US Army Corps of Engineers
Philadelphia District

NEW JERSEY
2021 NATIONWIDE PERMIT REGIONAL CONDITIONS

US Army Corps of Engineers
New York District

Effective March 2, 1994, the State of New Jersey assumed the Federal Section 404 permit program from the United States (U.S.) Army Corps of Engineers. As such, these nationwide permits including all regional conditions developed for waters of the United States within the State of New Jersey are only effective for those waters which have not been assumed by the State of New Jersey. All Nationwide permit (NWP) verifications shall be made in accordance with the below listed regional conditions and all subparts, 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 conditions 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 preconstruction notifications (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 of potential 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, A, & B): (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.

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 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 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 that are currently subject to this regional condition:

(1) Upper Delaware River; from the confluence of the East and West Branches (below Hancock, New York) downstream to Cherry Island near Millrift in Westfall Township, Pike County (Sparrow Bush, New York), approximately five miles above Port Jervis).

(2) Delaware Water Gap National Recreation Area; Pennsylvania and New Jersey; within the boundaries of the National Recreation Area, 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).

(3) Lower Delaware River; Pennsylvania and New Jersey; from the town of Washington Crossing in Bucks County, Pennsylvania, upstream to Upper Mount Bethel Township in Northampton County, Pennsylvania, plus Tinicum, Paunacussing, and Tohickon Creeks (tributaries). 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.

(4) Great Egg Harbor River; New Jersey; from the mouth of Patcong Creek upstream approximately 40 miles plus several tributaries, in Atlantic, Cape May, Gloucester and Camden Counties. This includes Patcong Creek extending upstream from its confluence with Great Egg Harbor River to the Garden State parkway bridge, approximately 2.8 miles.

(5) Maurice River; New Jersey; the Maurice River, from Shell Pile approximately 17 miles upstream to the Millville sewage treatment plant, and portions of Menantico Creek, Manumuskin River and Muskee Creek, in Cumberland and Atlantic Counties.

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

- For projects located within the Lower Delaware , Maurice and Great Egg Wild and Scenic Rivers, the applicant shall send all correspondences to: National Park Service, Interior Region 1 Office, 1234 Market Street, Philadelphia PA 19107.

- For projects located within the Middle Delaware Wild & Scenic River; and the Delaware Water Gap National Recreation Area , the applicant shall send all correspondences to: Chief of Resource Management & Science Division, National Park Service, Delaware Water Gap National Recreation Area, Middle Delaware Wild & Scenic Rivers Coordinator, 1978 River Road, P.O. Box #2, Bushkill, PA 18324.

- For projects located within the Upper Delaware Wild & Scenic 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.

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 in New Jersey (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 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. 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 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 applicant 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 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 in New Jersey (See NWP General Condition 18. *Endangered Species*.).

Condition G-4: Prior to any work the applicant 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 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 NWPs, 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 NWPs 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, & 56, 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 (*Liaeopsis chinesis*), wavy waternymph (*Naja flexilis*), spatterdock (*Nuphar variegatum*), curly-leaf pondweed (*Potamogeton crispus*), ribbonleaf pondweed (*Potamogeton*

epihydrus), clasping leaf 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 time of year restrictions:

(1) To protect diadromous fish migrations and spawning, in-water work shall be avoided from the mouth of the Delaware Bay to the U.S. Route 1 Bridge, and ALL tributaries within this reach, 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. 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) To protect diadromous fish migrations and spawning in the Delaware River mainstem above the U.S. Route 1 Bridge, 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.

(3) In all other tributaries in New Jersey within the geographic area of the Philadelphia and New York Districts from the Absecon Inlet north, in-water work shall be avoided from ***March 1 to June 30*** to protect diadromous fish migration, spawning activities and EFH. 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.

(4) In areas identified as EFH for winter flounder eggs and larvae, in-water work shall be avoided from ***January 01 to May 31.*** This condition does not apply south of the Atlantic City Expressway within Atlantic and Cape May Counties or for on-going Commercial Shellfish Mariculture Activities (NWP 48) activities where a PCN was submitted and verified by the Corps of Engineers.

(5) 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.

(6) 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: (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.

Condition G-5(c): For ALL NWP activities proposing the construction and/or replacement of structures in areas mapped as shellfish habitat as defined in the New Jersey Department of Environmental Protection, ***N.J.A.C. 7:7-9.2, Coastal Zone Management Rules, as amended on June 20, 2016*** and/or last amended, the following conditions shall be met:

(1) All structures, including piers and docks (piles, stringers, whalers and decking), utility poles, boat lifts, mooring piles, breakwaters, and replacement bulkheads must be constructed with alternative materials, such as plastic, natural cedar or other untreated wood, polymer coated pressure-treated wood, concrete or other inert products. Examples of commonly used treated materials are; creosote, pressure-treated lumber, (i.e. preservative treatment such as CCA-C, ACZA, CC, ACQ, etc.) (wolmanized) which is susceptible to leaching are considered polluting materials and are not acceptable for the purpose of this permit unless a polymer coating is applied to the material prior to installation;

(2) Those shellfish areas mapped by the NJDEP as "condemned" and/or "prohibited" for the purpose of harvesting shellfish, shall continue to be considered shellfish habitat for the purposes of Nationwide Permit Verification.

*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 and extending to the Salem/Cumberland County line along the Delaware Bay shoreline, and to include ALL tributary mouths within this reach, from ***April 15 to August 30***. 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) DESIGNATED CRITICAL RESOURCE WATERS

This regional condition is intended to satisfy NWP General Condition 22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves.

Condition G-7(a): 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, the ***Jacques Cousteau National Research Reserve***, including wetlands adjacent to those waters.

Condition G-7(b): 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 within the ***Jacques Cousteau National Research Reserve***, 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.

*Information concerning the reserves location and boundaries can be found at https://coast.noaa.gov/nerrs/reserves/jacques-cousteau.html, or https://coast.noaa.gov/estuaries/estuary-resources/reserve-map.html or by contacting the Philadelphia District for further coordination prior to applying to the Corps for an NWP verification.

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Activity Specific Nationwide Permit Regional Conditions

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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 CONDITIONS FOR NWP (5) SCIENTIFIC MEASUREMENT DEVICES

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

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

REGIONAL CONDITIONS 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 CONDITIONS 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 CONDITIONS FOR NWP (10) MOORING BUOYS

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

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

REGIONAL CONDITIONS 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. Any excavated or stockpiled materials shall be stabilized with straw bales, silt fence, or other acceptable methods 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 Corps of Engineers to be impracticable.

Condition (e): 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 (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 achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way, in jurisdictional waters, to map existing SAV, construction schedules, and long-term monitoring to assess restoration of SAV areas.

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

For Buried Pipes and Pipelines Across Navigable Waters:

Condition (i): 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 (j): 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 (k): 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 (l): 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 (m): 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 CONDITIONS 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 CONDITIONS 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 water body 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): Any activity associated with this NWP shall require a PCN submitted to the Corps of Engineers.

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

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.

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 CONDITIONS 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 CONDITIONS FOR NWP (29) RESIDENTIAL DEVELOPMENTS

Condition (a): 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 (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.

Condition (d): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

THE FOLLOWING REGIONAL CONDITION FOR NWP 29 IS APPLICABLE TO THE CONSTRUCTION OR EXPANSION OF A SINGLE-FAMILY RESIDENCE

Condition (a): This NWP may only be used for a single-family home for a personal residence by an individual who purchased the lot prior to November 21, 1991.

REGIONAL CONDITIONS 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 CONDITIONS FOR NWP (39) COMMERCIAL & INSTITUTIONAL DEVELOPMENTS

Condition (a): Under the terms of this NWP, all wetlands determined to be Waters of the U.S. located within the plotted lot lines of any commercial or institutional development will be considered an adverse effect, 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 (b): 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 (c): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

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

Condition (e): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

REGIONAL CONDITION FOR NWP (40) AGRICULTURAL ACTIVITIES

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

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

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

REGIONAL CONDITIONS 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.

Condition (d): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

REGIONAL CONDITIONS FOR NWP (43) STORMWATER MANAGEMENT FACILITIES

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 any activities located in perennial streams and intermittent waters.

REGIONAL CONDITIONS FOR NWP (48) COMMERCIAL SHELLFISH 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): 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 (c): Any introduced shellfish must be certified under New Jersey standards as being disease and parasite free.

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

Condition (f): Each individual cage and/or bag shall be directly tagged to display the owners name, address, lease location and USACE permit number.

Condition (g): To protect navigation during daylight, lowlight and nighttime conditions, the perimeter of the lease site and authorized structures shall be marked in accordance with U.S. Coast Guard requirements. The permittee shall contact the U.S. Coast Guard at the following address to determine such 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.

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 compete 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.

Condition (c): To protect navigation during daylight, lowlight and nighttime conditions, the perimeter of the site and authorized structures shall be marked in accordance with U.S. Coast Guard requirements. The permittee shall contact the U.S. Coast Guard at the following address to determine such 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.

REGIONAL CONDITION FOR NWP (56) FINFISH MARICULTURE ACTIVITIES

Condition (a): All structures associated with the Finfish 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.

Condition (c): To protect navigation during daylight, lowlight and nighttime conditions, the perimeter of the site and authorized structures shall be marked in accordance with U.S. Coast Guard requirements. The permittee shall contact the U.S. Coast Guard at the following address to determine such 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.

REGIONAL CONDITION FOR NWP (57) ELECTRIC UTILITY LINE AND TELECOMMUNICATIONS 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. Any excavated or stockpiled materials shall be stabilized with straw bales, silt fence, or other acceptable methods 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 achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way, in jurisdictional waters, to map 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 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 (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 utility line 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 CONDITION 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 with straw bales, silt fence, or other acceptable methods 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 achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way, in jurisdictional waters, to map 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 to the Corps of Engineers.

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

For Buried Utility lines Across Navigable Waters:

Condition (i): 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 (j): 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 cable 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 cable or pipeline across the waterway. Any discrepancies shall be clearly noted.

Condition (k): 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 (l): 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 (m): 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.