maximum width of docks shall be eight (8) feet, except where otherwise specified (see Special Condition 9).
 - f. Floating structures (such as docks and personal watercraft platforms) shall be constructed and operated to prevent them from resting on the waterway bottom. This may be accomplished with the use of chocks, stoppers or other devices where necessary. Personal Watercraft floating structures shall be designed to the minimum size necessary to accommodate the personal watercraft.

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- g. Breakwaters shall be constructed at least 18 inches above the bottom of the waterway with a minimum spacing of three (3) inches between sheathing.
 - h. Under normal circumstances, a minimum of 3/8", 1/2", 3/4" or 1" space is to be provided for 4", 6", 8-10", or 12" wide planks, respectively, for fixed piers/dock structures. 12-inch is the maximum plank width authorized under this general permit. The use of light-transmitting materials such as grated or latticed decking that is designed for the passage of light through the open spaces may also be used, provided the total open space is equal to or greater than that of plank spacing.
 - i. Structures shall not extend more than 20 percent of the width of the waterway measured from mean low water line and in no instances exceed 250 feet channelward of the mean high water line. All structures, including piers, docks, breakwaters and bulkheads shall not exceed 500 linear feet in length along the shoreline. Each application shall include a written justification for the number and length of all proposed structures.
 - j. All structures shall be constructed a minimum of 50 feet outside of any authorized Federal navigation channel/project.
 - k. The replacement or repair of an existing bulkhead on natural bodies of water (see definition) may not extend more than 18 inches channelward of the original authorized bulkhead. This permit authorizes the placement of stone riprap at the toe of bulkheads to prevent undermining.
7. For commercial, community and municipal structures with 5 to 25 mooring spaces:
- a. May not be constructed within wetlands, submerged aquatic vegetation beds, designated aquaculture lease areas as defined by DDNREC, or sites recognized by DDNREC as Critical Resource Waters.
 - b. The maximum width of access piers shall be six (6) feet, the maximum width of docks shall be eight (8) feet, the maximum width of finger piers shall be four (4) feet and the maximum width of floating finger piers shall be six (6) feet, except where otherwise specified (see Special Condition 9).
 - c. A draft Operation and Maintenance Plan as described in the State of Delaware Marina Regulations for commercial, community or municipal structures exceeding four (4) mooring slips shall be submitted with the permit application.
 - d. Shall not be authorized in a location that will expand or change the prohibited and/or seasonally prohibited shellfish harvest area designation.
8. In order to avoid or minimize impacts to Federally listed species and other NOAA resources, the following conditions shall apply to all authorized work:
- a. Piles shall not exceed 24 inches in diameter.
 - b. Steel pilings are not authorized under this general permit.
 - c. Impact hammers may only be used if a wooden cushion block is placed atop each pile to be driven; otherwise a vibratory hammer must be used.

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- d. Pile driving activities must use a “soft start” method. A soft start will continue for 15 minutes before full-force pile driving (see definition).
9. The following conditions shall apply to work conducted in wetlands and mudflats and over submerged aquatic vegetation (see definitions):
 - a. Piers and docks subject to this general permit which would cross wetlands, mudflats and/or submerged aquatic vegetation shall be limited to a maximum width of three (3) feet for individual lots and four (4) for municipal and residential community structures.
 - b. The height of structures, as measured from the lower most portion of the deck structure, over the wetland/mudflat floor or the mean high water line in submerged aquatic vegetation shall be a minimum of three (3) feet for individual lots and four (4) feet for municipal and residential community structures.
 - c. No more than 2 mooring spaces per buildable lot if located over submerged aquatic vegetation.
 - d. All construction equipment working on wetlands/mudflats shall be supported on mats.
 - e. Any wetlands/mudflats disturbed during construction shall be restored to pre-construction conditions.
10. Damage to structures/vessels: The permittee hereby recognizes the possibility that the structures permitted may be subject to damage by wave wash from passing vessels. The issuance of this general permit does not relieve the permittee from taking all proper steps to insure the integrity of the structures permitted and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.
11. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (This special condition is applicable to Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act of 1899).
12. The provisions of this general permit shall apply to any area designated as a component of the National Wild and Scenic River System or any river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status provided the National Park Service, after having been notified of the proposed work, determines that the proposed activity will not adversely affect the Wild and Scenic River Designation or study status.
13. The applicant must notify the District Engineer if the authorized activity may affect any historic properties listed, or determined to be eligible, or which the applicant has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of National Historic Preservation Act have been satisfied and that the activity is authorized. Furthermore, that if the permittee before or during

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prosecution of the work authorized encounters a historic property (see definition) that has not been listed or determined eligible for listing on the National Register but which may be eligible for listing in the National Register, the permittee shall immediately notify the District Engineer. Additional information regarding historic properties can be found at: <https://history.delaware.gov/> and <https://www.nps.gov/subjects/nationalregister/index.htm>.

14. Any archaeological artifacts (see definition) discovered during the performance of work under the authorization of this general permit must be adequately protected and their discovery promptly reported to the District Engineer.
15. No activity authorized under this General Permit shall adversely affect any federally-listed threatened or endangered species, as identified under the Endangered Species Act of 1973, or result in the destruction or adverse modification of critical habitat of such species. If the activity may affect listed species or critical habitat, or is likely to jeopardize proposed species, or likely to result in the adverse modification of proposed critical habitat, the Corps shall initiate and complete a Section 7 consultation or conference, as appropriate, in accordance with the Endangered Species Act of 1973 prior to authorization of the activity under this General Permit.
16. No discharge of dredged, excavated or fill material or structures may consist of unsuitable material or solid waste (e.g., trash, debris, car bodies, etc.) and all material discharged must be free from toxic pollutants in toxic amounts pursuant to Section 307 of the Clean Water Act.

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FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization.
 - a. This general permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This general permit does not grant any property rights or exclusive privileges.
 - c. This general permit does not authorize any injury to the property or rights of others.
 - d. This general permit does not authorize interference with any existing or proposed Federal projects.
3. Limits of Federal Liability. In issuing this general permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this general permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this general permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

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- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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DEFINITIONS OF TERMS:

Archaeological Artifact- Any object manufactured, modified, or used by past humans. Examples include prehistoric projectile points (“arrowheads”), ceramic sherds, bricks, and old bottle glass.

Buildable Lot- For the purpose of this general permit, a buildable lot is defined as a single parcel or multiple contiguous parcels of land which supports a residential building.

Commercial Project- Operated primarily for profit.

Historic Property- Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places.

Mooring Space- For the purpose of this general permit, a mooring space includes boat slips, boatlifts, and personal watercraft moorings such as lifts and platforms. Davits which lift and store watercraft on land are not considered to be a mooring space for the purpose of this general permit.

Mudflats- Mud flats are broad, unconsolidated intertidal and subtidal soft bottom areas characterized by organic materials and fine-grained particles (generally smaller than sand). Mud flats are persistent habitats that lack visible structures and are “unvegetated”, though colonization by photosynthetic algae is an important component of mudflats. Mud flats are important for a variety of vertebrate and invertebrate species that depend on the soft bottom condition for foraging, spawning, nursery and refuge habitat; nearly all native coastal fish species use mud flat habitat throughout some portion of their life cycle. Mud flats also play a very important role in biogeochemical cycling as they trap, filter and process nutrients and organic matter. Additionally, mud flats can buffer wave energy, reducing shoreline erosion. Mud flats are considered Special Aquatic Sites as per the 404(b)(1) Guidelines.

Natural Bodies of Water- All tidal and non-tidal waters, except for artificial tidal lagoons.

Residential Community Structures- Structures constructed, owned, operated or maintained jointly for the exclusive use of the residents within a residential or planned community.

Soft Start- Pile driving commenced for 15 seconds at half power, followed by a 1 minute wait period. This cycle shall be repeated over the 15 minute time period prior to commencement of full force pile driving.

Wetlands- As defined by Section 404 of the Clean Water Act, wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are considered Special Aquatic Sites as per the 404(b)(1) Guidelines.

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This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

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07-Jan-2020

(District Engineer)
Edward E. Bonner, Chief, Regulatory Branch

(Date)

For: David C. Park, Lieutenant Colonel, Corps of Engineers
District Commander

TRANSFER OF PERMIT

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

