

**ENCLOSURE 4****REGIONAL CONDITIONS TO THE 2017 NATIONWIDE PERMITS FOR THE DISTRICT OF COLUMBIA AND VIRGINIA AT FORT BELVOIR, FORT MYER, AND THE PENTAGON**

All regional conditions listed in Section I and II below are applicable for activities in the District of Columbia. For statewide regional consistency, Norfolk District's regional conditions will apply for all 2017 NWP activities in Virginia at Fort Belvoir, Fort Myer, and the Pentagon, except for NWP 14 and NWP 29, which have restricted uses in Virginia. For NWP 14 and NWP 29, the Baltimore District's regional conditions will apply in Virginia at Fort Belvoir, Fort Myer, and the Pentagon. Regional conditions applicable to the Commonwealth of Virginia can be found at Norfolk District's website: <http://www.nao.usace.army.mil/Missions/Regulatory/>. Pre-construction Notifications for Fort Belvoir, Fort Myers and the Pentagon must be submitted to the Baltimore District for Nationwide Permit verification.

**I. Regional Conditions Applicable to Specific Nationwide Permits within the District of Columbia and for NWP 14 and NWP 29 at Fort Belvoir, Fort Myer, and the Pentagon in Virginia.****A. Nationwide Permit #3 Maintenance**

1. Prior to commencing the activity, the permittee must submit a pre-construction notification (PCN) to the District Engineer for this Nationwide Permit (NWP) in the following circumstances (see General Condition 32 and Regional General Condition 32):
  - a. For activities authorized by paragraph (a) of NWP 3, for any regulated discharge of dredged and/or fill material which involves the proposed use of equipment to remove material from or move material across a stream channel as part of the proposed activity for repair, rehabilitation, or replacement. The PCN must clearly describe any activity proposing the use of equipment to move material from or across a stream channel;
  - b. Any proposed activity, which would result in impacts, temporary or permanent, to Navigable waters of the United States as defined in 33 CFR 329.
  - c. For activities in tidal and nontidal streams that affect more than 10,000 square feet of tidal wetlands and/or tidal waters or more than 500 linear feet of tidal tributary stream or nontidal stream, 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.

2. For activities under NWP 3(b), the removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 50 feet in any direction from the structure, unless specifically authorized by the District Engineer.

**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. (<http://www.nab.usace.army.mil/Missions/Civil-Works/Nav-Maps/>)

**C. Nationwide Permit #5 Scientific Measurement Devices:**

1. Prior to doing the work, the permittee must submit a Pre-construction Notification to the District Engineer for any activity proposing the discharge of greater than 10 cubic yards of dredged and/or fill material for the construction of small weirs and flumes, in accordance with the current Corps permit application procedures (see General Condition 32 and Regional General Conditions 32).
2. The construction or installation of subaqueous turbines or similar is not authorized by this Nationwide Permit.

**D. Nationwide Permit #6 Survey Activities:** Prior to doing the work, the permittee must submit a Pre-construction Notification to the District Engineer (see General Condition 32 and Regional General Condition 32) for any activity proposing the discharge of greater than 25 cubic yards of dredge and/or fill material.

1. Use of in-water explosives is not authorized under this Nationwide Permit.
2. The permittee shall ensure that all in-stream exploratory trenching is conducted under dry conditions.

**E. Nationwide Permit #7 Outfall Structures and Associated Intake Structures**

1. In order to minimize the effects of intakes on anadromous fish eggs and larvae, and oyster larvae, intake structures should be equipped with screening (with mesh size no larger than 2mm) of wedge wire or another material of equal or better performance. Where feasible, intakes should be located away from spawning or nursery grounds, or to minimize the impingement on, or entrainment of, eggs or larvae. In addition, intake velocities should not exceed 0.5 ft. /sec.

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

**F. Nationwide Permit #10 Mooring Buoys**

1. Water depths in the mooring area must be sufficient that any moored vessels float at all stages of the tide.
2. Mooring buoys are prohibited in areas mapped and/or ground-truthed (during the growing season) as submerged aquatic vegetation habitat. 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>. The applicant should also refer to other reliable sources to comply with this condition.

**G. Nationwide Permit #11 Temporary Recreational Structures** Prior to doing the work, the permittee must submit a Preconstruction Notification to the District Engineer (see General Condition 32 and Regional General Condition 32).

1. Water depths in the mooring area must be sufficient that any moored vessels float at all stages of the tide.
2. This Nationwide Permit does not authorize the placement of any temporary structures in any areas mapped and/or ground-truthed (during the growing season) with SAV. 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>. The applicant should also refer to other reliable sources to comply with this condition.

**H. Nationwide Permit #12 Utility Line 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. This nationwide permit does not authorize the following activities:
  - a. The stockpiling or side-casting of excavated material in wetlands in excess of 30 days, unless a longer period of time is specifically reviewed and approved by the District Engineer. All excess or suitable dredged and/or excavated material not used as backfill over any cable or pipeline shall be disposed of in an upland area and shall be stabilized with straw bales, silt fence, or other acceptable methods to prevent reentry into any waterway or wetland;

- b. The permanent loss of more than 300 linear feet of stream bed for a single and complete project, unless for intermittent and ephemeral stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in minimal adverse effects;
  - c. The placement of manholes in wetlands unless demonstrated to the satisfaction of the District Engineer that the placement is unavoidable.
2. The PCN shall include the following additional information:
    - a. For all submerged utility lines across navigable waters of the United States, the PCN shall include a location map and cross-sectional view drawing showing the utility line crossing from bank to bank in relationship to the waterway bottom. In addition, the location and depth of any Federal navigation channel shall be shown in relation to the proposed utility line;
    - b. Where a utility line or additional road(s) is proposed in an existing subdivision, the PCN shall include information on additional impacts to waters and wetlands that may occur within the subdivision as a result of the proposed activity;
    - c. Any PCN to the District Engineer that proposes construction of a permanent access road must also justify, to the satisfaction of the District Engineer, that any such permanent fills are necessary, and that temporary access roads are not practicable;
    - d. When any directional drilling or boring activities are proposed under a Section 10 waterway, the PCN must include a plan that addresses prevention, containment and cleanup of any accidental discharges of drilling muds known as “frack out”.
  3. For the installation of utility lines, the following applies:
    - a. Utility lines installed below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the District Engineer to be impracticable;
    - b. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling is the preferred method of installation when possible, especially in tidal waters;

- c. Where a utility line is constructed parallel to a stream corridor, an undisturbed buffer shall be established between the utility line and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any PCN to the District Engineer;
  - d. The top of any buried cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and shall be backfilled with suitable heavy material to the preconstruction bottom elevation. Where the cable, encasement, or pipeline is placed on bedrock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained. For Federal navigational channels, the referenced minimum of ten feet below the existing bottom elevation of the streambed applies except where the utility line is placed on bedrock then a minimum depth of two feet from the authorized depth of the navigation channel shall be maintained; and
  - e. Clay plugs, impervious membranes, or other state of the art methods shall be placed in trenches to ensure that the trench does not drain the water and/or wetland through which the utility line was installed. Photo-documentation of clay plugs or impervious material at each crossing must be included with the submitted "self-certification form."
4. The District Engineer will coordinate review of the PCN with the National Marine Fisheries Service pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act when:
- a. Foundations for overhead utility line towers, poles, and anchors are located below the mean high water line in tidal waters, or the ordinary high water line of nontidal streams; or
  - b. Any proposed open-cut pipeline (i.e., pipes carrying gaseous, liquid, liquescent, or slurry substance) affecting a tidal tributary stream and/or nontidal stream:
    - i. Impacts more than 500 linear feet of a tidal tributary stream and/or nontidal coastal plain stream; or
    - ii. Does not make a direct or perpendicular stream channel crossing; or
    - iii. An open-cut pipe constructed in waters of the United States runs parallel to a stream and the pipeline is within 100 feet of the mean high

water mark of a tidal stream; or 100 feet of the ordinary high water mark of a nontidal coastal plain stream.

**I. Nationwide Permit #13 Bank Stabilization**

1. To the maximum extent practicable, bank stabilization activities shall be accomplished using natural stabilization techniques and/or natural channel design. Native riparian plantings shall be included in project designs to the extent practicable.

**J. Nationwide Permit #14 Linear Transportation Projects** (applicable to District of Columbia and Virginia at Fort Belvoir, Fort Myer, and the Pentagon)

1. 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) when:
  - a. A Section 10 permit is required;
  - b. Impacts to waters of the United States exceed 200 linear feet of stream channel (perennial, intermittent, and ephemeral); or
  - c. Low flow or multi-culvert crossings are proposed.
2. The activity must not be used as a berm for a permanent impoundment or in-stream management of storm water.
3. For public linear transportation projects where the prospective permittee is proposing a new crossing, proposing the replacement of an existing bridge structure with a culvert, or proposing the expansion of an existing facility, the permittee shall include as part of any required PCN an on-site alternatives analysis that considers the impact of various size and type structures (i.e. bridges, culverts, pipes, and bottomless culverts) on the following: wetland services and functions, values, acreage; wildlife corridor; floodplain functions, including, but not limited to, flood storage and nutrient uptake; existing or proposed hiker/biker trails and equestrian trails; recreational water activities (e.g. boating, fishing); fish passage; fisheries habitat and food chain support; threatened and endangered species; stream morphology; hydraulic analysis; cost; consistency with master plans; and movement of debris.
4. Compensatory mitigation, focusing on functional replacement, will be determined on a case-by-case basis, but is required, at a minimum, for discharges causing the loss of greater than 1/10 acre of wetlands and/or greater than 200 linear feet of stream channel, unless the applicant demonstrates to the satisfaction of the District Engineer, that the adverse effects are minimal without mitigation. In such cases, the applicant must submit

justification explaining why compensatory mitigation should not be required by the Corps. The amount of required compensatory mitigation must be, to the extent practicable, sufficient to replace the loss of aquatic resource services and functions. A watershed approach to compensatory mitigation should be used that considers the importance of landscape position and resource type for the sustainability of aquatic resource services and functions within the watershed. In addition, the PCN shall include the rationale for the proposed compensatory mitigation. Where appropriate functional or conditional assessment methods are available and practicable, these methods may be used to determine how much compensatory mitigation is required.

5. For activities in tidal and nontidal streams that affect more than 5,000 square feet of tidal wetlands or tidal waters; and/or 200 linear feet or more of nontidal streams, the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

**K. Nationwide Permit #15 U.S. Coast Guard Approved Bridges**

1. For activities in tidal and nontidal streams affecting more than 10,000 square feet of tidal waters, including tidal wetlands and/or more than 500 linear feet of non-tidal streams, the District Engineer will coordinate review of the Pre-construction Notification with the National Marine Fisheries Service pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

**L. Nationwide Permit #18 Minor Discharges** Prior to doing the work, the permittee shall submit a PCN to the District Engineer (see General Condition 32 and Regional General Condition 32).

1. The discharges of dredged and/or fill material into waters of the United States cannot be placed for the purpose of impounding water.
2. For any activity associated with a proposed discharge into tidal waters, including tidal wetlands, that does not require access or proximity to or siting within tidal waters and wetlands to fulfill its basic purpose (i.e., is not “water-dependent”), the Corps shall provide the PCN to National Marine Fisheries Service.

**M. Nationwide Permit #19 Minor Dredging** 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)

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

**O. 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 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. The Corps of Engineers will coordinate the review of the PCN with the National Marine Fisheries Service pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

**P. Nationwide Permit #28 Modifications of Existing Marinas:** 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). The PCN must include plans showing the configuration of existing structures. For projects located on a waterway containing an authorized Federal Navigation Channel, the permittee must also include the distance of the project from the edge of the authorized channel. The District Engineer will add special conditions, where necessary, to ensure those adverse navigation impacts are minimal.

**Q. Nationwide Permit #29 Residential Developments** (applicable to District of Columbia and Virginia at Fort Belvoir, Fort Myer, and the Pentagon)

1. This Nationwide Permit (NWP) does not authorize the construction of in-stream impoundments.
2. For purposes of calculating the aggregate ½-acre limit for this NWP, wetlands located within the platted lot lines of any residential subdivision will be considered adversely affected unless protected by a real estate protection mechanism (e.g., conservation easement or deed restriction) that can demonstrate to the District Engineer that these areas will be protected and preserved in perpetuity. Those wetlands considered adversely affected may require additional project-specific compensatory mitigation or review under other Federal permitting procedures.

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

**S. Nationwide Permit #33 Temporary Construction, Access and Dewatering:** 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. For causeways and cofferdams constructed under this Nationwide Permit, the following applies:

- a. Earthen cofferdams and cofferdams of dredged and/or fill material shall not be used due to problems with sedimentation of the waterway during installation and removal of the earthen (fine material) component. Causeways shall consist of only clean rock; and
  - b. Causeways and cofferdams shall extend no more than 1/2 the width of the waterway, and sufficient conveyance of the waterways shall be provided to preclude damage to property or the environment resulting from increased water surface elevations.
2. Temporary crossings of wetlands shall be avoided if an alternate location is possible. Where wetland impacts cannot be avoided, timber mats, construction pads, geotextiles or other similar devices shall be used to avoid consolidation of temporary road materials into the wetland substrate.
  3. The restoration plan for disturbed wetlands and stream banks shall include a planting plan identifying specific species to be planted. Re-vegetation with species similar to the native pre-existing vegetation should be used, unless site specific conditions justify a change, e.g. replacing reed canary grass with a more varied seed mix of palustrine emergent species. The type of re-vegetation should be in-kind, e.g., herbaceous species replaced with same, shrub species replaced with same, and tree species replaced with same.
  4. The Corps shall provide the required PCN to National Marine Fisheries Service including any supporting documentation, in accordance with the Magnuson Stevens Fishery Conservation and Management Act when:
    - a. The activity affects more than 0.5 acre of tidal waters, including jurisdictional tidal wetlands; or
    - b. The activity affects more than 500 linear feet of a nontidal streams.

**T. Nationwide Permit #35 Maintenance Dredging of Existing Basins:** Prior to doing the work, the permittee must submit a Pre-construction Notification (PCN) to the District Engineer (see General Condition 32 and Regional General Condition 32).

1. Maintenance dredging authorized by this nationwide permit shall be limited to the dimensions (width and depth) of previously authorized dredging.
2. The PCN must also include a drawing indicating existing depths for the project site and nearby channel, a survey of submerged aquatic vegetation in the vicinity of the dredge site, and plans indicating the dimensions (width and depth) and the approximate date of previous dredging, and identifying the location of the upland disposal site(s).

3. The Corps shall provide the required PCN to National Marine Fisheries Service for individual Essential Fish Habitat consultation and coordination.

#### **U. Nationwide Permit #36 Boat Ramps**

1. Construction material must be clean rock or stone free of fine materials such as silt, clay or sand to preclude more than minimal detrimental impacts to the waterway from turbidity and sedimentation effects.
2. The length of boat ramps authorized by this nationwide permit shall not exceed 30 feet channelward of the mean high water line, nor 25% of the width of the waterway.
3. Where the water depth at the proposed ramp is less than two feet at mean low water, the permittee must submit a Pre-construction Notification to the District Engineer (see General Condition 32 and Regional General Condition 32).

**V. 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 pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

#### **W. Nationwide Permit #39 Commercial and Institutional Developments**

1. This Nationwide Permit (NWP) does not authorize the construction of in-stream impoundments.
2. For purposes of calculating the ½-acre limit for this NWP, wetlands located within the platted lot lines of any commercial or institutional subdivision will be considered adversely affected unless protected by a real estate protection mechanism (e.g., conservation easement or deed restriction) that can demonstrate to the District Engineer that these areas will be protected and preserved in perpetuity. Those wetlands considered adversely affected may require additional project-specific compensatory mitigation or review under other Federal permitting procedures.

#### **X. Nationwide Permit #40 Agricultural Activities**

1. Pond construction must be of the minimum size required for the farming use.
2. In-stream ponds should be avoided to the maximum extent practicable.

**Y. Nationwide Permit #41 Reshaping Existing Drainage Ditches:** Prior to doing the work, the permittee must submit a Pre-construction Notification to the District Engineer, in accordance with the current Corps permit application procedures (see General Condition 32 and Regional General Condition 32).

**Z. Nationwide Permit #43 Stormwater Management Facilities**

1. The Corps will coordinate the review of the Pre-construction Notification with the applicable resource agencies.

**AA. Nationwide Permit 51 Land-Based Renewable Energy Generation Facilities**

1. This Nationwide Permit does not authorize the construction of in-stream ponds.
2. For the installation of utility lines, the following applies:
  - a. Utility lines installed below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the District Engineer to be impracticable.
  - b. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling is the preferred method of installation when possible, especially in tidal waters.
  - c. Where a utility line is constructed parallel to a stream corridor, an undisturbed buffer shall be established between the utility line and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any Pre-construction (PCN) to the District Engineer.
  - d. The top of any buried cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and shall be backfilled with suitable heavy material to the preconstruction bottom elevation. Where the cable, encasement, or pipeline is placed on bedrock, a minimum depth of one foot from the lowest point in the natural contour of the streambed, shall be maintained. A minimum vertical clearance of ten feet shall be maintained from the top of any cable, encasement, utility, or pipeline below the authorized depth of an authorized Federal navigation channel. For Federal navigational channels, where the utility line is placed on bedrock, a minimum depth of two feet from the authorized depth of the navigation channel shall be maintained.

- e. Clay plugs, impervious membranes, or other state of the art methods shall be placed in trenches to reduce drainage through the backfill material. Photo documentation of clay plugs or impervious material at each crossing must be included with the submission of the “self-certification form.”
3. Any required PCN shall include the following:
    - a. For all submerged utility lines across navigable waters of the United States, the PCN shall include a location map and cross-sectional view showing the utility line crossing from bank to bank. In addition, the location and depth of any Federal Project Channel shall be shown in relation to the proposed utility line.
    - b. The PCN shall include a map of the entire project corridor/overall project area, including a delineation of all wetlands and waters of the United States within the corridor and overall project area.
    - c. The PCN shall include information regarding how the selection of the alignment avoids and minimizes impacts to aquatic resources to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling is the preferred method of installation when possible, especially in tidal waters.
    - d. 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.

**BB. Nationwide Permit 52 Water-Based Renewable Energy Generation Pilot Projects**

1. This Nationwide does not authorize the construction of in-stream ponds.
2. For the installation of utility lines, the following applies:
  - a. Utility lines installed below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the District Engineer to be impracticable.
  - b. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling is the preferred method of installation when possible, especially in tidal waters.

- c. Where a utility line is constructed parallel to a stream corridor, an undisturbed buffer shall be established between the utility line and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any Pre-construction Notification (PCN) to the District Engineer.
  - d. The top of any buried cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and shall be backfilled with suitable heavy material to the preconstruction bottom elevation. Where the cable, encasement, or pipeline is placed on bedrock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained. A minimum vertical clearance of ten feet shall be maintained from the top of any cable, encasement, utility, or pipeline below the authorized depth of a Federal navigation channel. For Federal navigational channels, where the utility line is placed on bedrock, a minimum depth of two feet from the authorized depth of the navigation channel shall be maintained.
  - e. Clay plugs, impervious membranes, or other state of the art methods shall be placed in trenches to reduce drainage through the backfill material. Photo documentation of clay plugs or impervious material at each crossing must be included with the “self-certification form.”
3. The PCN shall include the following:
- a. For all submerged utility lines across navigable waters of the United States, the PCN shall include a location map and cross-sectional view showing the utility line crossing from bank to bank. In addition, the location and depth of the Federal Project Channel shall be shown in relation to the proposed utility line.
  - b. The PCN shall include a map of the entire project corridor/overall project area including a delineation of all wetlands and waters of the United States within the corridor and overall project area.
  - c. The PCN shall include information regarding how the selection of the alignment avoids and minimizes impacts to aquatic resources to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling is the preferred method of installation when possible, especially in tidal waters.

- d. 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.
4. For activities in all tidal and nontidal streams, the Corps of Engineers will coordinate review of the PCN with the National Marine Fisheries Service pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

**CC. Nationwide Permit 53- Removal of Low-Head Dams:** For activities in all tidal and nontidal coastal plain streams, the Corps of Engineers will coordinate review of the Pre-construction Notification with the National Marine Fisheries Service pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.

**DD. Nationwide Permit 54- Living Shorelines**

1. For activities in all tidal and nontidal streams, the Corps of Engineers will coordinate review of the Preconstruction with the National Marine Fisheries Service pursuant to the requirements of the Magnuson Stevens Fishery Conservation and Management Act.
2. Stone sills placed at the toe of constructed marsh shall be designed to facilitate ingress/egress of estuarine fauna during regular tidal cycles.
3. Native, nonstructural shorelines must be experiencing documented erosion.

**II. Regional Conditions Applicable to ALL 2017 Nationwide Permits within the District of Columbia and for NWP 14 and NWP 29 at Fort Belvoir, Fort Myer, and the Pentagon in Virginia.**

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following regional general conditions, as applicable, in addition to any nationwide permit specific regional conditions identified above in Section I, the general conditions found in the 2017 NWPs published in the *Federal Register* on June 1, 2016 (81 FR 35186), and any case-specific conditions imposed by the Corps.

**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, 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. 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. If depression of the culvert is not practicable, the applicant must submit a narrative, along with the PCN if 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 the 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 the 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 maybe 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 National Marine Fisheries Service 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 National Marine Fisheries Service 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 National Marine Fisheries Service 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 National Marine Fisheries Service 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 National Marine Fisheries Service.
4. **Best Management Practices Applicable Within Tidal Waters in the District of Columbia:**

- 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 $\mu$ Pa or 206dB peak re 1 $\mu$ 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 with salinity levels <6 ppt, sediment disturbing activities which includes 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 #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 the 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 to 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 for an activity 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 District Engineer permit application procedures for that locality. Preferably all PCN information can be submitted electronically or alternatively a hard copy may be sent to the Corps. 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 NWP 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*). 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 Condition 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 District State Historic Preservation Office 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 Corps review period shall commence with the receipt of a complete permit application by the Corps. 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 Fishery Conservation and Management Act for any culvert which cannot be depressed as outlined in Regional General Condition 2 for Aquatic Life Movements for NWPs 3, 12, 14, 29, 39, 42, and any other applicable NWPs. 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 Fishery Conservation and Management Act.
6. Any requests to waive the 300 linear foot limitation for intermittent and ephemeral streams for NWPs 12, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, and 54, or the 500 linear foot limitation along the bank for NWP 13, or the 20 foot width limitation for NWP 36, must include a narrative description of the stream. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characteristics observed associated with the Ordinary High Water Mark (e.g., bed and bank, wrack line, or scour marks); a description of the adjacent vegetation community, including a statement as to if the area is upland or wetland; surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information.
7. 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.

**D. 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:

<b>Nominal System Voltage (kV)</b>	<b>Minimum additional clearance (ft.) above clearance required for bridges</b>
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), 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](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.

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

1. Any activity that involves the discharge of poured concrete must be contained within cells or watertight forms until the concrete is set.

**SPECIAL NOTES:**

1. Where the District of Columbia (District) has denied 401 WQC and/or not concurred with the Corps' CZM consistency determination for a NWP authorization, the prospective permittee should contact the District to obtain an activity specific review and approval by the District prior to submitting any required PCN to the Corps 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.

District of Columbia Office of  
Planning Historic Preservation Office  
1100 4th Street, SW  
Suite E 650  
Washington, DC 20024

Northern Regional Office  
Virginia Department of Environmental  
Quality  
13901 Crown Court  
Woodbridge, Virginia 22193

District Department of Environment  
Water Quality Division  
51 N Street, NE, 6th Floor  
Washington, DC 20002

Virginia Marine Resources  
Commission  
Habitat Management Division  
2600 Washington Avenue, 3rd Floor  
Newport News, Virginia 23607-0756

Virginia Department of Historic  
Resources  
Attn: Project Review  
2801 Kensington Avenue  
Richmond, Virginia 23221

U.S. Fish and Wildlife Service  
Division of Habitat and Resource  
Conservation  
4401 N. Fairfax Drive, Suite 840  
Arlington, Virginia 22203

Virginia Department of Game and  
Inland Fisheries  
4010 West Broad Street  
P.O. Box 11104  
Richmond, Virginia 23230

U.S. Fish & Wildlife Service  
District of Columbia  
1849 C Street NW, Room 3331  
Washington, DC 20240-0001