



Public Notice

U.S. Army Corps
of Engineers

Date: March 5, 2021
Special Public Notice CELRP 21-16

Baltimore District

Philadelphia District

Pittsburgh District

ANNOUNCING THE FINAL REGIONAL CONDITIONS FOR 16 OF THE 2021 NATIONWIDE PERMITS

The purpose of this special public notice is to inform the public of the issuance of the final regional conditions applicable to Nationwide Permit (NWP) activities in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia. Furthermore, this special public notice announces the suspension of various NWPs in the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia.

On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the *Federal Register* (86 FR 2744) announcing the reissuance of twelve (12) existing Nationwide Permits (NWPs) and the issuance of four (4) new NWPs (2021 NWPs). These 16 NWPs will go into effect on March 15, 2021 and will expire on March 14, 2026. The 12 existing 2017 NWPs being replaced will expire March 14, 2021, the day before the reissued NWPs take effect. More information on the 2021 NWPs and the January 13, 2021 *Federal Register* (86 FR 2744) notice is available on the Corps Headquarters website at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>.

Regional Conditions and Suspensions:

The Baltimore, Pittsburgh, and Philadelphia Districts proposed regional conditions for the NWPs and solicited public comments thereon, in Special Public Notice (SPN) #20-62 dated September 30, 2020. In addition, the Districts proposed suspension of certain NWPs because the current State Programmatic General Permits (SPGPs) in Maryland and Pennsylvania provide comparable authorization for these NWPs.

The Baltimore District has posted the final regional conditions and suspensions for these 16 final 2021 NWPs (86 FR 2744) on the Regulatory webpage at: <https://www.nab.usace.army.mil/Missions/Regulatory/Permit-Types-and-Process/>. In addition, the following enclosures to this special public notice provide the final regional conditions and suspensions by State for the 16 final 2021 NWPs:

Enclosure 1 - Suspensions of the 2021 NWPs for the State of Maryland, the Commonwealth of Pennsylvania, and the District of Columbia

Enclosure 2 - Regional Conditions to the 2021 NWPs for the State of Maryland

Enclosure 3 - Regional Conditions to the 2021 NWPs for the Commonwealth of Pennsylvania

Enclosure 4 - Regional Conditions to the 2021 NWP for the District of Columbia

The Baltimore District's area of responsibility includes the Northern Virginia Military Installations (Fort Belvoir, Fort Myer, and the Pentagon). The Regional Conditions for these military installations are covered by the Norfolk District Regional Conditions for Virginia and can be found at <https://www.nao.usace.army.mil/Missions/Regulatory/>.

Grandfathering:

For permittees currently holding written 2017 NWP verification letters for activities under any of the 12 NWPs replaced by this final rule, that verification letter continues to be in effect until March 18, 2022, as long as the verified 2017 NWP activities continue to comply with the terms and conditions of the 12 existing NWPs issued in this final rule, or the district engineer specified a different expiration date in the NWP verification letter or modifies, suspends, or revokes a specific NWP authorization. For permittees currently holding written 2017 NWP verification letters for activities under any of the 12 NWPs replaced by this final rule that no longer qualify for authorization under any of the 12 existing NWPs reissued in this final rule, the activities in that verification letter continue to be authorized by the 2017 NWP(s) until March 14, 2022 as long as those activities have commenced (i.e., are under construction) or are under contract to commence on or before March 14, 2021.

Concurrences and Certifications:

On December 15, 2020, the Commonwealth of Pennsylvania conditionally granted Clean Water Act Section 401 Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) consistency concurrence for the 16 NWPs subject to this final rule. The conditions in the 401 WQC and CZMA for the issuance of the NWPs have been incorporated as regional conditions of the NWPs in accordance with Section 401(d) of the Clean Water Act. Please see Pennsylvania regional general conditions II.H and II.I. For those activities requiring 401 WQC and CZMA, if an applicant cannot or will not comply with one or more conditions of this WQC or CZMA, then the applicant would be required to obtain an activity-specific 401 WQC or waiver thereof and/or an individual CZMA consistency concurrence or presumption of concurrence for the specific activity.

On December 14, 2020, the District of Columbia denied 401 WQC for certain activities authorized by the proposed NWPs 12, 29, 39, 40, 42, 43, 44, 51, 52, 57, and 58 in the District of Columbia. Accordingly, the Corps has denied authorization for those activities without prejudice until the certifying authority issues an individual 401 WQC or waives the right to do so. Anyone wanting to perform activities under NWPs 12, 29, 39, 40, 42, 43, 44, 51, 52, 57, and 58 that result in a discharge into waters of the U.S. must first obtain an activity-specific 401 WQC from the District of Columbia, Department of Energy and Environment (DOEE) or a waiver thereof. See DOEE's website at: <https://doee.dc.gov/service/wetland-and-stream-permits-water-quality-certifications>

On December 15, 2020, the State of Maryland conditionally granted 401 WQC and CZMA consistency concurrence for the 16 NWPs subject to this final rule. The Baltimore District reviewed the 401 WQC and CZMA approvals for these NWPs and has determined that the conditions for 401 WQC are inconsistent with the Environmental Protection Agency's

(EPA's) regulations implementing Section 401, the NWP rulemaking, and the Corps regulations governing the NWP program. Furthermore, conditions associated with the CZMA consistency concurrence for the NWPs are inconsistent with the NWP rulemaking and the Corps regulations governing the NWP program. Accordingly, the Corps declines to rely on Maryland's WQC and CZMA consistency concurrence for the NWPs and will instead require individual WQCs (or waiver) and individual CZMA consistency concurrence (or presumption of concurrence) for activities authorized by these NWPs to which WQC and CZMA apply (including NWPs that do not require a PCN to the Corps). In accordance with the Corps' regulations at 33 CFR 330.4(c), the Corps will not issue authorization under the 2021 NWPs (86 FR 2744) for any activity that results in a discharge until an applicant obtains an individual 401 WQC or waiver thereof. In accordance with the Corps' regulations at 330.4(d), the Corps will not issue authorization under the 2021 NWPs for any activity in one of Maryland's Coastal Zone Counties until the applicant obtains an individual CZMA consistency concurrence or presumption of concurrence. See Maryland regional conditions II.H.1 and II.H.2. Instructions for requesting individual CZMA concurrence and individual 401 WQC, or a waiver thereof, can be found on Maryland Department of the Environment's website at <https://mde.maryland.gov/programs/Water/WetlandsandWaterways/PermitsandApplications/Pages/index.aspx>

Questions regarding this matter should be directed to Ms. Beth Bachur by telephone at 410-962-4336 or by email at beth.bachur@usace.army.mil.

This public notice is issued by the Baltimore District Chief, Regulatory Branch.

**ENCLOSURE 3: REGIONAL CONDITIONS TO THE 2021 NATIONWIDE
PERMITS IN THE COMMONWEALTH OF PENNSYLVANIA**

I. Regional Conditions Applicable to Specific Nationwide Permits within the Commonwealth of Pennsylvania:

A. Nationwide Permit 12 Oil or Natural Gas Pipeline Activities, Nationwide Permit 57 Electric Utility Line and Telecommunications Activities, and Nationwide Permit 58 Utility

Line Activities for Water and Other Substances: Prior to commencing the activity, permittees shall submit a Pre-construction Notification (PCN) to the District Engineer (See General Condition 32 and Regional General Condition 32).

1. Wherever practicable, excavated material shall be placed on an upland site. However, when this is not practicable, temporary stockpiling is authorized provided that:
 - a. All temporary stockpiling or side-casting of excavated material in wetlands is completely removed from the wetlands within 30 days, unless a longer period of time is approved by the District Engineer.
2. The PCN shall include the following additional information:
 - a. For all submerged pipelines, cables, and utility lines across navigable waters of the United States: A location map and cross-sectional view drawing showing the pipeline, cable, or utility line crossing from bank to bank in relationship to the waterway bottom.
 - b. For pipeline, cable, and utility line projects completed by horizontal directional drilling or other boring methods: The PCN will include a remediation plan to address, to the extent that a Department of the Army authorization is required, any anticipated temporary structures, fills or work within waters of the U.S. necessary for the remediation of inadvertent returns of drilling fluids. If an inadvertent return occurs, and the remediation requires work within waters of the U.S. that extends beyond the limits of work authorized by the originally approved remediation plan, then the permittee must notify the Corps immediately and submit a revised remediation plan as soon as possible.
3. Selection of an alignment shall avoid and minimize wetland and stream impacts to the maximum extent practicable. The pipeline, cable, or utility line should make a perpendicular crossing of a stream when feasible. Horizontal directional drilling shall be reviewed as an option where feasible.
4. For projects that cross federal navigation channels, all pipelines, cables, and utility lines shall be buried the minimum depth below the authorized depth of the Federal

navigation channel consistent with the District's requirements. Section 408 permission will be required. For Philadelphia District – see condition #5 below.

For Baltimore District:

<https://www.nab.usace.army.mil/Portals/63/docs/Regulatory/Pubs/spn11-17.pdf>;

For Pittsburgh District:

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/RegulatoryBoundaries/PN12-2.pdf>

5. Regional Conditions specific in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania:

- a. **For Buried Pipelines, Cables, and Utility Lines Across the Delaware River Federal Navigation Channel:** The top of the pipeline, cable, or utility line crossing the Federal navigation channel shall be located a minimum of **25** feet below the authorized navigation channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal navigation channel, the top of pipeline, cable, or 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.
- b. **For Buried Pipelines, Cables, and Utility Lines Across the Schuylkill River Federal Navigation Channel:** The top of the pipeline, cable, or utility line crossing the Federal navigation channel shall be located a minimum of **20** feet below the authorized navigation channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal navigation channel, the top of pipeline, cable, or utility line shall be located a minimum of **10** feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.
- c. **For Buried Pipelines, Cables, and Utility Lines Across “ALL OTHER” Federal Navigation Channels:** The top of the pipeline, cable, or utility line crossing the Federal navigation channel shall be located a minimum of **6** feet below the authorized navigation channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal navigation channel, the top of pipeline, cable, or 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. (<http://www.nap.usace.army.mil/Missions/Civil-Works/Surveys/Projects/>).

B. Nationwide Permit 48 Commercial Shellfish Mariculture Activities: For activities in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, prospective permittees must submit a Pre-construction Notification (PCN) to the District Engineer for all activities in waters of the United States.

1. Any introduced shellfish must be indigenous to the area and must be certified under any State standards as being disease and parasite free.
2. 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.
3. All structures associated with the mariculture activity must be removed from waters of the United States when/if the activity is abandoned.
4. Use of unsuitable materials for shellfish seeding (i.e., asphalt, bituminous concrete slag, tires, wallboard, plastic, wood, metal, crushed glass, and garbage) is prohibited.
5. Each individual cage and/or bag shall be directly tagged to display the owner's name, address, lease location and U.S Army Corps of Engineers permit number.
6. To protect navigation during daylight, lowlight, and nighttime conditions, the perimeter of the lease site and authorized structures shall be marked in accordance with the U.S. Coast Guard requirements. The prospective permittee shall contact the U.S. Coast Guard at the following address to determine marking requirements and shall comply with such requirements as directed by the U.S. Coast Guard:
Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704; and no gear shall be installed prior to receiving official authorization .

C. Nationwide Permit 52 Water-Based Renewable Energy Generation Pilot Projects:

1. The District Engineer will provide a copy and coordinate review of all Pre-Construction Notifications (PCNs) in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania with the Federal and State resource agencies.

D. Nationwide Permit 55 Seaweed Mariculture Activities:

1. For activities in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania, the District Engineer will provide a complete copy and coordinate review of the PCN with the NMFS, Habitat Conservation Division.

E. Nationwide Permit 56 Finfish Mariculture Activities:

1. For activities in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania, the District Engineer will provide a complete copy and coordinate review of the PCN with the NMFS, Habitat Conservation Division.

F. Nationwide Permit 57 *Electric Utility Line and Telecommunications Activities*: See Regional Conditions in I.A above.

G. Nationwide Permit 58 *Utility Line Activities for Water and Other Substances*: See Regional Conditions in I.A above.

II. Regional Conditions Applicable to Multiple and/or All 2021 Nationwide Permits within the State of Pennsylvania

Note: To qualify for Nationwide Permit (NWP) authorization, the permittee must comply with the following regional general conditions, as applicable, in addition to any specific NWP regional conditions identified above in Section I, the terms and conditions found in the issuance and reissuance of the NWPs published in the *Federal Register* on January 13, 2021 (86 FR 2744), and any activity-specific verification conditions imposed by the Corps.

A. Nationwide Permit Regional General Condition #2 *Aquatic Life Movement*:

1. For activities in the Philadelphia District Regulatory Area of Responsibility, in order to protect diadromous fish migrations, spawning activities, and EFH, in-water work shall be avoided in accordance to the following time of year restrictions, unless otherwise authorized by the District Engineer through the PCN process:
 - a. To protect diadromous fish migrations and spawning, in the Delaware River main stem from the Pennsylvania and Delaware State Borders to the U.S. Route 1 Bridge, in Morrisville, and ALL tributaries within this reach, in-water work shall be avoided from ***March 1 to June 30***. This time of year restriction is not applicable to waters of the United States located upstream of an obstruction that precludes fish passage.
 - b. To protect diadromous fish migrations and spawning in the Delaware River mainstem above the U.S. Route 1 Bridge, in Morrisville, and ALL tributaries north of this point, in-water work shall be avoided from ***March 1 to July 31***. This time of year restriction is not applicable to waters of the United States located upstream of an obstruction that precludes fish passage.
 - c. Work within cofferdams that fully enclose and dewater the project area can proceed any time during the year provided that the cofferdams are installed and 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.
 - d. A request for waiver from these timing restrictions may be requested by submitting a PCN to the Corps and shall include a written statement that clearly describes one or more of the following: (1) why the use of cofferdams cannot be implemented; (2) evidence documenting the waterway does not or has not historically supported migrations and/or spawning habitat; (3) what additional

measures have been taken or are being proposed to avoid impacts; (4) and, why the activity must be conducted within the restricted time periods. Cost and logistics alone will not be sufficient. The Corps shall coordinate the request with the NMFS.

2. For activities in the Philadelphia and Baltimore Districts area of responsibility, all culverted road crossings of perennial and intermittent streams must meet the below culvert depression criteria or a Pre-Construction Notification (PCN) is required to be submitted to the District Engineer for review and coordination with the National Marine Fisheries Service – Habitat and Ecosystem Services Division. Extensions of existing culverts that are not depressed below the stream bottom do not require a PCN.
 - a. Culverts measuring greater than 36 inches in diameter must be depressed 12 inches below the stream bottom; or
 - b. Culverts measuring 36 inches or less in diameter must be depressed 6 inches below the stream bottom.
3. If depression of the culvert is not practicable in accordance with this depression criteria, the applicant must submit a Pre-Construction Notification, including a narrative documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The Corps shall provide a copy of the PCN, including the supporting documentation, to the NMFS for any culvert which cannot be depressed as outlined in this Regional General Condition 2 for Aquatic Life Movements. The applicant may find it helpful to contact National Marine Fisheries Service for recommendations about the measures to be taken to allow for fish passage.

B. Nationwide Permit Regional General Condition #16 Wild and Scenic Rivers:

1. Permittees must provide a PCN if a proposed NWP activity will occur in the following officially designated National Wild and Scenic Rivers:
 - a. Allegheny River, from the Kinzua Dam mile 197.2, downstream approximately 7 miles to US Route 6 Bridge, at mile 190.7, in Warren, then from the Buckaloons Recreation Area in Allegheny National Forest at mile 181.7 downstream 47 miles to Alcorn Island just north of Oil City at river mile 133.7, and then continuing from the Franklin Wastewater Treatment Plant at mile 122.7, downstream 31 miles to the refinery at Elmenton mile 90.7;

- b. Clarion River from mile 91.1 in the Borough of Ridgeway, Elk County, Pennsylvania, at the National Forest and State Game Lands boundary to mile 39.4 at the normal pool elevation of Piney Dam;
 - c. Upper Delaware Scenic and Recreational River, including the ¼ mile buffer from each bank, beginning at Hancock, New York, and continuing 73.4 river miles to Mill Rift, Pennsylvania;
 - d. Middle Delaware Scenic and Recreational River (from bank to bank) beginning approximately four miles below Port Jervis, extending downstream approximately to the boundary between Monroe and Northampton Counties in Pennsylvania (just below the Interstate 80 bridge);
 - e. Lower Delaware River beginning 7 river miles north of Belvidere, New Jersey, continuing to Washington Crossing, Pennsylvania, including Paunacussing Creek, within Solebury Township; all of the Tinicum Creek, including Rapp Creek and Beaver Creek Tributaries; and Tohickon Creek from the mouth to the Lake Nockamixon Dam, including a ¼ mile buffer from each bank. The towns of Belvidere, Phillipsburg, and Easton, as well as existing power plants, water supply intakes and wastewater outfalls are not included in the designated area; and
 - f. White Clay Creek watershed including all of its tributaries.
2. For activities in the Philadelphia District Regulatory Area of Responsibility within Wild and Scenic Rivers, coordination between the prospective permittee 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 shall 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 Corps of Engineers, the prospective permittee, and National Park Service may be necessary on a case-by-case basis to address identified Wild and Scenic River issues.

National Park Service correspondence shall be sent to the following addresses:

- a. For projects located within the Upper Delaware Scenic and Recreational River, the applicant shall send all correspondences to: Natural Resources Chief, Upper Delaware Scenic and Recreational River, 274 River Road, Beach Lake, PA 18405-9737.
- b. For projects located within the Middle Delaware Scenic and Recreational River, the applicant shall send all correspondences to: Chief of Resource Management & Science Division National Park Service, Delaware Water Gap National Recreation Area, 1978 River Road, P.O. Box #2, Bushkill, PA 18324.

- c. For projects located within the Lower Delaware River and White Clay Creek Wild and Scenic, the applicant shall send all correspondences to: The National Park Service, Interior Region 1, 1234 Market Street, Philadelphia Pennsylvania, 19107.
3. For activities in the Pittsburgh District Regulatory Area of Responsibility within Wild and Scenic Rivers, prior to the prospective permittee performing any activity in waters of the U.S., U.S Forest Service approval shall be obtained for the project by the Pittsburgh District prior to Nationwide Permit verification.

C. Nationwide Permit Regional General Condition #18 Endangered Species:

1. U.S. Fish and Wildlife Service (USFWS) Endangered Species Act (ESA) Requirements:

- a. Prior to commencing the activity, the applicant must complete a Pennsylvania Natural Diversity Inventory (PNDI) project screening for federally listed threatened and endangered species. The PNDI Environmental Review Tool is located at: <https://conservationexplorer.dcnr.pa.gov/>. If the PNDI receipt identifies a “Potential Impact” or “Avoidance Measure” relevant to a listed or eligible for listing USFWS species then the applicant must submit a PCN to the District Engineer, and forward the PNDI to the USFWS (see General Condition 32 and Regional General Condition 32), prior to doing work. **(See Addresses in Special Note below)**. The applicant shall provide evidence that a duplicate copy of the PCN has been submitted to, and received by the USFWS (e.g., copy of certified/registered mail receipt or email). A USFWS letter (issued pursuant to the ESA) serves as evidence that the permittee has contacted the USFWS.
- b. Prior to any work within the **Delaware River** where the regulated activities extend across State Boundaries (PA/NJ), the prospective permittee shall document that they have followed the consultation guidance published on the New Jersey Field Office website: <http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html> to determine if a proposed NWP activity may affect a listed species. The permittee shall generate a list of federally listed species for the action area using the USFWS’s Information for Project Planning and Conservation (IPaC) at the following website <https://ecos.fws.gov/ipac/>. Upon your review of the IPaC report, the proposed activity shall be screened for potential adverse effects to any listed species using the screening procedures published on the New Jersey Field Office website, or other more specific screening procedures that have been developed by the New Jersey Field Office for particular agencies, organizations, activities, or species. The permittee shall follow the guidance provided on the New Jersey Field Office website. If necessary, contact the New Jersey Field Office for further coordination prior to applying (PCN) to the District Engineer for an NWP verification.

2. **National Marine Fisheries Service- Endangered Species Act Requirements (Applicable in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania)**

- a. Prior to any work, the prospective permittee shall generate a list of federally listed species 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 found in the action area, the prospective permittee 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, except in the following waterways:
- i. Delaware River mainstem above the U.S. Route 202 Bridge in New Hope, Pennsylvania; and
 - ii. All tributaries above the U.S. Route 202 Bridge in New Hope, Pennsylvania, located off of the Delaware River mainstem.
- b. Additional technical consultation guidance to determine if a proposed NWP activity may affect a listed species 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>.

D. Nationwide Permit Regional General Condition #32 Pre-Construction Notification:

The following regional general conditions are incorporated as part of the terms and conditions of NWP General Condition 32, *Pre-Construction Notification*. These regional general conditions are applicable to all NWPs where a PCN is submitted to the District Engineer. This includes the following: (a) those NWPs that require a PCN, (b) those NWPs requiring notification to the District Engineer pursuant to NWP General Conditions 18 and 22, (c) those NWPs requiring notification to the District Engineer pursuant to a regional condition, and (d) any other pre-construction notifications to the District Engineer where an applicant has requested verification of an NWP authorization.

1. **For PCN activities in the Philadelphia District Regulatory Area of Responsibility:** The prospective permittee shall notify the Philadelphia District Corps of Engineers in accordance with NWP General Condition 32, *Pre-Construction Notification* by using a signed pre-construction notification form (Form ENG 6082).
2. **Waters Containing Submerged Aquatic Vegetation (SAV) Beds:** The prospective permittee shall submit a PCN to the District Engineer for any NWP activity that is proposed within **50 feet** of SAV beds, or mapped SAV habitat. Additional avoidance and minimization measures, such as relocating a structure or time-of-year restrictions (TOYR) may be required to reduce impacts to SAV habitat.

3. All PCNs to the District Engineer shall be completed using the established District Engineer permit application procedures for that locality (For Philadelphia District see: Section II.D.1., above; For Pittsburgh District see: <https://www.lrp.usace.army.mil/Missions/Regulatory/Forms-and-Publications/>; For Baltimore District see: <https://www.nab.usace.army.mil/Missions/Regulatory/Permits-PA/>). Preferably, all PCN information can be submitted electronically using district-specific procedures; alternatively, a hard copy may be sent to the Corps. All PCNs to the District Engineer shall include the following information, where applicable, in addition to the information specified in the NWP conditions, including General Condition 32:
 - a. For projects located in the vicinity of a Federal navigation channel, the location and depth of any Federal navigation channel shall be shown in relation to the proposed project.
 - b. Copy of response from the FWS concerning any federally listed Threatened and Endangered Species that may be affected by the proposed activity. Completion of the required screening identified in General Regional Conditions #18 Endangered Species and submission of the required documents with the PCN serves as compliance with this condition.
 - c. Copy of response from the SHPO concerning historic properties that may be affected by the proposed activity.
 - d. Documentation from the appropriate state agency indicating whether the proposed project is located within a State Natural Heritage site (<https://www.dcnr.pa.gov/Communities/HeritageAreas/Pages/default.aspx#:~:text=Pennsylvania%20Route%206%20Alliance,Susquehanna%20National%20Heritage%20Area>), Outstanding National Resource Water, or National Estuarine Research Reserve (<https://coast.noaa.gov/nerrs/>). For further information, reference NWP General Condition 22.

E. Nationwide Permit Regional General Condition A For Certain Activities in Navigable Waters:

1. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. 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 United States Coast Guard for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing 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 (ft.) above clearance required for bridges |
|------------------------------------|--|
| 115 and below | 20 |
| 138 | 22 |
| 161 | 24 |
| 230 | 26 |
| 350 | 30 |
| 500 | 35 |
| 700 | 42 |
| 750-765 | 45 |

- a. The PCN for aerial transmission lines over navigable waters must include the nominal system voltage and the additional clearance above low steel for bridges, if available, or above maximum high water elevation;
 - b. District Engineer regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over District Engineer lake projects. In instances where both this regional condition and ER 1110-2-4401 apply, the greater minimum clearance is required; and
 - c. Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.
2. Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (i.e., Section 10 waters), the permittee shall furnish the District Engineer and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland, 20910 with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the mean high water line at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.
 3. Aids to Navigation: If the Corps or the U.S. Coast Guard determine that private aids to navigation are required to mark the project area, the permittee must prepare and provide for United States Coast Guard (USCG) approval (address below) a Private Aids to Navigation Application (CG-2554), and the approval must be received prior to commencement of the authorized work. The form can be found at this link: https://www.navcen.uscg.gov/pdf/AIS/CG_2554_Paton.pdf. Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the applicable Corps District.

F. Nationwide Permit Regional General Condition B *Poured Concrete into Forms*:

1. Activities that involve the discharge of poured concrete must be contained within cells or watertight forms until the concrete is set.

G. Nationwide Permit Regional General Condition C *Temporary Impacts to Streams*:

1. Following completion of construction, temporarily affected stream beds shall have bottom contours restored using clean, native materials, where practicable.

H. Section 401 Water Quality Certification Conditions:

The Pennsylvania Department of Environmental Protection issued conditional 401 Water Quality Certification provided that:

1. Prior to beginning any activity authorized by the Corps under a NWP, the applicant shall obtain from the Pennsylvania Department of Environmental Protection (PADEP) all necessary environmental permits or approvals, and submit to PADEP environmental assessments and other information necessary to obtain the permits and approvals, as required under State law, including The Clean Streams Law (35 P.S. §§ 691.1-691.1001), the Dam Safety and Encroachments Act (32 P.S. §§ 693.1-693.27), the Floodplain Management Act (32 P.S. §§ 679.101-679.601), the Oil and Gas Act (58 Pa.C.S. §§ 3201-3274), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1-1396.19b), the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301-3326), the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1-1406.21), the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51-30.66), the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.101-6020.1305), the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101-6026.908), 58 Pa.C.S. §§ 3201-3274 (relating to development), the Sewage Facilities Act 35 P.S. §§ 750.7b and 750.9, the Air Pollution Control Act (35 P.S. §§ 4001-4015) and the regulations promulgated thereunder, including 25 Pa. Code Chapters 16, 71, 77, 78, 78a, 86-91, 92a, 93, 95, 96, 102, 105, 106, 127, 245, and 260a-299.
2. Fill Material may not contain any waste as defined in the Solid Waste Management Act.
3. Applicants and projects eligible for these NWPs must obtain all State permits or approvals, or both, necessary to ensure that the project meets the state's applicable water quality standards, including a project-specific State Water Quality Certification.*

*The scope of the issuance of this State Water Quality Certification (SWQC) is related only to the scope and applicability of the proposed NWPs. Any activity or project requiring PADEP to issue 401 SWQC that is beyond the scope of these proposed NWPs will require the applicant to obtain a project-specific SWQC from PADEP. This would include any activity or project requiring a SWQC associated with an authorization, permit or license issued by a Federal agency, such as FERC or NRC. Such activities or projects

include, but are not limited to, an interstate natural gas pipeline, a gas storage field or a nuclear or hydroelectric project.

I. Coastal Zone Management Act Consistency Determination Condition:

The Pennsylvania Department of Environmental Protection, Pennsylvania Coastal Resource Management (CRM) Program concurs that the NWP's and Pennsylvania Regional Conditions are consistent with the Pennsylvania CRM Program's enforceable policies, subject to the following condition applicable to NWP's 21, 39, 40, 42, 43, 44, 50, 51, 52, 57, and 58.

1. Prior to beginning any activity authorized by the Corps under a NWP, the applicant shall obtain from the Department all necessary environmental permits or approvals, and submit to the Department environmental assessments and other information necessary to obtain the permits and approvals, as required under State law, including the Dam Safety and Encroachments Act (32 P.S. §§ 693.91-693.27) and 25 Pa. Code Chapter 105.

SPECIAL NOTES:

1. The Philadelphia District Area of Responsibility can be found at:
<http://www.nap.usace.army.mil/Missions/Regulatory/District-Boundaries/>
The Baltimore District Area of Responsibility can be found at:
<http://www.nab.usace.army.mil/Missions/Regulatory/Baltimore-District-Regulatory-Boundary-Map/>
The Pittsburgh District Area of Responsibility can be found at:
https://www.lrp.usace.army.mil/Portals/72/Regulatory_District_Map_Poster%2020190925_0921.pdf
2. As required, the District Engineer shall coordinate a PCN with following Federal and State agencies:

Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

U.S. Fish and Wildlife Service
Pennsylvania Field Office
110 Radnor Road, Suite 101
State College, Pennsylvania 16801
Email: IR1_ESPenn@fws.gov

National Marine Fisheries Service
Habitat and Ecosystem Services Division
74 Magruder Road
Highlands, New Jersey 07732
<https://www.fisheries.noaa.gov/contact/greater-atlantic-region-habitat-and-ecosystem-services-division>

NOAA Fisheries Greater Atlantic Regional Fisheries Office
Protected Resources Division
55 Great Republic Drive
Gloucester, MA 01930
Nmfs.gar.esa.section7@noaa.gov

Pennsylvania Historical & Museum Commission
State Historic Preservation Office
Commonwealth Keystone Building
400 North Street, 2nd floor
Harrisburg, Pennsylvania 17120

Pennsylvania Department of Environmental Protection
Bureau of Waterways Engineering and Wetlands
Division of Wetlands & Encroachments
Rachel Carson State Office Building
P.O. Box 8460
Harrisburg, Pennsylvania 17105-8775

Pennsylvania Fish and Boat Commission
North Central Law Enforcement
595 Rolling Ridge Drive
Bellefonte, Pennsylvania 16823-9616

Pennsylvania Game Commission
2001 Elmerton Avenue
Harrisburg, Pennsylvania 17110-9797