



US Army Corps
of Engineers®

PUBLIC NOTICE

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Philadelphia District

Nationwide Permits Reissuance Request for Comments

Request for Regional Comments for Delaware and a portion of Maryland

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) published in the Federal Register its proposal to reissue 56 existing nationwide permits (NWP) and issue one new NWP. One NWP is not proposed for reissuance.

NWPs are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWPs require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWPs cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWPs:

The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2025-0002 at **www.regulations.gov**, or by email to **2026nationwidepermits@usace.army.mil** or by mail to U.S. Army Corps of Engineers, Attn: CECW-CO-R, 441 G Street NW, Washington, DC 20314-1000. Instructions for submitting comments are provided in the June 18, 2025 Federal Register notice. Comments on the proposed NWPs are due by July 18, 2025.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning:

Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are an important mechanism to help ensure that the adverse environmental effects of activities authorized by the NWPs are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWPs may be more than minimal. An enclosure for this public notice (Enclosure B) lists the proposed regional conditions currently under consideration by the North Atlantic Division for waters of the United States within the geographic boundaries of the state of Delaware and in waters

of the United States near and including the Chesapeake and Delaware Canal in Maryland. These areas in Maryland include Back Creek (of the Chesapeake and Delaware Canal), east of a line extending from Welch Point to Courthouse Point to the Delaware line and to the Second Street Bridge to the south; Herring Creek east of the line extending from Welch Point to Courthouse Point to the dam that crosses Herring Creek; and Long Branch to the Boat Yard Road Bridge to the north, including adjacent and contiguous jurisdictional wetlands to these tidal waterways. The Philadelphia District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWP are no more than minimal, individually and cumulatively. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in waters of the United States within the geographic boundaries of the state of Delaware and in waters of the United States near and including the Chesapeake and Delaware Canal in Maryland. These areas in Maryland include Back Creek (of the Chesapeake and Delaware Canal), east of a line extending from Welch Point to Courthouse Point to the Delaware line and to the Second Street Bridge to the south; Herring Creek east of the line extending from Welch Point to Courthouse Point to the dam that crosses Herring Creek; and Long Branch to the Boat Yard Road Bridge to the north, including adjacent and contiguous jurisdictional wetlands to these tidal waterways. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to the Philadelphia District at 1650 Arch Street, Philadelphia, Pennsylvania 19103-2004, or via email to Michael D. Yost at michael.d.yost@usace.army.mil, (267) 240-5278. Comments relating to regional conditions are due by August 4, 2025. Similar public notices proposing regional conditions in other regions or states are being published concurrently by other division or district offices. After the final NWP is issued, the final regional conditions will be issued after they are approved by the Division Commander.

401 Water Quality Certification and Coastal Zone Management Act:

States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWP. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP.

Draft Decision Documents:

Draft decision documents for each of the proposed NWP, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP, are available for viewing at **www.regulations.gov**, docket number COE-2025-0002. Final decision documents will be prepared for the NWP that are issued.

Enclosed is an index of the proposed NWPs and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWPs through the Corps Home Page at **<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>**, at **www.regulations.gov** in docket number COE-2025-0002, or at the following Federal Register address:
<https://www.federalregister.gov/documents/2025/06/18/2025-11190/proposal-to-reissue-and-modify-nationwide-permits>.

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Summary of the Proposed 2026 Nationwide Permits¹

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 1 – Aids to Navigation	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 2 – Structures in Artificial Canals	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 3 – Maintenance	10/404						
(a) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills		authorizes only minor deviations for maintenance	PCN not required	no	all waters of the U.S.	none	Does not authorize: maintenance dredging for the primary purpose of navigation; beach restoration; or new stream channelization or stream relocation projects. Limits stream channel modification to the minimum necessary for the maintenance activity.
(b) Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals		200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal	all activities	yes	all waters of the U.S.	none	
(c) Temporary structures, fills, and work necessary to conduct maintenance activity			PCN not required	no	all waters of the U.S.	none	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	10/404	none	PCN not required	no	all waters of the U.S.	none	Does not authorize impoundments or artificial reefs. Does not authorize covered oyster trays or clam racks.
NWP 5 – Scientific Measurement Devices	10/404	25 cubic yards for weirs and flumes	PCN not required	no	all waters of the U.S.	none	Devices and any associated structures or fills be removed upon completion of the use and restored to pre-construction elevations to maximum extent practicable.
NWP 6 – Survey Activities	10/404	1/10-acre	PCN not required	no	all waters of the U.S.	none	Does not authorize fills for roads. Does not authorize permanent structures. Does not authorize fill associated with recovery of historic properties. Backfilling of exploratory trenches must not drain a water of the U.S.

¹ This table is intended to provide **general** information on the proposed 2026 nationwide permits published in the *Federal Register* on June 18, 2025 (90 FR 26100).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 7 – Outfall Structures and Associated Intake Structures	10/404	none	all activities	yes	all waters of the U.S.	none	Activity must comply with National Pollutant Discharge Elimination System Program.
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf	10	none	all activities	no	navigable waters of the U.S.	none	Limited to facilities in areas leased by the Bureau of Ocean Energy Management of the Department of the Interior.
NWP 9 – Structures in Fleeting and Anchorage Areas	10	none	PCN not required	no	navigable waters of the U.S.	none	Applies to structures, buoys, and other devices placed in anchorage or fleeting areas established for those purposes
NWP 10 – Mooring Buoys	10	none	PCN not required	no	navigable waters of the U.S.	none	Non-commercial, single boat mooring buoys
NWP 11 – Temporary Recreational Structures	10	none	PCN not required	no	navigable waters of the U.S.	none	Structures must be removed within 30 days after use discontinued.
NWP 12 – Oil or Natural Gas Pipeline Activities	10/404	1/2 acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre new oil or natural gas pipeline greater than 250 miles in length 	yes, if PCN required	see text of NWP	Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting. Add Note recommending permittee contact USCG about project.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
oil or natural gas pipelines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
oil or natural gas pipeline substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for above-ground oil or natural gas pipelines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 13 – Bank Stabilization	10/404	<ul style="list-style-type: none"> 500 feet along the bank (unless waived by DE – waivers for bulkheads limited to 1,000 linear feet along the shore) 1 cubic yard per running foot (unless waived by DE) 	<ul style="list-style-type: none"> >500 linear feet in length >1 cubic yard per running foot, as measured along the treated bank, below OHWM or HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	<p>Add paragraph clarifying that nature-based solutions to provide habitat and other functions and services with bank stabilization activities.</p> <p>Add Note 2 to discuss hard and soft bank stabilization approaches and factors to consider when identifying an appropriate bank stabilization approach.</p>	Activity cannot impair surface water flow into or out of waters of the U.S. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Native plant species appropriate for site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization.
NWP 14 – Linear Transportation Projects	10/404	<ul style="list-style-type: none"> 1/2 acre in non-tidal waters 1/3 acre in tidal waters 	<ul style="list-style-type: none"> >1/10 acre discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Does not authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features.
NWP 15 – U.S. Coast Guard Approved Bridges	404	none	PCN not required	no	navigable waters of the U.S.	Add “General Bridge Act of 1946” as an applicable law for bridges over navigable waters.	Causeways and approach fills for bridges are not authorized by this NWP; those activities require separate section 404 authorization. Bridge structures can be authorized by Section 9 of the Rivers and Harbors Act or other applicable laws.
NWP 16 – Return Water From Upland Contained Disposal Areas	404	none	PCN not required	no	all waters of the U.S.	none	Water quality issues addressed through Clean Water Act section 401 certification process
NWP 17 – Hydropower Projects	404	none	all activities	yes	all waters of the U.S., except navigable (i.e., section 10) waters	none	Applies to activities licensed by the Federal Energy Regulatory Commission or activities exempt from licensing requirements.
NWP 18 – Minor Discharges	10/404	<ul style="list-style-type: none"> 25 cubic yards discharged below plane of OHWM/HTL 1/10 acre of waters of the U.S. 	<ul style="list-style-type: none"> >10 cubic yards discharged below plane of OHWM/HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize discharges for stream diversions.
NWP 19 – Minor Dredging	10/404	25 cubic yards below plane of OHWM/ MHWM	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging or degradation through siltation of coral reefs, submerged aquatic vegetation beds, anadromous fish spawning areas, or wetlands. Does not authorize the connection of canals to navigable waters.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 20 – Response Operations for Oil or Hazardous Substances	10/404	none	PCN not required	no	all waters of the U.S.	none	Authorizes activities subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Authorizes activities required for cleanup of oil releases in waters of the U.S. Authorizes use of temporary structures and fills for spill response training exercises.
NWP 21 – Surface Coal Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre No valley fills 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Activities must be authorized, or currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.
NWP 22 – Removal of Vessels	10/404	none	<ul style="list-style-type: none"> if vessel listed or eligible for National Register of Historic Places activities in special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize maintenance dredging, shoal removal, or river bank snagging. Disposal of removed vessel in waters of the U.S. may require separate authorizations from EPA and Corps.
NWP 23 – Approved Categorical Exclusions	10/404	none	PCN not required, except for certain activities identified in RGL 05-07	yes, if PCN required	all waters of the U.S.	Modify paragraph (a) to replace references to Council on Environmental Quality regulations with reference to the National Environmental Policy Act.	Categorical exclusions must be approved by the Office of the Chief of Engineers. See RGL 05-07 for list of agencies and their activities that are currently eligible for NWP 23.
NWP 24 – Indian Tribe or State Administered Section 404 Program	10	none	PCN not required	no	navigable waters of the U.S.	Remove Florida from list of states that have been approved to administer the section 404 permit program.	Does not authorize activities in navigable waters that require only a section 10 permit.
NWP 25 – Structural Discharges	404	none	PCN not required	no	waters of the U.S.	none	Structure may require a section 10 permit if located in navigable waters of the U.S. Does not authorize structures that support buildings or similar structures.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 27 – Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities	10/404	none	PCN not required, Report required for all activities	If PCN required, see Note 2, general description and map of aquatic and terrestrial habitat types and their approximate boundaries on that site, substitutes for the delineation	all waters of the U.S.	<p>Change title of NWP.</p> <p>Modify paragraph on ecological references.</p> <p>Remove list of examples of activities that may be authorized by this NWP.</p> <p>Remove prohibition against conversions of non-tidal aquatic ecosystem types.</p> <p>Clarify that NWP does not authorize dam removal activities.</p> <p>Add Bureau of Land Management to list of agency agreements.</p> <p>Require reporting for all activities, instead of pre-construction notifications.</p> <p>Add Note 2 to state that description and map of aquatic and terrestrial habitat types on project site is to be used in place of a delineation of waters and wetlands required by general condition 32 when a PCN is required by a general condition or regional condition.</p>	Does not authorize stream channelization. Does not authorize relocation or conversion of tidal waters. Does not authorize conversion of natural wetlands or streams, except for relocation activities. Compensatory mitigation is not required for NWP 27 activities.
NWP 28 – Modifications of Existing Marinas	10	activities limited to authorized marina area	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging, additional slips, dock spaces, or expansion in waters of the U.S.
NWP 29 – Residential Developments	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	For residential subdivisions, the aggregate total loss of waters of the U.S. cannot exceed 1/2-acre.
NWP 30 – Moist Soil Management for Wildlife	404	none	PCN not required	no	non-tidal waters of the U.S.	none	Authorizes only on-going activities. Does not authorize construction of new dikes, roads, water control structures, etc. Does not authorize conversion of wetlands to uplands. Does not authorize impoundments. Does not authorize activities that result in net loss of aquatic functions and services.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 31 – Maintenance of Existing Flood Control Facilities	10/404	maintenance baseline approved by district engineer	all activities	yes	all waters of the U.S.	none	PCN must indicate location of sites for disposal of dredged or excavated material and baseline information. Authorizes the removal of vegetation from levees associated with a flood control project, if Corps permits are required for those activities.
NWP 32 – Completed Enforcement Actions	10/404	<ul style="list-style-type: none"> 5 acres of non-tidal waters 1 acre of tidal waters also see text of NWP 	PCN not required	no	all waters of the U.S.	none	
NWP 33 – Temporary Construction, Access, and Dewatering	10/404	none	all activities in navigable (i.e., section 10) waters	yes	all waters of the U.S.	none	Associated primary activity must be authorized by Corps or U.S. Coast Guard, or be exempt from permit requirements. PCN must include restoration plan.
NWP 34 – Cranberry Production Activities	404	10 acres, but activity cannot result in net loss of wetland acreage	all activities	yes	section 404 waters only	none	Does not authorize discharges in waters of the U.S. for attendant features, such as warehouses, processing facilities, or parking areas.
NWP 35 – Maintenance Dredging of Existing Basins	10	dredging to previously authorized depths or controlling depths, whichever are less	PCN not required	no	navigable waters of the U.S.	none	
NWP 36 – Boat Ramps	10/404	<ul style="list-style-type: none"> 50 cubic yards, unless waived by DE 20 foot width, unless waived by DE 	<ul style="list-style-type: none"> >50 cubic yards >20 feet wide 	yes, if PCN required	all waters of the U.S., except special aquatic sites	none	Section 10 permit required if dredging navigable water is necessary for access to boat ramp. No placement of material in special aquatic sites.
NWP 37 – Emergency Watershed Protection and Rehabilitation	10/404	none	all activities, except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur	yes	all waters of the U.S.	none	Prospective permittee should wait 45 calendar days before proceeding with the activity if the DE has not yet issued a verification letter, but may proceed immediately if there is an unacceptable hazard to life or significant loss of property or economic hardship will occur.
NWP 38 – Cleanup of Hazardous and Toxic Waste	10/404	none	all activities	yes	all waters of the U.S.	none	Does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
NWP 39 – Commercial and Institutional Developments	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Does not authorize construction of new golf courses or new ski areas. Authorizes the construction of oil or gas wells. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 40 – Agricultural Activities	404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	NWP can be used for agricultural activities, regardless of whether applicant is USDA participant. Does not authorize aquaculture ponds.
NWP 41 – Reshaping Existing Drainage and Irrigation Ditches	404	none	PCN not required	no	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Reshaping drainage ditch cannot increase capacity of ditch or drain additional waters of the U.S. Does not authorize relocation of drainage ditches constructed in waters of the U.S.
NWP 42 – Recreational Facilities	404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Authorizes variety of recreational facilities, except for hotels, restaurants, racetracks, stadiums, arenas, or similar facilities (these may be authorized by NWP 39).
NWP 43 – Stormwater Management Facilities	404	1/2 acre	all activities involving expansion or construction of SWM facilities	yes, if PCN required	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	State that NWP can be used to authorize nature-based solutions for managing storm water, with additional examples, to replace “low impact development integrated management features” and “pollutant reduction green infrastructure features”.	Does not authorize construction of new stormwater management facilities in perennial streams. Maintenance does not require PCN if limited to restoring original design capacities. Also authorizes low impact development integrated management features and pollutant reduction green infrastructure features.
NWP 44 – Mining Activities	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	PCN must include final reclamation plan if reclamation is required by other statutes.
NWP 45 – Repair of Uplands Damaged by Discrete Events	10/404	Restore uplands to pre-event ordinary high water mark	all activities	yes	all waters of the U.S.	none	PCN must be submitted to district engineer within one year of date of damage; work must start or be under contract within two years of date of damage.
NWP 46 – Discharges in Ditches	404	1 acre	all activities	yes	certain types of non-tidal ditches constructed in uplands and determined to be waters of the U.S.	none	NWP does not authorize discharges into ditches constructed in streams or other waters of the U.S., or in streams that have been relocated in uplands.
NWP 48 –Commercial Shellfish Mariculture Activities	10/404	none	New and existing activities that directly affect greater than 1/2-acre of submerged aquatic vegetation	yes	navigable waters of the U.S.	Exclude activities in navigable waters within Washington State. Revise Note recommending permittee contact USCG about project. Add Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.	Does not authorize nonindigenous species not previously cultivated in the waterbody, aquatic nuisance species, or attendant features such as docks or staging areas. Does not authorize the deposition of shell material back into waters of the U.S. as waste. Project area is the area in which the operator is authorized to conduct commercial shellfish mariculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 49 – Coal Remining Activities	10/404	Limited to sites that were previously mined for coal, but new mining may be conducted in adjacent areas if the newly mined area is less than 40 percent of the area being remined plus any unmined area needed for reclamation.	all activities	yes	non-tidal waters of the U.S.	none	Permittee must demonstrate net increase in aquatic resource functions through reclamation. Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title IV and V of the Surface Mining Control and Reclamation Act of 1977. Corps will review the SMCRA determination regarding the amount of previously unmined area necessary for the reclamation and make an independent determination of the amount needed.
NWP 50 – Underground Coal Mining Activities	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977. If reclamation required, a copy of the plan must be submitted with PCN. Does not authorize coal preparation and processing activities outside of the mine site.
NWP 51 – Land-Based Renewable Energy Generation Facilities	10/404	1/2 acre	<ul style="list-style-type: none"> discharges that result in the loss of >1/10 acre 	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Authorizes construction, expansion or modification of land-based renewable energy production facilities, including attendant features. If only activity requiring DA authorization is utility line, then NWP C shall be used. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate single and complete linear projects. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 52 – Water-Based Renewable Energy Generation Pilot Projects	10/404	<ul style="list-style-type: none"> 1/2 acre No more than 10 generation units Floating solar panels in section 10 waters limited to 1/2-acre in size 	all activities	yes	all waters of the U.S. except in coral reefs	<p>Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p> <p>Add Note recommending permittee contact USCG about project.</p>	Authorizes construction, expansion, modification, or removal of water-based renewable energy generation pilot projects and their attendant features. Limited to “pilot projects.” Placement of a transmission line on bed of a navigable water of U.S. from generation unit to land-based collection facility is considered a structure under section 10 and is not considered a loss of waters of the U.S. Prohibits activities in coral reefs. Structures in anchorage areas must comply with U.S. Coast Guard requirements. Does not authorize structures in established danger zones, restricted areas, etc. Upon completion of pilot project, associated structures and/or fills must be removed unless authorized by separate DA permit. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate and complete linear projects. An activity located on an existing, maintained Corps project requires separate approval under 33 USC 408. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 53 – Removal of Low-Head Dams	10/404	none	all activities	yes	all waters of the U.S.	none	Authorizes the removal of low-head dams for stream restoration and public safety. “Low-head dam” defined as a dam built to pass upstream flows over the entire width of the dam crest on a continual and uncontrolled basis. As a general rule, compensatory mitigation is not required for these activities because they result in net increases in stream ecological functions and services. NWP does not authorize regulated activities for restoration of stream in vicinity of former impoundment (these activities may be authorized by NWP 27), or bank stabilization activities (these activities may be authorized by NWP 13).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 54 – Living Shorelines	10/404	<ul style="list-style-type: none"> 30 feet channelward of mean low water in tidal waters or mean high water line in Great Lakes (unless waived by DE) 500 feet along the bank (unless waived by DE) 	all new activities; PCN not required for repair and maintenance of existing living shorelines	yes	all waters of the U.S.	Add “gravel” and “cobbles” to the fill materials that can be used to construct living shorelines. Clarify that a portion of a living shoreline may consist of a pocket beach.	Authorizes construction and maintenance of living shorelines for shore erosion control. Living shorelines consist of natural and man-made materials. May include stone or reef structures to protect the shoreline from low to moderate energy waves. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures. Does not authorize beach nourishment or land reclamation activities. Discharges of dredged or fill material into waters of the United States, including the construction of fill structures such as sills or breakwaters, must be the minimum necessary for the establishment and maintenance of the living shoreline.
NWP 55 – Seaweed Mariculture Activities	10	none	all activities	yes	navigable waters of the U.S., including federal waters on the outer continental shelf	<p>Revise Note recommending permittee contact USCG about project.</p> <p>Revise Add Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p>	Prohibits the cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody. Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(l)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(l)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP 57 – Electric Utility Line and Telecommunications Activities	10/404	1/2-acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	<p>Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p> <p>Add Note recommending permittee contact USCG about project.</p>	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
electric utility lines and telecommunications lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
electric utility line and telecommunications substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
foundations for overhead electric utility line or telecommunication line towers, poles, and anchors					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 58 – Utility Line Activities for Water and Other Substances	10/404	1/2-acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting. Add Note recommending permittee contact USCG about project.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
utility lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
utility line substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for above-ground utility lines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 59 – Water Reclamation and Reuse Facilities	10/404	1/2-acre	all activities	Y	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	
NWP A – Activities to Improve Passage of Fish and Other Aquatic Organisms	10/404	1-acre	<ul style="list-style-type: none"> discharges that result in the loss of >1/10-acre 	Y	all waters of the U.S., including navigable waters	new NWP	Activities to improve or restore passage of fish and other aquatic organisms. Includes activities not authorized by NWP 27. Includes nature-based solutions to improve connectivity for fish and other aquatic organisms.



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

**DELAWARE
2026 NATIONWIDE PERMIT REGIONAL CONDITIONS**

These Regional Conditions are applicable to waters of the United States within the geographic boundaries of the state of Delaware and in waters of the United States near and including the Chesapeake and Delaware Canal in Maryland. These areas in Maryland include Back Creek (of the Chesapeake and Delaware Canal), east of a line extending from Welch Point to Courthouse Point to the Delaware line and to the Second Street Bridge to the south; Herring Creek east of the line extending from Welch Point to Courthouse Point to the dam that crosses Herring Creek; and Long Branch to the Boat Yard Road Bridge to the north, including adjacent and contiguous jurisdictional wetlands to these tidal waterways. All Nationwide permit (NWP) verifications shall be made in accordance with the below listed regional conditions and attached 2021 NWPs CZM and WQC Status Table with regional conditions, unless otherwise authorized by the district engineer through the preconstruction notification process.

REGIONAL GENERAL CONDITION – 1 (G-1)

This regional condition is applicable to all nationwide permits (NWPs) where a preconstruction notification (PCN) is required to be submitted to the U.S. Army Corps of Engineers, District Engineer and provides specific information to request verification by the Corps District in order to process your PCN. NWP activities require notification under certain circumstances. Review the terms of the individual NWP authorization, general condition 22 and 32 or the regional conditions to identify these circumstances. In addition, the PCN shall include:

Condition G-1:

1. The permittee shall notify the Corps of Engineers in accordance with General Condition 32 by using a signed application form (ENG Form 6082);
2. The PCN shall also include the following information:
 - A. All PCNs to the Corps of Engineers shall describe all activities that the applicant plans to undertake that are reasonably related to the same project.
 - B. A written statement that clearly describes the following: (1) what measures have been taken to avoid impacts on aquatic resources, (2) what measures have been taken to avoid and/or minimize any discharges into wetlands or waters of the United States, and (3) what measures have been developed to compensate for any impacts to wetlands or waters of the United States.
 - C. All PCNs to the Corps of Engineers shall include the following information, where applicable: (1) all information specified in the nationwide permit itself or general conditions; (2) plan(s) showing all work in areas subject to Federal jurisdiction on 8-1/2 by 11 inch paper and full-sized scaled engineering drawings, if available; (3) formal property identification such as lot and block or tax parcel number; (4) a delineation of areas within Federal jurisdiction, including wetlands, for the entire project area; (5) existing water depths; (6) depth of any cables or pipelines below mean low water; height of any cables, pipelines or other structures above mean high water; (7) the maximum distance that any structure(s) would extend channelward of the mean high water line or ordinary high water in non-tidal areas; (8) the maximum distance that any fill would extend channelward of the high tide line or ordinary high water in non-tidal areas; (9) the width of the waterway at the project site; (10) the location of any mapped floodplain areas; (11) the location of any dredged material disposal area; (12) the distance from the edge of any navigation channel; (13) the location of any temporary work, structures, vessels, or fills required for the construction; (14) a copy of any previous Federal or State approvals; (15) and, the location and nature of any submerged aquatic vegetation (e.g., eel grass - *Zostera marina*) or shellfish beds.
 - D. For All Mariculture activities, all PCNs to the to the Corps of Engineers shall also include the following information at a minimum, in addition to any specified PCN requirements set forth in the terms and conditions of the NWP (48, 55 & 56): (1) A map showing the location of the proposed project (e.g., waterway, county, city, state), including the longitude and latitude of site boundaries; (2) a written description of the proposed project describing the size and scale of the project; (3) a description of culture and harvesting methods being proposed, which include common and scientific names of cultivated

species, to include sub species if applicable; (3) the type of seed to be used (e.g., spat-on-shell, shellfish shells or shell fragments, alternative substrate materials, etc.); (4) description of any and all proposed predator exclusion devices and/or bird deterrents; (5) general water depths, bottom characteristics (e.g., sand, silt, shell, mud, etc.), and benthic species present (including submerged aquatic vegetation) in the project area(s); and (6) schematics or drawings (formally engineered schematics and drawings are not required but shall be of good reproducible quality) showing how the gear will be deployed on the site which include a project Site Plan (Bird's Eye View), a Cross-Sectional View Plan, and an equipment (e.g., cage design, bag design, racks, etc.) Typical View Plan.

- E. Where the State has denied 401 WQC and/or not concurred with the Corps' CZM consistency determination for a NWP authorization, the prospective permittee shall contact the State to obtain an activity specific review and approval by the State prior to submitting any required preconstruction notification to the Corps of Engineers.

For Projects in the State of Delaware, The Delaware Department of Natural Resources and Environmental Control (DNREC) can be reached at:

- For projects requiring an individual 401 WQC, and/or a wetlands and subaqueous lands permit please contact the DDNREC by following the instructions found on their website at: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>
- For projects requiring an individual CZM consistency determination, please contact the DDNREC by following the instructions found on their website at: <https://dnrec.alpha.delaware.gov/coastal-programs/coastal-management/federal-consistency/>

For Projects in the State of Maryland, The Maryland Department of Environment (MDE) can be reached at:

- For projects requiring an individual 401 WQC please contact the MDE by following the instructions found on their website at: <https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/WQC.aspx>
- For projects requiring an individual CZM consistency determination, please contact the MDE by following the instructions found on their website at: <https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/CZM.aspx>
- For projects requiring a MDE wetlands and waterways permit, please contact the MDE by following instructions found on their website at: <https://mde.maryland.gov/programs/water/WetlandsandWaterways/Pages/index.aspx>

- F. Documentation from the State agency(s) indicating whether the proposed project is located within a State Natural Heritage site, or National Estuarine Research Reserve. This documentation shall also indicate whether the project is located on a property listed or eligible for listing on the National Register of Historic Places. The information provided to State agency(s) shall include the information described above in this condition and any other information specifically requested by the state agency(s) to conduct their evaluation. (For further information see NWP general conditions 20, 22 and 32)

The appropriate addresses for these programs are also provided below:

- For inquiries related to State Natural Heritage Sites and/or National Estuarine Research Reserves in Delaware, please contact the DDNREC by following instructions found on their website at: <https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/reviews/>
- For inquiries related to the National Register of Historic Places in Delaware, please contact the Delaware Historical and Cultural Affairs by following instructions found on their website at: <https://history.delaware.gov/preservation/sec106/>
- For inquiries related to the National Register of Historic Places in Maryland, please contact the Maryland Historical Trust by following instructions found on their website at: <https://mht.maryland.gov/projectreview.shtml>

REGIONAL GENERAL CONDITION – 2 (G-2)

This regional condition is applicable to all nationwide permit activities located in waters of the United States that are a component of the National Wild and Scenic River System or have been officially designated as a “study river” for possible inclusion in the system (See NWP General Condition 16).

Condition G-2: Coordination between the applicant and the National Park Service is required for any activity potentially affecting a component of the National Wild and Scenic Rivers System or a river under official study status. No work can begin until the National Park Service has determined in writing that the proposed activity will not adversely affect the designation or study status. Documentation of coordination and National Park Service concurrence shall be forwarded to the Corps of Engineers. Additional coordination between the Army Corps, applicant and National Park Service may be necessary on a case-by-case basis to address identified Wild and Scenic River issues. The following list includes the waterway locations in Delaware that are currently subject to this regional condition. White Clay Creek; Pennsylvania and Delaware; from the headwaters in Pennsylvania to the confluence with the Christina River in Delaware and all tributaries, including the East, West and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries. National Park Service correspondence shall be sent to the following address:

National Park Service, Wild and Scenic Rivers Program
Division of Conservation and Recreation Assistance
Interior Region 1, Mid-Atlantic
1234 Market Street
Philadelphia PA 19107

REGIONAL GENERAL CONDITION - 3(G-3) ENDANGERED SPECIES (USFWS)

This regional condition is intended to satisfy the requirements of Section 7 of the Endangered Species Act (ESA) for those species under the jurisdiction of the United States Fish and Wildlife Service (USFWS). This regional condition is applicable to ALL nationwide permit (NWP) activities (See NWP General Condition 18. *Endangered Species*.).

Condition G-3: Prior to any work, the applicant shall document that they have followed the consultation guidance published on the Chesapeake Bay Field Office website <https://www.fws.gov/chesapeakebay/saving-wildlife/project-review/index.html> to determine if a proposed NWP activity may affect a listed species. A list of federally listed species for your action area shall be generated using the USFWS’s, Information for Project Planning and Conservation (IPaC) at the following website <https://ecos.fws.gov/ipac/>. Upon your IPaC report, the proposed activity shall be screened for potential adverse effects to any listed species using the screening procedures published on the Chesapeake Bay Field Office website, or other more specific screening procedures that have been developed by the Chesapeake Bay Office for particular agencies, organizations, activities, or species. The applicant shall follow the guidance provided on the Chesapeake Bay Office website. If necessary, contact the Chesapeake Bay Field Office for further coordination prior to applying to the Corps for an NWP verification.

REGIONAL GENERAL CONDITION 4 (G-4) ENDANGERED SPECIES (NMFS)

This regional condition is intended to satisfy the requirements of the Section 7 of ESA for those species under the jurisdiction of the National Marine Fisheries Service (NMFS). This regional condition is applicable to ALL nationwide permit activities (See NWP General Condition 18. *Endangered Species*.).

Condition G-4: Prior to any work, the applicant shall conduct an on-line project review by accessing the NOAA Fisheries ESA Section 7 Mapper found at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater#esa-section-7-mapper>. If upon completion of this review the species list determination indicates there are listed, proposed or candidate species located in an area that may be affected by the proposed action, the applicant is required to submit a PCN to the Corps of Engineers to determine if the action will result in an “EFFECT” to the listed species.

Additional technical consultation guidance can be found on the NOAA Fisheries website <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic> to determine if a proposed NWP activity may affect a listed species.

REGIONAL GENERAL CONDITION 5 (G-5) ESSENTIAL FISH HABITAT

This regional condition is intended to satisfy the requirements of the Magnuson Stevens Fishery Conservation and Management Act (MSA). This regional condition is applicable to all nationwide permit activities where a PCN is not required or when a PCN is required and submitted to the Corps of Engineers. The NOAA National Marine Fisheries Service (NMFS) and the MSA requires federal agencies such as the Corps to consult with NMFS on projects that may adversely affect Essential Fish Habitat (EFH).

Condition G-5(a): Provided the applicant complies with the general conditions and terms of the NWP, as applicable, in addition to any regional or case-specific conditions imposed by the district engineer, the Philadelphia District through consultation with the service has determined the adverse effect on EFH is not substantial for all activities verified under the 2021 NWP except for the following:

- (1) A PCN shall be submitted to the Corps of Engineers for all NWP activities covered under NWPs 27, 38, 52, 53, 54, 55, & A, all proposed one-way tide gates, all structures placed offshore for the sole purpose of bank stabilization as specified below in Condition (c) under NWP 13, all requests for waivers as specified under the terms and conditions of the regional conditions, activities that result in the loss of greater than 1/2-acre of waters of the United States; or when the district engineer determines to grant a waiver of an applicable limit as provided for in NWPs 13, 36, or 54.
- (2) A PCN shall also be submitted to the Corps of Engineers for any NWP activity that is proposed within 50 feet of submerged aquatic vegetation (SAV) beds, mapped SAV habitat and/or within the sandbar (*Carcharhinus plumbeus*) & sand tiger (*Carcharias taurus*) sharks Habitat Areas of Particular Concern (HAPC) as depicted by the Essential Fish Habitat Mapper (<https://www.fisheries.noaa.gov/resource/map/essential-fish-habitat-mapper>)

*SAV is defined as rooted, submerged vascular plants such as widgeon grass (*Ruppia maritima*), sago pondweed (*Potamogeton pectinatus*), horned pondweed (*Zannichellia palustris*), eelgrass (*Zostera marina*), water weed (*Elodea nuttalli*), Parker's pipewort (*Eriocaulon parkeri*), eastern grasswort (*Liaopsis chinesis*), wavy waternymph (*Najas flexilis*), spatterdock (*Nuphar variegatum*), curly-leaf pondweed (*Potamogeton crispus*), ribbonleaf pondweed (*Potamogeton epihydrus*), claspingleaf pondweed (*Potamogeton perfoliatus*), small pondweed (*Potamogeton pusillus*), water bulrush (*Scirpus subterminalis*), and wild celery (*Vallisneria Americana*). For the purpose of this condition, species of attached macro-algae are also included in this definition.

Condition G-5(b): In order to protect diadromous fish migrations, spawning activities, and EFH, in-water work shall be avoided in accordance to the following:

- (1) To protect diadromous fish migrations and spawning, in-water work shall be avoided from **March 1 to June 30** in all waters. This time of year restriction is not applicable to waters of the United States located upstream of an obstruction that precludes fish passage. This condition does not apply to on-going Commercial Shellfish Mariculture Activities (NWP 48) activities where a PCN was submitted and verified by the Corps of Engineers.
- (2) Work within cofferdams that fully enclose and dewater the project area can proceed any time during the year provided that the cofferdams are installed or removed outside of the seasonal work restriction and do not preclude the free movement of migrating and spawning aquatic species to ensure compliance with NWP General Condition 2 and 3.
- (3) A request for waiver from these timing restrictions may be requested by submitting a PCN to the Corps as set forth in Regional Condition-1 (G-1) which shall also include a written statement that clearly describes one or more of the following: (a) why the use of cofferdams cannot be implemented; (b) evidence documenting the waterway does not or has not historically supported migrations and/or spawning habitat; (c) what additional measures have been taken or are being proposed to avoid impacts; (d) and, why the activity must be conducted within the restricted time periods. Cost and logistics alone will not be sufficient.

*Additional information on the MSA and EFH consultations can be found on the NOAA Fisheries, Greater Atlantic Region's Habitat and Ecosystem Services Division website at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-consultations-greater-atlantic-region>.

REGIONAL GENERAL CONDITION 6 (G-6) FISH & WILDLIFE COORDINATION ACT

This regional condition is intended to satisfy conservation recommendations made under the Fish and Wildlife Coordination Act. This regional condition is applicable to ALL nationwide permit activities where a PCN is not required or when a PCN is required and submitted to the Corps of Engineers unless waived by the district engineer.

Condition G-6(a): In order to protect the American horseshoe crab (*Limulus Polyphemus*), a NOAA Trust Resource, in-water work shall be avoided from River Mile Zero (RM 0) at the mouth of the Delaware Bay, extending to the Kent/New Castle County line along the Delaware Bay shoreline, and to include ALL tributary mouths within this reach, from ***April 15 to August 30***. In-water work shall also be avoided in Rehoboth Bay and Indian River Bay within this time of year restriction. This condition does not apply to on-going Commercial Shellfish Mariculture Activities (NWP 48) activities where a PCN was submitted and verified by the Corps of Engineers.

Condition G-6(b): For all activities requiring the use of poured concrete in waters of the United States, any discharge of poured concrete must be contained within watertight cells/forms or poured in the dry until the concrete has set.

REGIONAL GENERAL CONDITION 7 (G-7)

This regional condition is a modification of general condition 22 (Critical Resource Waters).

Condition G-7: In the State of Delaware, State Natural Heritage Sites are included as critical resource waters and are subject to the terms and limitations specified in general condition 22. Information relating to Natural Heritage sites can be obtained by contacting the Wildlife Species Conservation and Research Program. Their contact information is included in Regional General Condition 1 (G-1).

Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The Corps of Engineers may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The Corps of Engineers may also designate additional critical resource waters after notice and opportunity for public comment.

- (1) Discharges of dredged or fill material into waters of the United States are **NOT** authorized by NWPs ***7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58*** for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
- (2) For NWPs ***3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38***, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The Corps of Engineers may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

Activity Specific Nationwide Permit Regional Conditions

REGIONAL CONDITION FOR NWP (3) MAINTENANCE

Condition (a): A PCN shall be provided to the Corps for all tide gate replacements where a self-regulating tide gate is not being proposed. Self-regulating tide gates allow tidal flow and fish passage but can be set to close at a specified water level. For projects not proposing the use of self-regulating tide gates, the applicant shall demonstrate why it is not practicable to replace the tide gate with self-regulating tide gates and shall also provide documentation that the waterway above the proposed gate does not currently support diadromous fish migrations.

REGIONAL CONDITION FOR NWP (5) SCIENTIFIC MEASUREMENT DEVICES

Condition (a): Weirs and flumes cannot be constructed in a manner that would preclude the passage of diadromous fishes.

Condition (b): The construction or installation of subaqueous turbines or similar facilities is not authorized by this NWP.

REGIONAL CONDITION FOR NWP (6) SURVEY ACTIVITIES

Condition (a): The permittee shall ensure that all in-stream exploratory trenching is conducted under dry conditions and returned to preconstruction conditions and elevations. To ensure the impacts to the streambed are temporary and no more than minimal, native clean material excavated from the trench shall be used to backfill. All unsuitable/excess excavated material not used as backfill shall be removed from the stream/river bottom and disposed of at an upland disposal site.

Condition (b): The use of in-water explosives is prohibited.

REGIONAL CONDITION FOR NWP (7) OUTFALL STRUCTURES AND ASSOCIATED INTAKE STRUCTURES

Condition (a): Any proposed intake structures must include “wedge wire” screening with mesh opening sizes of 2 millimeters (mm) or less and intake velocities equal to or less than 0.5 feet per second. This condition may be waived by the Corps of Engineers if an applicant proposes to utilize new or improved technologies that meets or exceeds the “wedge wire” design technology.

Condition (b): The applicant shall also demonstrate that the intake structure will be located and constructed to maximize its design effectiveness to minimize impingement and entrainment of aquatic species. This would include efforts that result in stream velocities over, around or past the intake structure that exceed the velocities through the intake structure.

REGIONAL CONDITION FOR NWP (10) MOORING BUOYS

Condition (a): Water depths in the mooring area must be sufficient to allow any moored vessel to float at all stages of the tide.

Condition (b): Mooring buoys are prohibited in areas mapped as submerged aquatic vegetation (SAV) habitat.

REGIONAL CONDITION FOR NWP (11) TEMPORARY RECREATIONAL STRUCTURES

Condition (a): This nationwide permit is applicable only to structures associated with discrete or specific recreational events.

Condition (b): All temporary structures must be located with sufficient water depths so that the structures float at all stages of the tide.

Condition (c): This NWP does not authorize the placement of any temporary structures in any areas mapped with submerged aquatic vegetation (SAV).

REGIONAL CONDITIONS FOR NWP (12) OIL OR NATURAL GAS PIPELINE ACTIVITIES

Condition (a): Any activity associated with this NWP shall require a PCN submitted to the Corps of Engineers.

Condition (b): This NWP does not authorize the discharge of any drilling muds that may be generated through such methods as directional boring or drilling. Further, any directional drilling or boring activities must include a plan that addresses prevention, containment and cleanup of any accidental discharges known as “frac-out”. If a frac-out occurs, the plan addressing containment and clean up shall be immediately implemented and the Corps of Engineers shall be notified of the frac-out within 24 hours.

Condition (c): This NWP does not authorize stockpiling excavated material in wetlands for longer than 30 days.

Condition (d): Any excavated or stockpiled materials shall be stabilized in accordance with applicable State Sediment and Stormwater Regulations to prevent reentry into any waterway or wetland.

Condition (e): Activities occurring below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the Corps of Engineers to be impracticable.

Condition (f): The proposed activity shall not result in the draining of any water of the U.S., including wetlands. This may be accomplished through the use of clay blocks, bentonite, or other suitable material, as approved by the Corps, to seal the trench at wetland boundaries and every 100 feet within any water of the U.S. including wetlands.

Condition (g): Where a pipeline is constructed parallel to a stream corridor, a buffer shall be maintained between the utility and the waterway to avoid or minimize potential future impacts to waters of the United States. These disturbances would include such issues as leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures

designed to satisfy this condition must be described in any PCN to the Corps of Engineers.

Condition (h): If a proposed activity would involve impacts to submerged aquatic vegetation (SAV), the applicant shall clearly document all efforts to avoid and minimize the impacts and to achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way to map all existing SAV, construction schedules, and long term monitoring to assess restoration of SAV areas.

Condition (i): Clearances for aerial crossings must be a minimum of ten (10) feet above clearances required for bridges.

For Buried Pipelines Across Navigable Waters:

Condition (j): The top of the pipe or pipeline shall be located a minimum of 4 feet below the existing bottom elevation and shall be backfilled with suitable heavy material to the preconstruction bottom elevation.

Condition (k): Within 60 days after completion of the work, the permittee shall furnish the Corps and National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the pipe or pipeline has been installed in compliance with the approved plans. The certification shall include a survey conducted by a licensed surveyor, or a "drawing of record" if installation is conducted by directional drilling, which clearly shows the elevations and alignment of the pipe or pipeline across the waterway. Any discrepancies shall be clearly noted.

Condition (l): There shall be no stockpiling or double handling of any excavated/dredged materials within any waterway, unless specifically reviewed and approved by the Corps of Engineers as a part of any PCN. Further, all excess or unsuitable dredged or excavated material not used as backfill over any cable or pipeline shall be disposed at a disposal site approved by the Corps of Engineers.

For Buried Pipes or Pipelines Across the Delaware River Federal Navigation Channel:

Condition (m): The top of the pipe or pipeline crossing the Federal project channel shall be located a minimum of 25 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of pipe or pipeline shall be located a minimum of 15 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

For Buried Pipes or Pipelines Across "ALL OTHER" Federal Navigation Channels:

Condition (n): The top of the pipe or pipeline crossing the Federal project channel shall be located a minimum of 6 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of pipe or pipeline shall be located a minimum of 4 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

REGIONAL CONDITION FOR NWP (13) BANK STABILIZATION

Condition (a): Any PCN to the Corps of Engineers that does not utilize a non-structural bank stabilization method (e.g. vegetation or combinations of vegetation and rock) must include an analysis demonstrating that such measures were not practicable and/or appropriate.

Condition (b): This NWP may not be used to authorize any stabilization activity where no demonstrable erosion is evident.

Condition (c): A PCN shall be provided to the Corps for all in-water structures, such as bioengineering, break waters, sills, gabion baskets, wave attenuation devices (WADs), or any combinations of bank stabilization techniques, placed offshore of the bank for the purpose of erosion control or prevention.

REGIONAL CONDITION FOR NWP (14) LINEAR TRANSPORTATION PROJECTS

Condition (a): Any activity associated with this NWP shall require a PCN submitted to the Corps of Engineers

Condition (b): Any activity proposing a crossing of a stream or open water shall be designed to maintain continuity of existing benthic habitats and to maintain existing stream flow patterns. This can be achieved through the use of elevated structures, bottomless culverts, or by depressing culverts below the stream bottom. This design requirement must include a site-specific evaluation of the particular stream or waterbody to determine if it is experiencing erosion or sedimentation rates that would alter the bottom elevation. Where a series of culverts are used, only those cells or culverts, which carry the base stream flow, shall be depressed. The bottom of any other culverts or cells shall be

raised to pass and maintain existing and expected high flows. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width of depth of the stream channel.

REGIONAL CONDITION FOR NWP (18) MINOR DISCHARGES

Condition (a): This NWP may not be used to authorize stream elimination, relocation, or impoundment.

REGIONAL CONDITION FOR NWP (23) APPROVED CATEGORICAL EXCLUSIONS

Condition (a): A PCN must be submitted to the Corps of Engineers for all activities in waters of the United States under the authorization of this NWP.

Condition (b): Activities authorized by this NWP shall not cause the loss of more than one acre of waters of the United States, including wetlands.

REGIONAL CONDITION FOR NWP (27) AQUATIC ECOSYSTEM RESTORATION, ENHANCEMENT AND ESTABLISHMENT ACTIVITIES

Condition (a): Any activity associated with this NWP shall require a PCN to the Corps of Engineers.

Condition (b): Any activity involving shellfish seeding, such as, the placement of shell material or any other habitat development or enhancement is restricted to native shellfish species.

REGIONAL CONDITION FOR NWP (28) MODIFICATIONS OF EXISTING MARINAS

Condition (a): This NWP is only applicable to those projects which have been previously reviewed and approved by the Corps of Engineers through the individual permit process.

REGIONAL CONDITION FOR NWP (29) RESIDENTIAL DEVELOPMENTS

Condition (a): In Delaware, a duplicate copy of any PCN to the Corps of Engineers shall be forwarded to the Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, Wetlands and Subaqueous Lands Section, 89 Kings Highway Dover, Delaware 19901.

Condition (b): Under the terms of this NWP, any wetlands that are located within the platted lot lines of any residential development will be considered an adverse effect on waters of the United States, unless the wetlands are protected by conservation easement, deed conveyance or covenants, or any other real estate mechanism that can demonstrate to the Corps of Engineers that these areas will be protected and/or preserved in perpetuity.

Condition (c): This NWP does not authorize construction of ponds or storm-water management basins in waters of the U. S.

Condition (d): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

Condition (e): This NWP does not authorize the discharge of dredged or fill material for the construction or expansion of a single-family residential structure, including any attendant features or structures. This type of activity may be eligible for some other type of authorization.

REGIONAL CONDITION FOR NWP (33) TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING

Condition (a): Activities authorized by this NWP may remain in place for no more than 6 months from the commencement date of the permitted activity.

Condition (b): Activities occurring in wetlands, authorized by this NWP shall require the use of construction pads, timber matting, and/or geotextile fabric, or a BMP to prevent wetland compaction.

REGIONAL CONDITION FOR NWP (35) MAINTENANCE DREDGING OF EXISTING BASINS

Condition (a): This NWP is only applicable to those projects which have been previously reviewed and approved by the Corps of Engineers through the individual permit process.

REGIONAL CONDITION FOR NWP (38) CLEANUP OF HAZARDOUS AND TOXIC WASTE

Condition (a): All projects authorized under this NWP shall incorporate the use ecological standards into the design in addition to any requirements made by the state. The use of ecological standards is the industry standard when assessing contaminant risk in the aquatic environment.

REGIONAL CONDITION FOR NWP (39) COMMERCIAL AND INSTITUTIONAL DEVELOPMENTS

Condition (a): In Delaware, a duplicate copy of any PCN to the Corps of Engineers shall be forwarded to the Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, Wetlands and Subaqueous Lands Section, 89 Kings Highway Dover, Delaware 19901.

Condition (b): Under the terms of this NWP, any wetlands that are located within the plotted lot lines of any commercial or institutional development will be considered an adverse effect on waters of the United States, unless the wetlands are protected by conservation easement, deed conveyance or covenants, or any other real estate mechanism that can demonstrate to the Corps of Engineers that these areas will be protected and/or preserved in perpetuity.

Condition (c): The discharge of fill for the construction or expansion of a single-family residential structure, including any attendant features or structures, is not authorized by this NWP. This type of activity may be eligible for authorization under the terms and conditions of other NWPs or individual permit.

Condition (d): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

Condition (e): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

REGIONAL CONDITION FOR NWP (40) AGRICULTURAL ACTIVITIES

Condition (a): This NWP does not authorize any activities located in any perennial stream.

REGIONAL CONDITION FOR NWP (41) RESHAPING EXISTING DRAINAGE AND IRRIGATION DITCHES

Condition (a): A PCN shall be submitted to the Corps of Engineers for any proposed activity in waters of the United States.

REGIONAL CONDITION FOR NWP (42) RECREATIONAL FACILITIES

Condition (a): This NWP does not authorize any support facilities or buildings such as parking facilities, storage or maintenance buildings, rental buildings or office buildings. In addition, the NWP does not authorize fill for the construction or expansion of golf courses or ski areas.

Condition (b): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

Condition (c): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

REGIONAL CONDITION FOR NWP (43) STORMWATER MANAGEMENT FACILITIES

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States.

Condition (b): This NWP does not authorize any activities located in perennial streams and intermittent waters.

REGIONAL CONDITION FOR NWP (48) COMMERCIAL MARICULTURE ACTIVITIES

Condition (a): A PCN must be submitted to the Corps of Engineers for all activities in waters of the United States.

Condition (b): Any introduced shellfish must be certified under Delaware standards as being disease and parasite free.

Condition (c): All structures associated with the aquaculture activity must be removed from waters of the United States when/if the activity is abandoned.

Condition (d): Use of unsuitable materials for shellfish seeding (i.e., asphalt, bituminous concrete slag, tires, wallboard, plastic, wood, metal, crushed glass, and garbage) is prohibited.

Condition (e): Any proposed shellfish aquaculture activity within any portion of the Shellfish Aquaculture Development Areas (SADA) locations in the Delaware Inland Bays would not be subject to the terms of Regional General Conditions G-1.

Condition (f): Any PCN to the Corps of Engineers for any shellfish aquaculture activities within the SADA locations in the Delaware Inland Bays must provide the following information: (1) name and address of the applicant, (2) a copy of any lease agreement between the applicant and the State of Delaware for the proposed aquaculture activity, (3) a description of the proposed equipment to be used at each location, (4) the location of the proposed activity including latitude and longitude coordinates along with any other lease area identification numbers further identifying the leased area(s).

Condition (g): Predator control devices (i.e., mesh fences, mesh nets, and mesh tents) suspended or erected vertically or obliquely in the water column to surround or enclose shellfish containment gear is prohibited.

Condition (h): Each individual cage and/or bag shall be directly tagged to display the USACE permit number.

REGIONAL CONDITION FOR NWP (52) WATER-BASED RENEWABLE ENERGY GENERATION PILOT PROJECTS

Condition (a): Any activity associated with this NWP shall require a PCN to the Corps of Engineers. The Corps of Engineers will coordinate review of all PCNs with the Federal and State resource agencies.

REGIONAL CONDITION FOR NWP (54) LIVING SHORELINES

Condition (a): Fill or dredged material used for the purpose of establishing or re-establishing a vegetative plain must be of appropriate grain size to support plant growth and development.

Condition (b): Sills shall be constructed of riprap, gabion baskets, or clean broken concrete free of metal and re-bar. Alternative materials may be considered for use at the discretion of the District Engineer.

Condition (c): Sills shall be designed with at least one 5' foot window/gap per property and per every 100 linear feet of sill unless waived by the District Engineer.

Condition (d): The sill height shall be a maximum of +1 foot above mean high water and should be placed at a distance no greater than 30 feet from mean low water to the landward peak side of the sill unless waived by the District Engineer.

Condition (e): The total amount of vegetated wetlands which may be filled, graded, or excavated, in square feet, may not exceed the acreage of living shoreline establishment or re-establishment unless the District Engineer waives this criterion by making a written determination concluding that the project will result in minimal adverse effects. All temporary impacts to sub-tidal, inter-tidal, and/or existing wetland vegetation shall be restored to previous conditions and may require a wetland planting plan.

Condition (f): If the proposed project results in temporary impacts to existing wetland vegetation, then you shall monitor the re-establishment of wetland vegetation until such time as the vegetation meets pre-disturbance conditions (i.e., coverage and density). If the wetland is not restored to previous conditions within 2 complete growing seasons, you shall provide a modification request to the Corps and may be required to provide compensatory mitigation.

Condition (g): Projects which include placement of sandy fill material may result in creation of suitable habitat for various federally listed threatened or endangered species. If this occurs and the applicant seeks to either add to or replenish the area previously filled, the Corps will consult with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act and to ensure work is not likely to adversely affect proposed or listed species or proposed or designated critical habitat. Specific requirements on the type of sand allowed for beach and dune work may be required.

REGIONAL CONDITION FOR NWP (55) SEAWEED MARICULTURE ACTIVITIES

Condition (a): All structures associated with the Seaweed Mariculture operation shall be removed from waters of the United States when/if the activity is abandoned.

Condition (b): All installed buoys, long-lines, floats, anchors, rafts, racks, and other similar structures installed into navigable waters of the United States shall be directly tagged to display the owners name, address, and USACE permit number.

REGIONAL CONDITION FOR NWP (57) ELECTRIC UTILITY LINE AND TELECOMMUNICATIONS ACTIVITIES

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP.

Condition (b): This NWP does not authorize the discharge of any drilling muds that may be generated through such methods as directional boring or drilling. Further, any directional drilling or boring activities must include a plan that addresses prevention, containment and cleanup of any accidental discharges known as “frac-out”. If a frac-out occurs, the plan addressing containment and clean up shall be immediately implemented and the Corps of Engineers shall be notified of the frac-out within 24 hours.

Condition (c): This NWP does not authorize stockpiling excavated material in wetlands for longer than 30 days. Any excavated or stockpiled materials shall be stabilized in accordance with applicable State Sediment and Stormwater Regulations to prevent reentry into any waterway or wetland.

Condition (d): Activities occurring below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the Corps of Engineers to be impracticable.

Condition (e): Where a utility line is constructed parallel to a stream corridor, a buffer shall be maintained between the utility and the waterway to avoid or minimize potential future impacts to waters of the United States. These disturbances would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any PCN to the Corps of Engineers.

Condition (f): The proposed activity shall not result in the draining of any water of the U.S., including wetlands. This may be accomplished through the use of clay blocks, bentonite, or other suitable material, as approved by the Corps, to seal the trench at wetland boundaries and every 100 feet within any water of the U.S. including wetlands.

Condition (g): If a proposed activity would involve impacts to submerged aquatic vegetation (SAV), the applicant shall clearly document all efforts to avoid and minimize the impacts and to achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way to map all existing SAV, construction schedules, and long term monitoring to assess restoration of SAV areas.

For Aerial Transmission Lines Across Navigable Waters:

Condition (h): The following minimum clearances are required. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances, which would be required by the U.S. Coast Guard for new fixed bridges in the vicinity of the proposed transmission line. These clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal System Voltage, (kv)	Minimum additional clearance (feet) above clearance required for bridges
115 and below	20 feet
136	22 feet
161	24 feet
230	26 feet

350	30 feet
500	35 feet
700	42 feet
750 – 765	45 feet

Condition (i): Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten (10) feet above clearances required for bridges.

Condition (j): Within 60 days of completion of the work, the permittee shall furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the aerial wire has been installed in compliance with the approved plans. The certification shall include a survey, conducted by a licensed surveyor, which clearly shows the minimum clearance of the aerial wires above the mean high water line at the time of the survey. The certification shall also include a statement by the permittee that the clearance of the wires, at maximum sag conditions, shall never be less than the clearance shown on the approved plans.

For Buried Utility Lines Across Navigable Waters:

Condition (k): The top of the utility line shall be located a minimum of 4 feet below the existing bottom elevation and shall be backfilled with suitable heavy material to the preconstruction bottom elevation.

Condition (l): Within 60 days after completion of the work, the permittee shall furnish the Corps of Engineers and National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the electric and/or telecommunication utility line has been installed in compliance with the approved plans. The certification shall include a survey conducted by a licensed surveyor, or a “drawing of record” if installation is conducted by directional drilling, which clearly shows the elevations and alignment of the cable or pipeline across the waterway. Any discrepancies shall be clearly noted.

Condition (m): There shall be no stockpiling or double handling of any excavated/dredged materials within any waterway, unless specifically reviewed and approved by the Corps of Engineers as a part of any PCN. Further, all excess or unsuitable dredged or excavated material not used as backfill over any cable or pipeline shall be disposed at a disposal site approved by the Corps of Engineers.

For Utility Lines Across the Delaware River Federal Navigation Channel:

Condition (n): The top of the utility line crossing the Federal project channel shall be located a minimum of 25 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of utility line shall be located a minimum of 15 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

For Utility Lines Across “ALL OTHER” Federal Navigation Channels:

Condition (o): The top of the utility line crossing the Federal project channel shall be located a minimum of 6 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of the utility line shall be located a minimum of 4 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

REGIONAL CONDITIONS FOR NWP (58) UTILITY LINE ACTIVITIES FOR WATER AND OTHER SUBSTANCES

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP

Condition (b): This NWP does not authorize the discharge of any drilling muds that may be generated through such methods as directional boring or drilling. Further, any directional drilling or boring activities must include a plan that addresses prevention, containment and cleanup of any accidental discharges known as “frac-out”. If a frac-out occurs, the plan addressing containment and clean up shall be immediately implemented and the Corps of Engineers shall be notified of the frac-out within 24 hours.

Condition (c): This NWP does not authorize stockpiling excavated material in wetlands for longer than 30 days. Any excavated or stockpiled materials shall be stabilized in accordance with Delaware's Sediment and Stormwater Regulations (October 2006 or as subsequently amended) to prevent reentry into any waterway or wetland.

Condition (d): Activities occurring below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the Corps of Engineers to be impracticable.

Condition (e): Where a utility line is constructed parallel to a stream corridor, a buffer shall be maintained between the utility and the waterway to avoid or minimize potential future impacts to waters of the United States. These disturbances would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any PCN to the Corps of Engineers.

Condition (f): The proposed activity shall not result in the draining of any water of the U.S., including wetlands. This may be accomplished through the use of clay blocks, bentonite, or other suitable material, as approved by the Corps, to seal the trench at wetland boundaries and every 100 feet within any water of the U.S. including wetlands.

Condition (g): If a proposed activity would involve impacts to submerged aquatic vegetation (SAV), the applicant shall clearly document all efforts to avoid and minimize the impacts and to achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way to map all existing SAV, construction schedules, and long term monitoring to assess restoration of SAV areas. This information shall also be furnished to NMFS in consort with the PCN for this NWP.

Condition (h): Clearances for aerial crossings must be a minimum of ten (10) feet above clearances required for bridges.

Condition (i): Within 60 days of completion of the work, the permittee shall furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the aerial wire has been installed in compliance with the approved plans. The certification shall include a survey, conducted by a licensed surveyor, which clearly shows the minimum clearance of the aerial wires above the mean high water line at the time of the survey. The certification shall also include a statement by the permittee that the clearance of the wires, at maximum sag conditions, shall never be less than the clearance shown on the approved plans.

For Buried Utility Lines Across Navigable Waters:

Condition (j): The top of the utility line shall be located a minimum of 4 feet below the existing bottom elevation and shall be backfilled with suitable heavy material to the preconstruction bottom elevation.

Condition (k): Within 60 days after completion of the work, the permittee shall furnish the Corps of Engineers and National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the utility line has been installed in compliance with the approved plans. The certification shall include a survey conducted by a licensed surveyor, or a "drawing of record" if installation is conducted by directional drilling, which clearly shows the elevations and alignment of the utility line across the waterway. Any discrepancies shall be clearly noted.

Condition (l): There shall be no stockpiling or double handling of any excavated/dredged materials within any waterway, unless specifically reviewed and approved by the Corps of Engineers as a part of any PCN. Further, all excess or unsuitable dredged or excavated material not used as backfill over any cable or pipeline shall be disposed at a disposal site approved by the Corps of Engineers.

For Buried Utility Lines Across the Delaware River Federal Navigation Channel:

Condition (m): The top of the utility line crossing the Federal project channel shall be located a minimum of 25 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of utility line shall be located a minimum of 15 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

For Buried Utility Lines Across "ALL OTHER" Federal Navigation Channels:

Condition (n): The top of the utility line crossing the Federal project channel shall be located a minimum of 6 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of the utility line shall be located a minimum of 4 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

REGIONAL CONDITION FOR NWP (A) ACTIVITIES TO IMPROVE PASSAGE OF FISH AND OTHER AQUATIC ORGANISMS

Condition (a): Any activity associated with this NWP shall require a PCN to the Corps of Engineers.