

ENCLOSURE 2**REGIONAL CONDITIONS TO THE 2017 NATIONWIDE PERMITS FOR THE STATE OF MARYLAND****I. Regional Conditions Applicable to Specific Nationwide Permits within the State of Maryland:**

A. Nationwide Permit #3 Maintenance: Prior to commencing an activity the permittee must submit a Pre-construction Notification (PCN) to the District Engineer, for that portion of paragraph (a) of Nationwide Permit (NWP) 3 applicable to the repair, rehabilitation, or replacement in-kind of any previously authorized currently serviceable structure or fill destroyed or damaged by storms, floods, fires, or other discrete events.

1. For activities in all tidal and nontidal coastal plain streams in the State of Maryland or nontidal Piedmont streams located in Harford and Cecil Counties, Maryland, the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service (NMFS) pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act when:
 - a. The applicant requests a waiver to work during the time of year restriction for anadromous fish.
 - b. The project affects more than 10,000 square feet of tidal wetlands and/or tidal waters.

B. Nationwide Permit #4 Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities: This nationwide permit does not authorize activities that cause interference with navigation. No structure can extend into anchorage areas; customary boating channels; navigation fairways; marked, lighted, or charted channels; or State or Federal Navigation Channels.

C. Nationwide Permit #23 Approved Categorical Exclusions: Prior to doing the work, the permittee shall submit a Pre-construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32)

D. Nationwide Permit #27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities: Prior to doing the work, the permittee shall submit a Pre-construction Notification (PCN) to the District Engineer (see General Condition 32 and Regional General Condition 32).

1. Any activity involving shellfish seeding, such as the placement of shell material or any other habitat development or enhancement, is restricted to shellfish species that are native to that waterbody.
2. For activities in all tidal and nontidal coastal plain streams within the State of Maryland or nontidal Piedmont streams in Harford and Cecil Counties, Maryland, the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service Habitat Conservation Division pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.
3. For activities involving the restoration of tidal marsh in mesohaline waters (i.e., salinity of 5-18 ppt) of the mid and upper Chesapeake Bay, the PCN should include information concerning the distribution of horned pondweed (*Zannichellia palustris*) within the project site. Distribution information of horned pondweed may require recent ground-truth survey of the area by the applicant (i.e., employing a survey crew with relevant experience) during the period of May 1 through June 15, of any year.

E. Nationwide Permit #30 Moist Soil Management for Wildlife: Prior to doing the work, the permittee must submit a PCN to the District Engineer (see General Condition 32 and Regional General Conditions 32).

F. Nationwide Permit #38 Cleanup of Hazardous and Toxic Waste: For activities in all tidal and nontidal streams, the Corps of Engineers will coordinate review of the Pre-construction Notification with the National Marine Fisheries Service Habitat Conservation Division pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

G. Nationwide Permit #48 Commercial Shellfish Aquaculture Activities:

1. This Nationwide Permit (NWP) **does not** authorize the following activities:
 - a. Activities located in mapped anadromous fish spawning habitat. The applicant may refer to MERLIN or other reliable sources for this information.
<http://dnrweb.dnr.state.md.us/MERLIN/>
 - b. Activities associated with the cultivation and/or introduction into tidal waters of shellfish species that are not indigenous to the Chesapeake Bay and its tributaries, or the Maryland coastal bays.
 - c. Activities associated with the mining of subtidal fossil shell deposits in waters of the Chesapeake Bay and its tributaries for use as cultch for a shellfish cultivation operation.

- d. No work may extend into anchorage areas; customary boating channels; navigation fairways; marked, lighted, or charted channels; or State or Federal Navigation Channels.
 - e. Activities that adversely affect ingress to and egress from neighboring properties.
 - f. Commercial aquaculture activities for crustaceans or finfish.
 - g. Shellfish habitat restoration activities, including shellfish seeding which are conducted to restore populations of shellfish in navigable waters of the United States. Shellfish habitat restoration activities may be authorized by another form of Department of the Army permit (e.g., Nationwide Permit #27 or individual permit).
 - h. Activity or vehicular access to the project site that has more than a minimal adverse impact on coastal or wetland vegetation.
 - i. Oyster gardening activities.
 - j. The establishment of Aquaculture Enterprise Zones or preapproved areas of the Atlantic Coastal Bays.
 - k. Activities that impound water.
 - l. Predator control devices (i.e., mesh fences, mesh nets, mesh tents) suspended or erected vertically or obliquely in the water column used to surround or enclose shellfish/containment gear. This condition does not preclude the use of cages for shellfish containment.
 - m. Activities that use unsuitable materials for shellfish seeding (e.g., asphalt, bituminous concrete, slag, tires, wallboard, plastic, wood, metal, crushed glass, trash, and garbage).
 - n. Activities that will have more than minimal adverse effects on existing or naturally occurring beds or populations of shellfish, marine worms, or other invertebrates that could be used by man, other mammals, birds, reptiles, or predatory fish.
 - o. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery habitat.
2. The prospective permittee must submit a Pre-construction Notification (PCN) to the District Engineer using the Joint State/Federal Application for a Commercial Shellfish Aquaculture Lease and Federal Permit (<http://dnr2.maryland.gov/fisheries/Documents/Commercial-Shellfish-Lease->

[Application.pdf](#) and <http://dnr2.maryland.gov/fisheries/Documents/Shellfish-Lease-Application-Instructions.pdf>) when:

- a. The project does not have a valid authorization from the Corps in effect as of August 15, 2016, or
- b. The activity involves any change in the aquaculture type (bottom culture, floating structures, or structures suspended in the water column) from which was previously authorized by the Corps.

The Maryland Department of Natural Resources will forward the Joint Application to the Corps. Alternatively, the applicant may submit the application directly to the Corps. The Corps' review period shall commence with the receipt of a completed PCN at the Corps District Office.

3. In addition to the information required by NWP 48, General Conditions and Regional General Condition 32, the PCN must include:
 - a. A copy of the lease or permit issued by the appropriate state government agency if a lease or permit has been issued at the time of PCN submittal;
 - b. Legible project vicinity map (black line on white background), to scale, and depicting the footprint of project area relative to prominent land/water geographic features, including approximate latitude/longitude coordinates of the project footprint;
 - c. Legible overview plans (black line on white background), to scale (100':1" or 50':1"), depicting the entire project footprint and adjacent waters overlaid on composite mapping of the 5 most recent years of SAV data (derived from the Virginia Institute of Marine Science (VIMS) aerial surveys), and showing local water depths (bathymetry) of the project area, and other important ecological features of the site (e.g., native tidal marsh) that may be affected by project activities.
 - d. Detailed project description, with the following information:
 - i. Description of proposed activities, including site preparation and harvest activities (e.g., dredging, harrowing and dragging of bottom substrate, tonging), and a description of how structures and vertical and horizontal lines would be arranged throughout the project area, spacing of rows and spacing between structures;
 - ii. Types of aquaculture gear to be used, including anchoring devices, maximum number of vertical and horizontal lines, and buoys;

- iii. Acreage of project footprint affecting bottom and water column;
 - iv. Impacts (temporary and/or permanent) to aquatic areas required for access to the aquaculture facility/gear, and remedial measures proposed to restore temporarily affected aquatic areas;
 - v. Substrate type of bottom affected by proposed activities (particularly for on-bottom activities) (e.g., soft sand, hard sand, mud, shell.).
- e. Cross-sectional view of proposed aquaculture structures and all associated apparatus that represents the proposed operations of the activity (on-bottom, suspended, or floating).
- f. If the applicant proposes work in waters adjacent to property owned by others, the applicant must provide proof of notification to adjacent property owners via certified mail, return receipt requested. In addition, the applicant may include any statement of no objection or comments from the adjacent property owner(s).
- g. The PCN must include details that clearly identify how adverse effects to navigation and ingress to and egress from neighboring properties has been avoided.
4. **Shellfish Certification:** Shellfish introduced into tidal waters of the Chesapeake Bay and its tributaries, or in the Maryland coastal bays and their tributaries, must be certified (under Maryland standards) as being disease and parasite free.
5. **Vertical and Horizontal Lines:** The total number of vertical and horizontal lines must be minimized to the maximum extent practicable.
6. **Local Notice to Mariners:** Prior to the proposed project start/placement date, the permittee must provide coordinates (latitude and longitude) for all perimeter corners of the approved lease area, including minimum depth and other pertinent facility information to the U.S. Coast Guard (USCG), and request that a Local Notice to Mariners (LNM) be issued regarding the authorized work. This written request can be done either by e-mail, letter or fax to: Commander (dpw), Fifth Coast Guard District, 431 Crawford Street, Room 100, Portsmouth, VA 23704-5504, Attn: LNM, Fax Number: (757)398-6303.

No authorized work may commence until this required USCG LNM has been issued by the USCG, identifying the location and schedule for commencement of the approved aquaculture work. No authorized aquaculture work may commence until the permittee informs the District Engineer in writing, with the date that the USCG publishes the LNM.

7. **Navigation Charts:** The permittee must submit a copy of the Corps permit and plans for the aquaculture operation to the National Oceanic and Atmospheric Administration (NOAA) for charting the location of the authorized operation on navigation charts. Their address is NOAA-Marine Chart Division, Nautical Data Branch-N/CS26, 1315 East West Highway-Station 7350, Silver Spring, MD 20910-3282.
8. **Equipment Anchoring and Lease Marking:** All authorized equipment, gear, and manmade material must be securely anchored. The permittee must clearly and permanently mark all in-water structures and equipment with the permittee's name and the lease number issued by the Department Natural Resource. These markings must be maintained to ensure that they are readable and visible at all times for identification purposes.
9. **Inspection of Aquaculture Operation:** The permittee must regularly inspect the condition of the structures (e.g., floats, cages, lines, anchors, etc.) associated with this aquaculture operation as authorized herein, to ensure that any structures/gear do not affect safety on the waterway or interfere with general navigation. The permittee shall recover all storm-damaged, accident-damaged, or dislodged equipment within 10 days after it is dislodged and shall either restore its location within the permitted areas as authorized or dispose of such equipment in accordance with state and local ordinances and lease agreements issued by the State of Maryland.
10. **Disposal of Structures, Gear, or Waste:** Disposal of structures, gear or waste products on-site or into waters of the United States is prohibited. All structures, gear and waste products, including dead or dying culture animals, shall be disposed of in an approved upland disposal site in accordance with any Federal, State, and local regulations
11. **Reporting:** The permittee must maintain accurate records and submit annual reports to the Corps (U.S. Army Corps of Engineers, Baltimore District , ATTN: Regulatory Branch, 10 South Howard Street, Baltimore, MD 21201) before January 31 of each year, covering the previous year's aquaculture activities, see the following link for information that must be provided:
[\(http://www.nab.usace.army.mil/Missions/Regulatory/Aquaculture/\)](http://www.nab.usace.army.mil/Missions/Regulatory/Aquaculture/)
12. **Abandonment:** The permittee must provide the Baltimore District with thirty (30) day advance written notification of the intent to abandon the activity authorized under this NWP. Upon abandonment of the activity authorized by this permit, all structures and equipment used to support the aquaculture operation must be completely removed. In addition, any fill material, other than shells/shell fragments that were authorized and were deposited to improve bottom conditions/facilitate the aquaculture operation, must be completely removed and the entire area restored to pre-construction elevation and conditions to the satisfaction of the District Engineer. Live oysters growing on the bottom need not be removed.

H. Nationwide Permit #53 Removal of Low-Head Dams: For activities in all tidal and nontidal coastal plain streams within the State of Maryland or nontidal Piedmont streams in Harford and Cecil Counties, Maryland, the District Engineer will coordinate review of the Pre-construction Notification with the National Marine Fisheries Service Habitat Conservation Division pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

II. Regional Conditions Applicable to ALL 2017 Nationwide Permits within the State of Maryland

Note: To qualify for NWP authorization, the prospective permittee must comply with the following regional general conditions, as applicable, in addition to any specific NWP regional conditions identified above in Section I, the general conditions found in the 2017 NWPs published in the *Federal Register* on January 6, 2017 (82 FR 1860), and any case-specific special conditions imposed by the District Engineer.

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

1. Work is prohibited during February 15 to June 15 each year to protect sensitive life stages of anadromous fish in all tidal and nontidal coastal plain streams within the State of Maryland or nontidal Piedmont streams in Harford and Cecil Counties, Maryland, unless specifically waived by the District Engineer in consultation with NMFS for NWPs 3a, 3b, 12, 13, 14, 18, 19, 22, 25, 28, 29, 33, 35, 36, 38, 39, 42, 45, and 53 activities.
2. For culverted road crossings of perennial and intermittent streams culverts must meet the below depression criteria or a PCN is required to be submitted to the District Engineer for coordination with the National Marine Fisheries Service. Extensions of existing culverts that are not depressed below the stream bottom do not require a PCN.
 - a. Culverts measuring greater than 24 inches in diameter must be depressed 12 inches below the stream bottom; or
 - b. Culverts measuring 24 inches or less in diameter must be depressed 6 inches below the stream bottom.
3. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions as stated above. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culverts or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with the PCN is

applicable, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact National Marine Fisheries Service for recommendations about the measures to be taken to allow for fish passage.

B. Nationwide Permit Regional General Condition #18 *Endangered Species*:

1. **For U.S. Fish and Wildlife Service (FWS) ESA species:** All permittees must use the FWS Chesapeake Bay Field Office Project Review website (IPaC) (<https://www.fws.gov/chesapeakebay/EndSppWeb/ProjectReview/Index.html>) to determine if any Federally listed species or designated critical habitat may be present in the proposed project area. A complete application must contain one of the following:
 - a. If the FWS website shows that listed species or designated critical habitat may be present in the proposed project area, then, using the FWS website tool, the permittee must obtain and submit with the PCN a FWS Official Species List tailored for the proposed project area. An Official Species List is considered valid for 90 days.
 - b. If the FWS website shows that no listed species or designated critical habitat are determined to be present in the proposed project area, then, using the FWS website tool: the permittee must generate and submit with the PCN a report that includes an online self-certification letter and a map of action area.
2. **Interactions with NMFS Federally Threatened or Endangered Species:** Any interaction between sturgeon, sea turtles, or any species listed now or in the future under Federal law as a threatened or endangered species (“listed species”) and the vessels associated with the project must be reported to the NMFS as follows:
 - a. If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery;
 - b. If the animal requires assistance, the call to the hotline must be made immediately;

- c. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant shall also notify District Engineer of all communications and coordination with the NMFS within two calendar days. Additional information about any federally threatened or endangered species may be obtained online at: <https://www.greateratlantic.fisheries.noaa.gov/protected/section7/index.html>. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.
3. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.
4. **Best Management Practices Applicable Within Tidal Waters of the Chesapeake Bay in Maryland:**
 - a. For the protection of listed species, pile driving methods must maintain noise level thresholds not to exceed 150dB sound exposure level (SEL) re 1 μ Pa or 206dB peak re 1 μ Pa and for any pile driving activity that exceeds the peak sound level. A PCN must be submitted to District Engineer if one of the following conditions cannot be met :
 - i. Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
 - ii. Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
 - iii. Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
 - iv. Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.
 - v. Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.

- vi. Piles of any size/type with any hammer method must be installed between November 30 and March 15.
 - b. Pile driving must be initiated with a soft start each day of pile driving, building up power slowly from a low energy start-up over a 20 minute period to allow fish and other wildlife to leave the area.
5. **Sediment Disturbing Activities Time-of-Year Restriction:** Within all tidal waters of the Chesapeake Bay and its tidal tributaries in Maryland with salinity levels <6 ppt, sediment disturbing activities, which include pile driving activities, are prohibited during the period April 1 through June 30 for the protection of shortnose sturgeon during early life stages in these waters unless a waiver is received from the District Engineer.

C. Nationwide Permit Regional General Condition #22 Designated Critical Resource

Waters:

1. Within the State of Maryland, the designated National Estuarine Research Reserves applicable to this regional general condition are:
 - a. Jug Bay
 - b. Otter Point Creek
 - c. Monie Bay
2. Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7 and 31 for any activity within, or directly affecting the above-listed designated National Estuarine Research Reserves, including wetlands adjacent to those waters.
3. For NWPs 3, 8, 22, 25, 27, 30, 37, and 38, a PCN must be submitted to the District Engineer for any activity proposed in the above-listed designated National Estuarine Research Reserves, including wetlands adjacent to those waters.

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

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

1. A PCN shall be submitted the Baltimore District Corps of Engineers for proposed construction and modification of docks, piers, and other structures that will occur along and/or within 150 feet of the horizontal limits of a federally authorized channel within the Baltimore District Civil Works Boundary as identified by: <http://www.nab.usace.army.mil/Missions/Civil-Works/Nav-Maps/>. In addition, a PCN is required for the replacement of previously authorized, currently serviceable structures located along federally authorized channels that are destroyed by an act of nature or sudden event. All proposed work shall comply with the most current version of the Baltimore District's setback guidance on the Baltimore District Regulatory website at: <http://www.nab.usace.army.mil/Portals/63/docs/Regulatory/Pubs/spn11-17.pdf>. As part of any PCN adjacent to a federally authorized channel, the permittee must provide the latitude and longitude of the channelward most point of the proposed structure.
2. When a PCN is required, the District Engineer will provide a copy of the complete PCN to the NMFS-Chesapeake Bay Office for all activities proposed within 50 feet of mapped SAV or locations of SAV otherwise identified from actual on-site SAV surveys conducted during the growing season. The PCN shall include plans depicting the entire project footprint and adjacent waters overlaid on composite mapping of the 5 most recent years of SAV data (derived from the Virginia Institute of Marine Science (VIMS) aerial surveys or locations of SAV otherwise identified from actual SAV surveys conducted during the growing season). The NMFS will have a 30 calendar day review and comment period from the date of their receipt of the EFH assessment, as provided by the Magnuson-Stevens Fishery Conservation and Management Act. The Virginia Institute of Marine Science aerial surveys may be obtained at: <http://web.vims.edu/bio/sav/index.html>.
3. All PCNs to the District Engineer shall be completed using the established Corps of Engineers permit application procedures for that locality (see <http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx>). The PCN shall include all activities that the applicant plans to undertake that are reasonably related to the same project. All PCNs to the District Engineer shall include the following information, where applicable, in addition to the information specified in the nationwide permit conditions, including General Condition 32:
 - a. Work description: A narrative describing the proposed work and associated impacts. If excavation is part of the proposed work, a detailed description of the method, sequence, and equipment to be used to conduct the work.
 - b. Plan(s) of the proposed work (if provided by hard copy no larger than 8-1/2 by 11 inch paper) which includes a location map; longitude and latitude; and plan view drawings clearly depicting the location, size, and dimensions of the proposed activity as well as the location of the delineated waters and/or wetlands, for the entire project area. The drawings shall contain the amount

- (in cubic yards) and the area (square feet) of dredged and/or fill material to be discharged in District Engineer jurisdiction, including both permanent and temporary structures. Plans should depict all proposed work, including areas proposed for filling, grading, excavation, drainage, and/or inundation and shall identify all delineated waters and wetlands. All drawings shall include the OHWM, or if in tidal waters, the mean high water mark and high tide line; existing water depths; cross-sectional plan; depth of any structure(s) below mean low water; height of any structure(s) above mean high water; the maximum distance that the structure(s) or fill will extend channelward of the existing shoreline; the width of the waterway at the project site; the location of any dredged material disposal area; the distance from the edge of any federal navigation channel and the location of any temporary work; structures, vessels, or fills required for construction; a copy of any previous federal or state approvals; and the location and nature of any SAV (e.g., eel grass, *Zostera marina*). In the Baltimore District, the applicant may refer to the Virginia Institute of Marine Science aerial surveys for obtaining such information. <http://web.vims.edu/bio/sav/index.html>.
- c. At the discretion of the District Engineer, the PCN may be determined to be incomplete if field verification of the wetland and/or stream delineation is required.
 - d. Numbered and dated pre-project color photographs showing all aquatic resources proposed to be impacted on the project site. The compass angle and position of each photograph shall be documented on the plan view drawing.
 - e. Evidence that the prospective permittee has already contacted and received a response from the FWS concerning any federally listed Threatened and Endangered Species that may be affected by the proposed activity. Completion of the required screening identified in Regional General Conditions 18 and submission of the documents required by the PCN serves as compliance with this condition.
 - f. Evidence that the prospective permittee has already contacted and received a response from the State Historic Preservation Officer concerning historic properties that may be affected by the proposed activity.
 - g. Documentation from the Maryland Historical Trust indicating whether the proposed project is located within a State Natural Heritage site, Outstanding National Resource Water, or National Estuarine Research Reserve. For further information, reference NWP General Condition 22.
 - h. A PCN shall include a written statement documenting the steps taken to avoid and minimize adverse impacts to waters of the United States, including jurisdictional wetlands.

4. When a PCN is required, the District Engineer’s review period shall commence with the receipt of a complete permit application by the District Engineer. The prospective permittee shall not begin the activity until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed, if applicable.

5. Applicable to all perennial and intermittent streams, the Corps shall provide a copy of the PCN, including the supporting documentation, to the NMFS in accordance with the Magnuson Stevens Fisheries Conservation and Management Act for any culvert which cannot be depressed as outlined in Regional General Condition 2 for Aquatic Life Movements for NWP 3 and any other applicable NWP. The NMFS will have a 30 calendar day review and comment period from the date of their receipt of the Essential Fish Habitat Assessment, as provided by the Magnuson-Stevens Act.

6. Any compensatory mitigation required by special conditions of the NWP verification shall be completed before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the District Engineer. If the applicant is proposing to use a mitigation bank or in lieu fee program, the PCN shall include identification of the bank/in lieu fee site and amount and type of credits to be purchased. If approved, proof of payment to the approved mitigation bank or in-lieu-fee program shall be submitted to the District Engineer prior to commencement of construction of the authorized activity. The amount of required compensatory mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions and services. A watershed approach to compensatory mitigation, which considers the importance of landscape position, resource type, and compensatory mitigation projects that address the sustainability of aquatic resource functions within the watershed should be used.

E. Nationwide Permit Regional General Conditions A for Certain Activities in Navigable Waters:

1. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the United States Coast Guard for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

Nominal System Voltage (kV)	Minimum additional clearance (ft.) above clearance required for bridges
115 and below	20

138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

- a. The PCN for aerial transmission lines over navigable waters must include the nominal system voltage and the additional clearance above low steel for bridges, if available, or above maximum high water elevation;
 - b. Corps of Engineer regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both this regional condition and ER 1110-2-4401 apply, the greater minimum clearance is required; and
 - c. Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.
2. Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (i.e., Section 10 waters), the permittee shall furnish the District Engineer and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland, 20910, with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the mean high water line at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.
 3. Aids to Navigation: If the Corps or the U.S. Coast Guard determine that private aids to navigation are required to mark the project area, The permittee must prepare and provide for USCG approval (address below), a Private Aids to Navigation Application (CG-2554), which and the approval must be received prior to commencement of the authorized work. The form can be found at: http://www.uscg.mil/forms/cg/CG_2554.pdf. Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the Corps

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

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

SPECIAL NOTES:

1. Where the State has denied 401 WQC and/or not concurred with the District Engineer' CZM consistency determination for a NWP authorization, the prospective permittee should contact the State to obtain an activity specific review and approval by the State prior to submitting any required PCN to the District Engineer of Engineers.
2. The following addresses shall be used for notification to those Federal and State agencies, where the review of the PCN must be coordinated by the District Engineer.
 1. Maryland Department of Natural Resources Environmental Review, B-3
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401
 2. State Historic Preservation Officer:
Maryland Historical Trust
Division of Historical & Cultural Programs
100 Community Place
Crownsville, Maryland 21032-2023
 3. Maryland Department of the Environment
Water Resources Administration
Tidal Wetlands Division
Montgomery Park Business Center
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708
 4. Maryland Department of the Environment
Non-tidal Wetlands and Waterways
Division/CZC Unit
Montgomery Park Business Center, Suite 430
Baltimore, Maryland 21230-1708
 5. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
 6. U.S. Department of the Interior
Fish and Wildlife Service
177 Admiral Cochrane Drive

Annapolis, Maryland 21401

7. National Marine Fisheries Service-Chesapeake Bay Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401