

Table 1 - Corps Evaluation of West Virginia Section 401 Water Quality Certification for NWP

Type of Condition	Condition	Determination	PN language
Standard	1. To ensure project compliance with state water quality requirements applicable to these Nationwide Permits, notification is to be provided prior to construction to West Virginia Department of Environmental Protection (WV DEP) for any permitted activity for which the U.S. Army Corps of Engineers (USACE) requires pre-construction notification (PCN), in accordance with Nationwide Permit General Condition 32. This condition is required through authority provided in State Certification of Activities Requiring a Federal License or Permit, 40 C.F.R §121.3 (2020) and WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014).	Accepted	1. To ensure project compliance with state water quality requirements applicable to these Nationwide Permits, notification is to be provided prior to construction to West Virginia Department of Environmental Protection (WV DEP) for any permitted activity for which the U.S. Army Corps of Engineers (USACE) requires pre-construction notification (PCN), in accordance with Nationwide Permit General Condition 32. This condition is required through authority provided in State Certification of Activities Requiring a Federal License or Permit, 40 C.F.R §121.3 (2020) and WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014).
Standard	2. To compensate for unavoidable impacts to aquatic resources as a result of the discharge of dredge or fill material, the applicant must provide proof of compensatory mitigation (as outlined in Standard Condition 16 below) to WV DEP prior to construction, for an activity resulting in cumulative permanent impacts to streams greater than 300 linear feet or causing the loss of greater than 1/10 acre of wetlands. This condition is required in accordance with the following; Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-6 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1 et seq. (2016).	Accepted	2. To compensate for unavoidable impacts to aquatic resources as a result of the discharge of dredge or fill material, the applicant must provide proof of compensatory mitigation (as outlined in Standard Condition 16 below) to WV DEP prior to construction, for an activity resulting in cumulative permanent impacts to streams greater than 300 linear feet or causing the loss of greater than 1/10 acre of wetlands. This condition is required in accordance with the following; Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-6 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1 et seq. (2016).
Standard	3. To protect the biological integrity of the aquatic ecosystem, culverted crossings shall be sized and installed in a manner to allow the passage of aquatic life and freely pass bankfull flows. Exceptions to this requirement would be when culvert placement is on bedrock, or when stream gradient is equal to or greater than 4%, or when bankfull elevation is greater than final surface elevation. This condition is required in accordance with Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).	Accepted	3. To protect the biological integrity of the aquatic ecosystem, culverted crossings shall be sized and installed in a manner to allow the passage of aquatic life and freely pass bankfull flows. Exceptions to this requirement would be when culvert placement is on bedrock, or when stream gradient is equal to or greater than 4%, or when bankfull elevation is greater than final surface elevation. This condition is required in accordance with Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).
Standard	4. To protect the designated uses of waters of the state, the permittee shall investigate for the presence of water supply intakes or other activities within 1/2 mile downstream of the activity, which may be affected by increased suspended solids and turbidity, caused by work in the watercourse. The permittee shall give notice to operators of any such water supply intakes and such other water quality dependent activities as necessary before beginning work in the watercourse in sufficient time to allow preparation for any change in water quality. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-7.2.a.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq (2008).	Accepted	4. To protect the designated uses of waters of the state, the permittee shall investigate for the presence of water supply intakes or other activities within 1/2 mile downstream of the activity, which may be affected by increased suspended solids and turbidity, caused by work in the watercourse. The permittee shall give notice to operators of any such water supply intakes and such other water quality dependent activities as necessary before beginning work in the watercourse in sufficient time to allow preparation for any change in water quality. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-7.2.a.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R §60-5-1, et seq (2008).
Standard	5. To ensure that temporary stream and wetland crossings have no significant adverse impact to aquatic resources, the following procedures and requirements shall be followed and met in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). At each stream crossing, substrate in the channel will be removed and stockpiled separately from other excavated material. This native material must be reused in restoration of the stream channel, which is to be completed within 72 hours or as soon as practicable after completion of the crossing. Upon final stream bed restoration, the stream must have similar physical characteristics to include substrate, pattern, profile, dimension and embeddedness of the original stream channel. At each wetland crossing, any excavated material from the top 12 inches of soil will be removed and stockpiled separately from other excavated material. This native material must be reused in restoration of the wetlands temporarily impacted by the open cut crossing and restoration must be completed within 72 hours or as soon as practicable after completion of the crossing. Stream crossings will be conducted as close to a right angle to the watercourse as practicable and the area of in stream activity will be limited to reduce disturbance.	Accepted	5. To ensure that temporary stream and wetland crossings have no significant adverse impact to aquatic resources, the following procedures and requirements shall be followed and met in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). At each stream crossing, substrate in the channel will be removed and stockpiled separately from other excavated material. This native material must be reused in restoration of the stream channel, which is to be completed within 72 hours or as soon as practicable after completion of the crossing. Upon final stream bed restoration, the stream must have similar physical characteristics to include substrate, pattern, profile, dimension and embeddedness of the original stream channel. At each wetland crossing, any excavated material from the top 12 inches of soil will be removed and stockpiled separately from other excavated material. This native material must be reused in restoration of the wetlands temporarily impacted by the open cut crossing and restoration must be completed within 72 hours or as soon as practicable after completion of the crossing. Stream crossings will be conducted as close to a right angle to the watercourse as practicable and the area of in stream activity will be limited to reduce disturbance.
Standard	6. Spoil materials from the watercourse or onshore operations, including sludge deposits, shall not be dumped in the watercourse, or deposited in wetlands or other areas where the deposit may adversely affect the surface waters of the state consistent with the requirements set forth in WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).	Accepted	6. Spoil materials from the watercourse or onshore operations, including sludge deposits, shall not be dumped in the watercourse, or deposited in wetlands or other areas where the deposit may adversely affect the surface waters of the state consistent with the requirements set forth in WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).

Standard	7. To protect aquatic resources from unauthorized discharge of pollutants, storage and refueling areas shall not be located within any surface water body. All spills shall be promptly reported to the State Center for Pollution, Toxic Chemical and Oil Spills, 1-800-642-3074. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014).	Accepted	7. To protect aquatic resources from unauthorized discharge of pollutants, storage and refueling areas shall not be located within any surface water body. All spills shall be promptly reported to the State Center for Pollution, Toxic Chemical and Oil Spills, 1-800-642-3074. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014).
Standard	8. To reduce sedimentation of aquatic resources and increased turbidity, it is required that proper stabilization of all disturbances below the ordinary high-water mark of waters shall be installed within 24 hours or as soon as practicable to prevent erosion. Where possible, stabilization shall incorporate revegetation using bioengineering as an alternative to riprap. If riprap is utilized, it must be of such weight and size that bank stress or slump conditions shall not be created due to its placement. Fill must be clean, nonhazardous and of such composition that it shall not adversely affect the biological, chemical or physical properties of the receiving waters. Unsuitable materials include but are not limited to: copper chromium arsenate (CCA) and creosote treated lumber, car bodies, tires, large household appliances, and asphalt. To reduce potential slope failure and/or erosion behind the material, fill containing concrete must be of such weight and size that promotes stability during expected high flows. Loose large slab placement of concrete sections from demolition projects greater than thirty-six (36) inches in its longest dimension are prohibited. Rebar or wire in concrete shall not protrude further than one (1) inch. All activities require the use of clean and coarse non-erodible materials with 15% or less of like fines that is properly sized to withstand expected high flows. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).	Accepted	8. To reduce sedimentation of aquatic resources and increased turbidity, it is required that proper stabilization of all disturbances below the ordinary high-water mark of waters shall be installed within 24 hours or as soon as practicable to prevent erosion. Where possible, stabilization shall incorporate revegetation using bioengineering as an alternative to riprap. If riprap is utilized, it must be of such weight and size that bank stress or slump conditions shall not be created due to its placement. Fill must be clean, nonhazardous and of such composition that it shall not adversely affect the biological, chemical or physical properties of the receiving waters. Unsuitable materials include but are not limited to: copper chromium arsenate (CCA) and creosote treated lumber, car bodies, tires, large household appliances, and asphalt. To reduce potential slope failure and/or erosion behind the material, fill containing concrete must be of such weight and size that promotes stability during expected high flows. Loose large slab placement of concrete sections from demolition projects greater than thirty-six (36) inches in its longest dimension are prohibited. Rebar or wire in concrete shall not protrude further than one (1) inch. All activities require the use of clean and coarse non-erodible materials with 15% or less of like fines that is properly sized to withstand expected high flows. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).
Standard	9. To protect the water quality of aquatic resources, runoff from any storage areas or spills shall not be allowed to enter storm sewers without acceptable removal of solids, oils and toxic compounds. Discharges from retention/detention ponds must comply with permit requirements of the National Pollutant Discharge Elimination System permit program of the WV DEP. This condition is required in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).	Accepted	9. To protect the water quality of aquatic resources, runoff from any storage areas or spills shall not be allowed to enter storm sewers without acceptable removal of solids, oils and toxic compounds. Discharges from retention/detention ponds must comply with permit requirements of the National Pollutant Discharge Elimination System permit program of the WV DEP. This condition is required in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).
Standard	10. To protect aquatic resources from discharge associated with land disturbance activities, which are one (1) acre or greater in total area, the project proponent must comply with the National Pollutant Discharge Elimination System or other state stormwater permit requirements as established by the WV DEP, if applicable. Any land disturbances are required to use Best Management Practices for Sediment and Erosion Control, as described in the latest West Virginia Department of Environmental Protection's Erosion and Sediment Control Best Management Practice Manual, or similar documents prepared by the West Virginia Division of Highways. These handbooks are available from the respective agency offices. This condition is required in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016).	Accepted	10. To protect aquatic resources from discharge associated with land disturbance activities, which are one (1) acre or greater in total area, the project proponent must comply with the National Pollutant Discharge Elimination System or other state stormwater permit requirements as established by the WV DEP, if applicable. Any land disturbances are required to use Best Management Practices for Sediment and Erosion Control, as described in the latest West Virginia Department of Environmental Protection's Erosion and Sediment Control Best Management Practice Manual, or similar documents prepared by the West Virginia Division of Highways. These handbooks are available from the respective agency offices. This condition is required in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016).
Standard	11. To protect aquatic resources from unpermitted discharges consistent with the requirements of WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), concrete shall not be permitted to enter the watercourse unless contained by tightly sealed forms or cells. Concrete handling equipment shall not discharge waste washwater into wetlands or watercourses at any time without adequate wastewater treatment as approved by the WV DEP.	Accepted	11. To protect aquatic resources from unpermitted discharges consistent with the requirements of WV Water Pollution Control Act, W.Va. Code §22-11-4.a.16 (2014) and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), concrete shall not be permitted to enter the watercourse unless contained by tightly sealed forms or cells. Concrete handling equipment shall not discharge waste washwater into wetlands or watercourses at any time without adequate wastewater treatment as approved by the WV DEP.
Standard	12. To maintain the biological integrity of the state's fisheries, a spawning waiver is required for in-stream work in designated warm water streams and their adjacent tributaries during the fish spawning season of April to June and for trout waters and their adjacent tributaries during the trout water fish spawning season of September 15 to March 31. Fish spawning waivers may be requested from West Virginia Division of Natural Resources (WV DNR) Coordination Unit, at (304) 637-0245. For information about specific stream designations contact West Virginia Department of Environmental Protection, Water Quality Standards Section at (304) 926-0440. This condition is required in accordance with Requirements Governing Water Quality	Accepted	12. To maintain the biological integrity of the state's fisheries, a spawning waiver is required for in-stream work in designated warm water streams and their adjacent tributaries during the fish spawning season of April to June and for trout waters and their adjacent tributaries during the trout water fish spawning season of September 15 to March 31. Fish spawning waivers may be requested from West Virginia Division of Natural Resources (WV DNR) Coordination Unit, at (304) 637-0245. For information about specific stream designations contact West Virginia Department of Environmental Protection, Water Quality Standards Section at (304) 926-0440. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Wildlife Resources Declaration of Policy, W.Va. Code §20-2-4 (2017).

	Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Wildlife Resources Declaration of Policy, W.Va. Code §20-2-4 (2017).		
Standard	13. To protect stream stability and avoid unnecessary degradation of aquatic resources, the project proponent should avoid removal of riparian vegetation to the greatest extent practicable. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).	Accepted	13. To protect stream stability and avoid unnecessary degradation of aquatic resources, the project proponent should avoid removal of riparian vegetation to the greatest extent practicable. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).
Standard	14. To protect aquatic life and reduce turbidity and disturbance to aquatic resources, the operation of equipment in-stream shall be minimized and accomplished during low flow periods when practical. Ingress and egress for equipment outside the immediate work area requires prior approval of the WV DNR Office of Land and Stream. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Wildlife Resources Declaration of Policy, W.Va. Code §20-2-4 (2017).	Accepted	14. To protect aquatic life and reduce turbidity and disturbance to aquatic resources, the operation of equipment in-stream shall be minimized and accomplished during low flow periods when practical. Ingress and egress for equipment outside the immediate work area requires prior approval of the WV DNR Office of Land and Stream. This condition is required in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Wildlife Resources Declaration of Policy, W.Va. Code §20-2-4 (2017).
Standard	15. To ensure the protection of West Virginia's high quality and special aquatic resources, notification must be provided to the WV DEP 60-days prior to construction describing the project purpose, location, and impacts for use of any Nationwide Permit(s) resulting in work in streams set forth in Sections A, B, and C below. The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. A. Tier 3 Protection is provided for aquatic resources in accordance with West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Antidegradation Policy, Title 47, Series 2, Section 4 for Outstanding National Resource Waters to include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131, et seq.) within the state, all federally designated rivers under the Wild and Scenic Rivers Act, 16 U.S.C. §1271, et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the National Parks and Recreation Act of 1978, as amended; and pursuant to W.Va. C.S.R. §§60-5-6, 7 (2008) those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource. This condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §§60-5-6, 7 (2008). The listing of Tier 3 streams is located at: https://dep.wv.gov/WWE/Programs/wqs/Documents/Tier%203%20Info/WVTier_3_Nov2013_web.xlt B. Naturally-Reproducing Trout Streams are protected to ensure the continued propagation and maintenance of naturally-reproducing trout. For information about specific streams contact WV DEP, Water Quality Standards, at 304-926-0440. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). C. West Virginia Natural Stream Preservation Act identifies the following streams or rivers as protected from activities that would impound, divert or flood the body of water: Greenbrier River from its confluence with Knapps Creek to its confluence with the New River, Anthony Creek from its headwaters to its confluence with the Greenbrier River, Cranberry River from its headwaters to its confluence with the Gauley River, Birch River from Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River, and New River from its confluence with the Greenbrier River to its confluence with the Gauley River. This condition is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011).	Accepted	15. To ensure the protection of West Virginia's high quality and special aquatic resources, notification must be provided to the WV DEP 60-days prior to construction describing the project purpose, location, and impacts for use of any Nationwide Permit(s) resulting in work in streams set forth in Sections A, B, and C below. The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. A. Tier 3 Protection is provided for aquatic resources in accordance with West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Antidegradation Policy, Title 47, Series 2, Section 4 for Outstanding National Resource Waters to include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131, et seq.) within the state, all federally designated rivers under the Wild and Scenic Rivers Act, 16 U.S.C. §1271, et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the National Parks and Recreation Act of 1978, as amended; and pursuant to W.Va. C.S.R. §§60-5-6, 7 (2008) those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource. This condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §§60-5-6, 7 (2008). The listing of Tier 3 streams is located at: https://dep.wv.gov/WWE/Programs/wqs/Documents/Tier%203%20Info/WVTier_3_Nov2013_web.xlt B. Naturally-Reproducing Trout Streams are protected to ensure the continued propagation and maintenance of naturally-reproducing trout. For information about specific streams contact WV DEP, Water Quality Standards, at 304-926-0440. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). C. West Virginia Natural Stream Preservation Act identifies the following streams or rivers as protected from activities that would impound, divert or flood the body of water: Greenbrier River from its confluence with Knapps Creek to its confluence with the New River, Anthony Creek from its headwaters to its confluence with the Greenbrier River, Cranberry River from its headwaters to its confluence with the Gauley River, Birch River from Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River, and New River from its confluence with the Greenbrier River to its confluence with the Gauley River. This condition is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011).
Standard	16. The following mitigation guidelines are established to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams without compensating for the aquatic resource functions that will be lost as a result of the permitted activity. The discharge of dredged or fill material into a stream or wetland is authorized based upon the following criteria: A. Greater than one-tenth (1/10) acre of cumulative permanent impact to wetland(s) (including wetland type conversion) requires prior notification describing the project location, impacts, and plan for mitigation to be submitted to the WV DEP.	Accepted	16. The following mitigation guidelines are established to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams without compensating for the aquatic resource functions that will be lost as a result of the permitted activity. The discharge of dredged or fill material into a stream or wetland is authorized based upon the following criteria: A. Greater than one-tenth (1/10) acre of cumulative permanent impact to wetland(s) (including wetland type conversion) requires prior notification describing the project location, impacts, and plan for mitigation to be submitted to the WV DEP.

<p>B. The amount of fill in a wetland, wetland complex or wetland system without mitigation is not to cumulatively exceed 1/10 acre.</p> <p>C. Cumulative permanent impacts to stream(s) greater than 300 linear feet requires prior notification describing the project location, impacts, and plan for mitigation to be submitted to the WV DEP. The West Virginia Stream Wetland Valuation Metric (SWVM) is the preferred assessment methodology to assist with the determination of required mitigation. The metric is available at the Huntington and Pittsburgh USACE web sites.</p> <p>In all instances, mitigation for all impacts incurred through use of these Nationwide Permits must first be directed to elimination of the impacts, then minimization of the impacts and lastly through compensatory mitigation. In many cases, the environmentally preferable compensatory mitigation may be provided through an approved mitigation bank or the West Virginia In-Lieu Fee Program. Permittee responsible compensatory mitigation may be performed using the methods of; restoration, enhancement, establishment, and in certain circumstances, preservation. In general, the required compensatory mitigation should be located in the same watershed as the impact site and located where it is most likely to successfully replace lost functions and services as the impacted site. However, the use of mitigation banks or in-lieu fee for in-kind replacement is not restricted to the same watershed in which the impact has occurred until such time as mitigation banks or in-lieu projects are developed in each major watershed.</p> <p>Wetlands. When permittee responsible in-kind replacement mitigation is used, it is to be accomplished at the following ratios until such time an approved functional assessment methodology is established for the state of West Virginia.</p> <p>Permanent impacts to open water wetlands are to be one (1) acre replaced for one (1) acre impacted.</p> <p>Permanent impacts to wet meadow/emergent wetlands are to be two (2) acres replaced for one (1) acre impacted.</p> <p>Permanent impacts to scrub-shrub and forested wetlands are to be three (3) acres replaced for one (1) acre impacted.</p> <p>In instances where compensatory in-kind mitigation is completed 12 months prior to the impact of the aquatic resource, the replacement ratio may be reduced to as low as one (1) acre created/restored to every one (1) acre impacted.</p> <p>NOTE: The ratio of created/restored wetlands to impacted wetlands not only ensures no net loss but assures the adequate replacement of the impacted wetlands functions and values at the level existing prior to the impact. For many of the more complicated type wetlands, such as scrub-shrub and forested, the values and functions cannot readily be replaced through creation. Furthermore, not all wetland creation is successful. In certain instances, the WV DEP DWWM may consider the acquisition of existing wetlands. Acquisition ratios include the following:</p> <p>Five (5) to one (1) for open water wetlands; Ten (10) to one (1) for wet meadow/emergent wetlands; and Fifteen (15) to (1) for scrub-shrub and forested wetlands.</p> <p>Under extenuating circumstances, the Secretary may accept lower ratios for high quality wetlands under significant threat of development.</p> <p>All wetlands acquired, using the acquisition method of mitigation, shall either be deeded to the WVDNR Public Land Corporation for management by the Wildlife Resources Section or placed under a conservation easement and be protected from disturbance by the permittee or their designee. Third party oversight of the conservation easement by a non-profit conservation organization is preferred.</p> <p>Streams. When proposing permittee responsible compensatory mitigation, projects shall attempt to replace lost functions for permanent stream impacts. Mitigation shall be determined on a case-by-case basis based on the pre- and post- condition stream quality and complexity of the mitigation project preferably utilizing the most current version of the SWVM worksheets. Compensatory mitigation may require protection through deed restrictions or conservation easements by the permittee or their designee.</p> <p>These requirements are established in accordance with; Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq, (2008), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3</p>	<p>B. The amount of fill in a wetland, wetland complex or wetland system without mitigation is not to cumulatively exceed 1/10 acre.</p> <p>C. Cumulative permanent impacts to stream(s) greater than 300 linear feet requires prior notification describing the project location, impacts, and plan for mitigation to be submitted to the WV DEP. The West Virginia Stream Wetland Valuation Metric (SWVM) is the preferred assessment methodology to assist with the determination of required mitigation. The metric is available at the Huntington and Pittsburgh USACE web sites.</p> <p>In all instances, mitigation for all impacts incurred through use of these Nationwide Permits must first be directed to elimination of the impacts, then minimization of the impacts and lastly through compensatory mitigation. In many cases, the environmentally preferable compensatory mitigation may be provided through an approved mitigation bank or the West Virginia In-Lieu Fee Program. Permittee responsible compensatory mitigation may be performed using the methods of; restoration, enhancement, establishment, and in certain circumstances, preservation. In general, the required compensatory mitigation should be located in the same watershed as the impact site and located where it is most likely to successfully replace lost functions and services as the impacted site. However, the use of mitigation banks or in-lieu fee for in-kind replacement is not restricted to the same watershed in which the impact has occurred until such time as mitigation banks or in-lieu projects are developed in each major watershed.</p> <p>Wetlands. When permittee responsible in-kind replacement mitigation is used, it is to be accomplished at the following ratios until such time an approved functional assessment methodology is established for the state of West Virginia.</p> <p>Permanent impacts to open water wetlands are to be one (1) acre replaced for one (1) acre impacted.</p> <p>Permanent impacts to wet meadow/emergent wetlands are to be two (2) acres replaced for one (1) acre impacted.</p> <p>Permanent impacts to scrub-shrub and forested wetlands are to be three (3) acres replaced for one (1) acre impacted.</p> <p>In instances where compensatory in-kind mitigation is completed 12 months prior to the impact of the aquatic resource, the replacement ratio may be reduced to as low as one (1) acre created/restored to every one (1) acre impacted.</p> <p>NOTE: The ratio of created/restored wetlands to impacted wetlands not only ensures no net loss but assures the adequate replacement of the impacted wetlands functions and values at the level existing prior to the impact. For many of the more complicated type wetlands, such as scrub-shrub and forested, the values and functions cannot readily be replaced through creation. Furthermore, not all wetland creation is successful. In certain instances, the WV DEP DWWM may consider the acquisition of existing wetlands. Acquisition ratios include the following:</p> <p>Five (5) to one (1) for open water wetlands; Ten (10) to one (1) for wet meadow/emergent wetlands; and Fifteen (15) to (1) for scrub-shrub and forested wetlands.</p> <p>Under extenuating circumstances, the Secretary may accept lower ratios for high quality wetlands under significant threat of development.</p> <p>All wetlands acquired, using the acquisition method of mitigation, shall either be deeded to the WVDNR Public Land Corporation for management by the Wildlife Resources Section or placed under a conservation easement and be protected from disturbance by the permittee or their designee. Third party oversight of the conservation easement by a non-profit conservation organization is preferred.</p> <p>Streams. When proposing permittee responsible compensatory mitigation, projects shall attempt to replace lost functions for permanent stream impacts. Mitigation shall be determined on a case-by-case basis based on the pre- and post- condition stream quality and complexity of the mitigation project preferably utilizing the most current version of the SWVM worksheets. Compensatory mitigation may require protection through deed restrictions or conservation easements by the permittee or their designee.</p> <p>These requirements are established in accordance with; Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq, (2008), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014), Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-6 (2014), and Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, 33 C.F.R. §332 (2008).</p>
---	---

	(2016), WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014), Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-6 (2014), and Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, 33 C.F.R. §332 (2008).		
Standard	17. To protect mussel populations in accordance with state and federal requirements, should native freshwater mussels be encountered during the use of any Nationwide Permit, all activity reasonably expected to jeopardize the population is to cease immediately and the WV DNR Wildlife Resources Section, Wildlife Diversity Program is to be contacted (304-637-0245) to determine significance of the mussel population and the action to be taken. This condition is required in accordance with; Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-3.1 (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), Possession of Wildlife, W.Va. Code §20-2-4 (2017) and Fishing Regulations W.Va. C.S.R. §58-60-5.11 (2020).	Accepted	17. To protect mussel populations in accordance with state and federal requirements, should native freshwater mussels be encountered during the use of any Nationwide Permit, all activity reasonably expected to jeopardize the population is to cease immediately and the WV DNR Wildlife Resources Section, Wildlife Diversity Program is to be contacted (304-637-0245) to determine significance of the mussel population and the action to be taken. This condition is required in accordance with; Rules for Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-3.1 (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), Possession of Wildlife, W.Va. Code §20-2-4 (2017) and Fishing Regulations W.Va. C.S.R. §58-60-5.11 (2020).
Special	<p>12. Utility Line Activities. Nationwide Permit 12 West Virginia 401 Water Quality Certification Special Conditions: A. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems, high quality waters and special aquatic resources, notification 60-days prior to project initiation is required to be provided to the WV DEP for any of the following facilities or impacts. The WV DEP Secretary, in his or her sole discretion, reserves the right to require an individual water quality certification in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) for the following activities:</p> <ul style="list-style-type: none"> i. Pipeline crossings on a Section 10 river require notification and review (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters), in order to ensure that project activity does not result in significant impact to the integrity, or the chemical, physical, hydrologic, or biological components of the aquatic ecosystem; ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance require notification and review, in order to protect downstream aquatic resources from exposure to herbicide; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C herein require notification and review, to ensure the protection of West Virginia's high quality and special aquatic resources; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre require notification and review, to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams; v. Pipelines carrying separated natural gas liquids, unless installed with an automated system which will indicate a sudden loss of pressure, require notification and review, to ensure that project activity does not result in an impact to the integrity of the aquatic ecosystem. <p>The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. Individual certification may be required for the above activities to ensure the proposed activity complies with the following; Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011), WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016)</p> <p>B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be</p>	A and F – Declined B-E and G-I – Accepted	<p>12. Utility Line Activities. Nationwide Permit 12 West Virginia 401 Water Quality Certification Special Conditions: A. General Water Quality Certification is declined for:</p> <ul style="list-style-type: none"> i. Pipeline crossings on a Section 10 river (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters); ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre; v. Pipelines carrying separated natural gas liquids, unless installed with an automated system which will indicate a sudden loss of pressure. <p>An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.</p> <p>B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>F. General Water Quality Certification is declined when this permit is being used for water withdrawal. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.</p> <p>H. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant</p>

	<p>buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>F. To ensure water availability in perennial streams and to protect the integrity of aquatic resources, a 60-day advance notification prior to construction must be provided to WV DEP DWWM when this permit is being used for water withdrawal, allowing for a determination of whether the water withdrawal will have impacts to aquatic resources, thus necessitating further review or an individual water quality certification. Information to be provided is as follows:</p> <ul style="list-style-type: none"> i. The maximum water withdrawal rate; ii. designs to minimize impingement and entrainment of aquatic life, and iii. a description of how the intake rate will affect streamflow, or be varied, during periods of seasonal low flow and/or drought. <p>The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>G. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>H. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>I. To ensure water contact recreation (Category C) uses are protected, where it is apparent that small boats, inner tubes, swimmers, etc. could be using the stream in the work area, easily seen warning signs must be placed a minimum of 50 feet upstream and downstream of the stream crossings construction site to advise stream users of the potential danger. Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-6.4 (2016)</p>		<p>species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>I. To ensure water contact recreation (Category C) uses are protected, where it is apparent that small boats, inner tubes, swimmers, etc. could be using the stream in the work area, easily seen warning signs must be placed a minimum of 50 feet upstream and downstream of the stream crossings construction site to advise stream users of the potential danger. Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-6.4 (2016)</p>
Special	<p>21. Surface Coal Mining Activities. Nationwide Permit 21 West Virginia 401 Water Quality Certification Special Conditions: A. Individual State Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15. To ensure the protection of</p>	A-D – Accepted	<p>21. Surface Coal Mining Activities. Nationwide Permit 21 West Virginia 401 Water Quality Certification Special Conditions: A. Individual State Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15. To ensure the protection of West Virginia's high</p>

	<p>West Virginia's high quality and special aquatic resources, this condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §60-5-6 (2008) and is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1 et seq. (2011).</p> <p>B. Individual State Water Quality Certification is required for mining related activities cumulatively impacting greater than ½ acre of intermittent or perennial stream(s). To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>C. Individual State Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than ½ acre cumulative or 300 linear feet per individual crossing. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>D. Individual State Water Quality Certification is required for cumulative permanent wetland impacts greater than ½ acre. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>		<p>quality and special aquatic resources, this condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §60-5-6 (2008) and is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1 et seq. (2011).</p> <p>B. Individual State Water Quality Certification is required for mining related activities cumulatively impacting greater than ½ acre of intermittent or perennial stream(s). To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>C. Individual State Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than ½ acre cumulative or 300 linear feet per individual crossing. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>D. Individual State Water Quality Certification is required for cumulative permanent wetland impacts greater than ½ acre. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>
Special	<p>29. Residential Developments. Nationwide Permit 29 West Virginia 401 Water Quality Certification Special Conditions:</p> <p>A. Projects affecting Section 10 waters and adjacent wetlands require individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014).</p> <p>B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014).</p>	A and B – Accepted	<p>29. Residential Developments. Nationwide Permit 29 West Virginia 401 Water Quality Certification Special Conditions:</p> <p>A. Projects affecting Section 10 waters and adjacent wetlands require individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014).</p> <p>B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014).</p>
Special	<p>39. Commercial and Institutional Developments. Nationwide Permit 39 West Virginia 401 Water Quality Certification Special Conditions:</p> <p>A. Individual water quality certification is required for projects impacting Section 10 waters and adjacent wetlands. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p> <p>B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the</p>	A and B – Accepted	<p>39. Commercial and Institutional Developments. Nationwide Permit 39 West Virginia 401 Water Quality Certification Special Conditions:</p> <p>A. Individual water quality certification is required for projects impacting Section 10 waters and adjacent wetlands. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p> <p>B. Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation</p>

	Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).		Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).
Special	<p>40. Agricultural Activities. Nationwide Permit 40 West Virginia 401 Water Quality Certification Special Condition: Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p>	Accepted	<p>40. Agricultural Activities. Nationwide Permit 40 West Virginia 401 Water Quality Certification Special Condition: Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p>
Special	<p>43. Stormwater Management Facilities. Nationwide Permit 43 West Virginia 401 Water Quality Certification Special Condition: Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p>	Accepted	<p>43. Stormwater Management Facilities. Nationwide Permit 43 West Virginia 401 Water Quality Certification Special Condition: Placing in-stream stormwater management facilities with this permit requires individual water quality certification. This condition is required to ensure that the activity has no significant adverse impact to water resources, fish and wildlife, recreation, critical habitats, wetlands and other natural resources in accordance with; Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), the Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq (2014).</p>
Special	<p>48. Commercial Shellfish Mariculture Activities. Nationwide Permit 48 West Virginia 401 Water Quality Certification Special Condition: To maintain and protect Tier 3 waters, and protect the integrity of special aquatic resources of the state, notification 60-days prior to impact must be provided to WV DEP DWWM when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein, allowing for a determination of whether the activity will degrade the aquatic resources, thus necessitating further review or an individual water quality certification. Information to be provided in the notification is as follows: i. A statement of the proposed project purpose; ii. map identifying the project area with proposed aquatic resource impacts; iii. a list of proposed permanent impacts to streams and wetlands; and iv. any proposed temporary impacts to streams and wetlands. The WV DEP will provide applicant coordination within 15-days of receipt of a complete notification. This condition is required in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014), Tier 3 Protection Review Procedures, W.Va. C.S.R. §§60-5-6 (2008), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), and the Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011).</p>	Declined	<p>48. Commercial Shellfish Mariculture Activities. Nationwide Permit 48 West Virginia 401 Water Quality Certification Special Condition: General Water Quality Certification is declined when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.</p>
Special	<p>50. Underground Coal Mining Activities Nationwide Permit 50 West Virginia 44)1 Water Quality Certification Special Conditions A. Individual State Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15. To ensure the protection of West Virginia's high quality and special aquatic resources, this condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §60-5-6 (2008) and is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1 et seq. (2011). B. Individual State Water Quality Certification is required for mining related activities cumulatively impacting greater than ½ acre of intermittent or perennial stream(s). To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>	A-D – Accepted	<p>50. Underground Coal Mining Activities Nationwide Permit 50 West Virginia 44)1 Water Quality Certification Special Conditions A. Individual State Water Quality Certification is required for activities impacting any classification of stream listed in West Virginia 401 Water Quality Certification Standard Condition 15. To ensure the protection of West Virginia's high quality and special aquatic resources, this condition is required in accordance with Tier 3 Protection Review Procedures, W.Va. C.S.R. §60-5-6 (2008) and is required consistent with the authority and requirements of the Natural Streams Preservation Act, W.Va. Code §22-13-1 et seq. (2011). B. Individual State Water Quality Certification is required for mining related activities cumulatively impacting greater than ½ acre of intermittent or perennial stream(s). To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>

	<p>C. Individual State Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than ½ acre cumulative or 300 linear feet per individual crossing. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>D. Individual State Water Quality Certification is required for cumulative permanent wetland impacts greater than ½ acre. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>		<p>C. Individual State Water Quality Certification is required for linear transportation projects which involve stream crossings for haul roads, access roads, conveyor belts, pipelines, etc. in intermittent or perennial stream(s) greater than ½ acre cumulative or 300 linear feet per individual crossing. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), WV Water Pollution Control Act, W.Va. Code §22-11-1 et seq. (2014), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p> <p>D. Individual State Water Quality Certification is required for cumulative permanent wetland impacts greater than ½ acre. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016), Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014), and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1 et seq. (2008).</p>
Special	<p>51. Land-Based Renewable Energy Generation Facilities. Nationwide Permit 51 West Virginia 401 Water Quality Certification Special Condition: To maintain and protect Tier 3 waters, and protect the integrity of special aquatic resources of the state, notification 60-days prior to impact must be provided to WV DEP DWWM when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein, allowing for a determination of whether the activity will degrade the aquatic resources, thus necessitating further review or an individual water quality certification. Information to be provided in the notification is as follows:</p> <ol style="list-style-type: none"> i. A statement of the proposed project purpose; ii. map identifying the project area with proposed aquatic resource impacts; iii. a list of proposed permanent impacts to streams and wetlands; and iv. any proposed temporary impacts to streams and wetlands. <p>The WV DEP will provide applicant coordination within 15-days of receipt of a complete notification. This condition is required in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014), Tier 3 Protection Review Procedures, W.Va. C.S.R. §§60-5-6 (2008), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), and the Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011).</p>	Declined	<p>51. Land-Based Renewable Energy Generation Facilities. Nationwide Permit 51 West Virginia 401 Water Quality Certification Special Condition: General Water Quality Certification is declined when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.</p>
Special	<p>52. Water-Based Renewable Energy Generation Pilot Projects Nationwide Permit 51 West Virginia 401 Water Quality Certification Special Condition: To maintain and protect Tier 3 waters, and protect the integrity of special aquatic resources of the state, notification 60-days prior to impact must be provided to WV DEP DWWM when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein, allowing for a determination of whether the activity will degrade the aquatic resources, thus necessitating further review or an individual water quality certification. Information to be provided in the notification is as follows:</p> <ol style="list-style-type: none"> i. A statement of the proposed project purpose; ii. map identifying the project area with proposed aquatic resource impacts; iii. a list of proposed permanent impacts to streams and wetlands; and iv. any proposed temporary impacts to streams and wetlands. <p>The WV DEP will provide applicant coordination within 15-days of receipt of a complete notification. This condition is required in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1, et seq. (2014), Tier 3 Protection Review Procedures, W.Va. C.S.R. §§60-5-6 (2008), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), and the Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011).</p>	Declined	<p>52. Water-Based Renewable Energy Generation Pilot Projects Nationwide Permit 51 West Virginia 401 Water Quality Certification Special Condition: General Water Quality Certification is declined when this permit is being used for the discharge of material to Section 10 waters and streams identified in Standard Condition 15 A, B, and C herein. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP.</p>

<p>Special</p>	<p>57. Electric Utility Line and Telecommunications Activities Nationwide Permit C West Virginia 401 Water Quality Certification Special Conditions: A. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems, high quality waters and special aquatic resources, notification 60-days prior to project initiation is required to be provided to the WV DEP for any of the following facilities or impacts. The WV DEP Secretary, in his or her sole discretion, reserves the right to require an individual water quality certification in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) for the following activities: i. Pipeline crossings on a Section 10 river require notification and review (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters), in order to ensure that project does not result in significant impact to the integrity, or the chemical, physical, hydrologic, or biological components of the aquatic ecosystem; ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance require notification and review, in order to protect downstream aquatic resources from exposure to herbicide; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C herein require notification and review, to ensure the protection of West Virginia's high quality and special aquatic resources; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre require notification and review, to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams; The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. Individual certification may be required for the above activities to ensure the proposed activity complies with the following; Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011), WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016). F. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>	<p>A – Declined B-G – Accepted</p>	<p>57. Electric Utility Line and Telecommunications Activities Nationwide Permit C West Virginia 401 Water Quality Certification Special Conditions: A. General Water Quality Certification is declined for the following activities: i. Pipeline crossings on a Section 10 river (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters); ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP. B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016). F. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3.2 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). G. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>
----------------	--	---	--

	<p>G. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-3 (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>		
Special	<p>58. Utility Line Activities for Water and Other Substances Nationwide Permit D West Virginia 401 Water Quality Certification Special Conditions: A. To ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of aquatic ecosystems, high quality waters and special aquatic resources, notification 60-days prior to project initiation is required to be provided to the WV DEP for any of the following facilities or impacts. The WV DEP Secretary, in his or her sole discretion, reserves the right to require an individual water quality certification in accordance with; W.Va. Code §22-1-6.d (2020), WV Water Pollution Control Act, W.Va. Code §22-11-7A (2014) and Individual State Certification of Activities Requiring a Federal Permit, W.Va. C.S.R. §47-5A-1 et seq. (2014) for the following activities: i. Pipeline crossings on a Section 10 river require notification and review (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters), in order to ensure that project activity does not result in significant impact to the integrity, or the chemical, physical, hydrologic, or biological components of the aquatic ecosystem; ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance require notification and review, in order to protect downstream aquatic resources from exposure to herbicide; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C herein, to ensure the protection of West Virginia's high quality and special aquatic resources; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre require notification and review, to ensure no significant adverse impact to the chemical, physical, hydrologic, or biological integrity of wetlands and streams; and v. Pipelines transporting hazardous substances consistent with the definition found in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601(14) and Toxic Substances Control Act, 15 U.S.C. §53(2601–2629) require notification and review, to ensure that project activity does not result in an impact to the integrity of the aquatic ecosystem. The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. Individual certification may be required for the above activities to ensure the proposed activity complies with the following; Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), Natural Streams Preservation Act, W.Va. Code §22-13-1, et seq. (2011), WV Water Pollution Control Act, W.Va. Code §22-11-1, et seq. (2014), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>	<p>A and F – Declined B-E and G-H – Accepted</p>	<p>58. Utility Line Activities for Water and Other Substances Nationwide Permit D West Virginia 401 Water Quality Certification Special Conditions: A. General Water Quality Certification is declined for the following activities: i. Pipeline crossings on a Section 10 river (unless the bore is greater than 100 feet below the stream bed on the Ohio River mainstem, or greater than 50 feet below the stream bed on all other Section 10 waters); ii. Utility lines within wetlands that would use or consider the use of herbicides for right-of-way maintenance; iii. Projects proposing permanent impacts to any stream identified in WQC Standard Condition 15 A, B, and C; iv. Cumulative permanent impacts to stream(s) totaling greater than 300 linear feet and cumulative wetland impacts exceeding 1/10 acre; and v. Pipelines transporting hazardous substances consistent with the definition found in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601(14) and Toxic Substances Control Act, 15 U.S.C. §53(2601–2629). An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP. B. To prevent permanent impacts to aquatic resources associated with equipment tracking in wetlands, the use of protective mats when practicable is required. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008). D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016). F. General Water Quality Certification is declined when this permit is being used for water withdrawal. An individual Section 401 Water Quality Certification or waiver must be obtained from the WVDEP. G. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream in accordance with Requirements Governing Water Quality</p>

<p>C. To protect the integrity of aquatic resources dredging for backfill material is not allowed in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>D. Submarine pipeline stream crossings (including horizontal directional drilling) must be designed and constructed to prevent flotation and the possibility of leakage or rupture and the top of pipelines must be buried a minimum of three (3) feet below the stream bottom in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>E. Horizontal directional drilling for underwater crossings requires an Inadvertent Return Contingency Plan certified by a West Virginia Professional Engineer to be kept on site and made available upon request. This condition is required to ensure the protection of the chemical, physical and biological integrity of the aquatic resource in accordance with; WV Water Pollution Control Act, W.Va. Code §22-11-8 (2014), Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008), and Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016).</p> <p>F. To ensure water availability in perennial streams and to protect the integrity of aquatic resources, a 60-day advance notification prior to construction must be provided to WV DEP DWWM when this permit is being used for water withdrawal, allowing for a determination of whether the water withdrawal will have impacts to aquatic resources, thus necessitating further review or an individual water quality certification. Information to be provided is as follows:</p> <ul style="list-style-type: none"> i. The maximum water withdrawal rate; ii. designs to minimize impingement and entrainment of aquatic life, and iii. a description of how the intake rate will affect streamflow, or be varied, during periods of seasonal low flow and/or drought. <p>The WV DEP will provide applicant coordination within 15 days of receipt of a complete notification. This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016), Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>G. To protect the biological integrity of the aquatic ecosystem, no permanent structure authorized by this permit shall prevent fish movement upstream or downstream in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>H. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. 33 §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>	<p>Standards, W.Va. C.S.R. §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p> <p>H. To prevent erosion of stream banks at Right of Way (ROW) crossings all waterbody banks are to be returned as close as practicable to preconstruction contours. Riparian areas shall be revegetated with native species of conservation grasses, legumes, and woody species (of low determinate growth), similar in density to adjacent undisturbed lands. Routine mowing or clearing adjacent to waterbodies shall be limited to allow a riparian strip at least 25 feet wide, as measured from the waterbody's mean high water mark, to permanently revegetate with native plant species across the entire construction right-of-way. However, to facilitate periodic corrosion/leak surveys, a corridor centered on the pipeline and up to 10 feet wide may be cleared at a frequency necessary to maintain the 10-foot corridor in an herbaceous state. In addition, trees that are located within 15 feet of the pipeline that have roots that could compromise the integrity of the pipeline coating may be cut and removed from the permanent right-of-way. Seeding recommendations can be found in West Virginia Division of Natural Resources' publication, "Enhancing Wildlife Habitat on Oil & Gas Infrastructure." This condition is required in accordance with Requirements Governing Water Quality Standards, W.Va. C.S.R. 33 §47-2-1, et seq. (2016) and Antidegradation Implementation Procedures, W.Va. C.S.R. §60-5-1, et seq. (2008).</p>
---	--