Date: May 4, 2026

Eastern Federal Lands Highway Division (EFLHD) - PERMIT TRACKING

Project: PA ERFO FW TCM 2020-1(1)

Project Manager: Sheila M. Foronda

EFLHD Main Permit Contact(s): Timberley Belish (ENV), Brian Fletcher (PSS)

The following permits have been obtained for this project. Any modification to the work beyond what is shown in the contract plans and specifications may require modification to the permits. While notes regarding permit conditions are provided below to emphasize certain restrictions and requirements, all of the conditions for all of the permits must be fully adhered to as stated in the permit or approval document.

Permit/Approval	Agency	Received Date	Expiration Date	Remarks/Notes
Army Corps of Engineers CWA Section 404 permit issued Nationwide Permit 14.	USACE Philadelphia District	Mar 3, 2026	Mar 21, 2027	USACE determined the project fell under their NWP 14 Linear Transportation Project per Clean Water Act (CWA) Section 404. The permit extends 12 months beyond March 21, 2026 until March 21, 2027.
Erosion and Sediment Control Plan Conceptual Review	Philadelphia Water District	Apr 30, 2026	4/30/2028	The conceptual review states that PADEP review is required. PADEP Southeast Region does not permit federal projects, no further review is required.
CZMA Federal Consistency Determination	PADEP Interstate Water Resources Management Division	Nov 25, 2025	N/A	Pennsylvania Coastal Resource Management (CRM) hereby concurs that the proposed activity is consistent with the program's enforceable policies. no further action is required.
Highway Occupancy Permit (HOP)	Pennsylvania Department of Transportation (PennDOT)			Contractor is responsible completing the HOP application with PennDOT ROW. for obtaining this permit. EFL started the application (Application number 3600000). Permit fee has been waived. See SCR 107.01 for details.
Dust Control permit	City of Philadelphia Air Management Services			Contractor is responsible for the necessary dust control permits from the City of Philadelphia Air Management Services. See SCR 107.01 for details.

US Army Corps of Engineers
Philadelphia District

NOTIFICATION OF COMMENCEMENT

Permittee Name:	File Number:	County, State:
Kevin Rose; FHWA-EFLHD	NAP- 2026-00078-96	Philadelphia, PA

INSTRUCTIONS

Complete and sign this form and return it to PhiladelphiaDistrictRegulatory@usace.army.mil at least 10 days before commencement of the activity authorized by this permit. If you do not have the means to return this form electronically, you may print this document and mail it to:

U.S. Army Corps of Engineers Philadelphia District
Attn: CENAP-OPR
1650 Arch Street
Philadelphia, PA 19103-2004

Please Note: The permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. Failure to return this notification form or failure to perform work in compliance with the permit, may result in administrative, civil and/or criminal penalties, or the subject permit may be suspended or revoked.

CERTIFICATION

I have received authorization from the Philadelphia District Regulatory Branch to:

rehabilitate two existing roads at John Heinz National Wildlife Refuge.

The authorized work will begin on or about:	

The company/name and address of the contractor completing the work is:

I ***hereby certify*** that the work authorized by the above referenced permit shall be completed in accordance with all of the terms and conditions of the above noted permit.

Permittee Signature:	Date:	Telephone Number:
Contractor Signature:	**Date:**	**Telephone Number:**

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
1650 ARCH STREET
PHILADELPHIA PA 19103-2004

March 3, 2026

Regulatory Branch

SUBJECT: Nationwide Permit 14 Verification NAP-2026-00078-96
John Heinz USFWS FHWA Road Repair PH
NJDEP permit N/A
Central coordinates (39.8809°, -75.25649°)

Mr. Kevin Rose
FHWA-EFLHD
22001 Loudoun County Pkwy
BLDG 2 STE 200
Ashburn, Virginia 20147

Dear Mr. Rose:

This letter is written in regard to your proposal to repair portions of two pre-existing roads that were damaged during a storm event. This project is located in Philadelphia at the John Heinz Wildlife Refuge in Philadelphia County, Pennsylvania. Based upon our review of the information that has been provided, it has been determined that the proposed work is authorized by Department of the Army Nationwide Permit (NWP) 14 Linear Transportation Projects pursuant to Section 404 of the Clean Water Act (33 USC 1344).

This verification of authorization under NWP 14, described in the Federal Register at 86 FR 2744 and 86 FR 73522, is based on your agreement to comply with the general conditions, regional conditions and project specific special conditions listed in this letter. Copies of the NWP descriptions, NWP general conditions and the NWP regional conditions for New Jersey can be found at:

2021 NWP Descriptions:
https://www.nap.usace.army.mil/Portals/39/docs/regulatory/nwp/2021/2021-52-NWPs-Descriptions.pdf

2021 NWP General Conditions:
https://www.nap.usace.army.mil/Portals/39/docs/regulatory/nwp/2021/2021%20Nationwide%20Permit%20General%20Conditions.pdf

2021 New Jersey Regional Conditions:
https://www.nap.usace.army.mil/Portals/39/docs/regulatory/nwp/2021/2021-NJ-Reg-Cond-Final.pdf

Federal permits require determination from the State that the activities are consistent with the State's coastal zone management (CZM) program if the activity is located within the State's coastal zone. Federal permits also require the State's certification of compliance with section 401 of the Clean Water Act through the receipt of a 401 Water Quality Certification (WQC) if the activity involves a Section 404 discharge. A general water quality certification has been issued for this permit. A general CZM consistency concurrence has been issued for this permit. Therefore, no further action is needed as part of the Federal review of your project, provided that you comply with all the terms and conditions of this NWP.

This verification of NWP authorization is valid until the 2021 Nationwide Permits expire on **March 14, 2026**, unless the NWP authorization is modified, suspended, or revoked prior to this date. In the event that the NWP authorization is modified during that time period, this expiration date will remain valid, provided the activity complies with any subsequent modification of the NWP authorization.

Activities which have commenced (i.e. are under construction) or are under contract to commence in reliance upon an NWP will remain authorized provided the activity is completed within twelve months of the date of an NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

Special Conditions:

1. All work performed in association with the subject project shall be conducted in accordance with the **enclosed** project plans identified as "Rehabilitation of Trolley Bed Road and Haul Road", dated 01/28/2025, sheet 1 through 89, prepared by FHWA.

2. Construction activities shall not result in the disturbance or alteration of greater than 0.21 acre of waters of the United States. This total includes 0.126 acre of permanent and 0.082 acre of temporary wetland impacts.

3. Any deviation in construction methodology or project design from that shown on the enclosed project plans must be approved by this office, in writing, prior to performance of the work. All modifications to the enclosed project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified prior to the commencement of authorized work by completing and signing the **enclosed** "Notification of Commencement" form. This

office shall also be notified within 10 days of the completion of the authorized work by completing and signing the **enclosed** “Notification of Completion” form. Notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your general permit.

Also **enclosed** with this NWP verification letter is a form seeking any comments, positive or otherwise, on the procedures, timeliness, fairness, etc. of the permit process. You may forward your comments along with the signed “Notification of Commencement” form or “Notification of Completion” form, following the directions provided on the form. If you should have any questions or concerns, please contact Nikolas Tranchik at 215-656-5859 or Nikolas.p.tranchik@usace.army.mil.

Sincerely,

Nikolas Tranchik

Digitally signed by Nikolas Tranchik
Date: 2026.03.03 13:40:41 -05'00'

Nikolas Tranchik
Senior Project Manager, Section II

Enclosures
1.) Authorized Plans
2.) Commencement Notification
3.) Completion Notification
4.) Comment Document

cc:
1.) Kevin Rose, FHWA (kevin.rose@dot.gov)
2.) Timberley Belish, FHWA (timberley.belish@dot.gov)
3.) Lamar Gore, USFWS John Heinz Refuge Manager (lamar_gore@few.gov)

2021 Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. ***Navigation.*** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. ***Aquatic Life Movements.*** 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 the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. ***Spawning Areas.*** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. ***Migratory Bird Breeding Areas.*** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. *Suitable Material.* No activity may use unsuitable material (*e.g.,* trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (*e.g.,* stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. *Removal of Temporary Structures and Fills*. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The affected areas must be revegetated, as appropriate.

14. ***Proper Maintenance.*** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. ***Single and Complete Project.*** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. ***Wild and Scenic Rivers.*** (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. ***Tribal Rights.*** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. ***Endangered Species.*** (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which ''may affect'' a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of ''effects of the action'' for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding ''activities that are reasonably certain to occur'' and ''consequences caused by the proposed action.''

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity ''may affect'' or will have ''no effect'' to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have ''no effect'' on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the ''take'' of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (*e.g.,* an ESA Section 10 Permit, a Biological Opinion with ''incidental take'' provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The

word ''harm'' in the definition of ''take'' means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://ww.nmfs.noaa.gov/pr/species/esa/ respectively.

19. ***Migratory Birds and Bald and Golden Eagles.*** The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether ''incidental take'' permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. ***Historic Properties.*** (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If preconstruction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance

with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: No historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. ***Discovery of Previously Unknown Remains and Artifacts.*** Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. ***Designated Critical Resource Waters.*** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.,* on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require preconstruction notification, the district engineer may determine on a case-by case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100 acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100 acre or less that require preconstruction notification, the district engineer may determine on a case-by case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the

stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.,* riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (*e.g.,* resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. ***Safety of Impoundment Structures.*** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. ***Water Quality.*** (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived

(see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires preconstruction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. ***Coastal Zone Management.*** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. ***Regional and Case-By-Case Conditions.*** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. ***Use of Multiple Nationwide Permits.*** The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2 acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. ***Transfer of Nationwide Permit Verifications.*** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

''When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.''

_____

(Transferee)

_____

(Date)

30. ***Compliance Certification.*** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. ***Activities Affecting Structures or Works Built by the United States.*** If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ''USACE project''), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. ***Pre-Construction Notification.*** (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is ''no effect'' on listed species or ''no potential to cause effects'' on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the

permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. (ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs. (iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project

site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the ''study river'' (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1⁄2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat

conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

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

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

A. Nationwide Permit 3 *Maintenance*:

For activities in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania[1], the permittee must submit a Pre-Construction Notification (PCN) to the District Engineer (see General Condition 32 and Regional General Condition 32) prior to commencing the activity for all tide gate replacements where a self-regulating tide gate is not being proposed. Self-regulating tide gates allow tidal flow and fish passage but can be set to close at a specified water level. For projects not proposing the use of self-regulating tide gates, the applicant shall demonstrate why it is not practicable to replace the tide gate with self-regulating tide gates and shall also provide documentation that the waterway above the proposed gate does not currently support diadromous fish migrations. The District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

B. Nationwide Permit 5 *Scientific Measurement Devices*:

The construction or installation of subaqueous turbines or similar facilities is not authorized by this Nationwide Permit.

C. Nationwide Permit 6 *Survey Activities*:

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 and returned to preconstruction conditions and elevations.

D. Nationwide Permit 7 *Outfall Structures and Associated Intake Structures*: The following regional conditions are applicable only to the Philadelphia District Regulatory Area of Responsibility in Pennsylvania:

1. 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. In addition, intake velocities should not exceed 0.5 ft. /sec. This condition may be waived by the District Engineer if an applicant proposes to utilize new or improved technologies that meets or exceeds the “wedge wire” design technology.

2. The intake structure shall be positioned such that its design minimizes impingement and entrainment of aquatic species where feasible. This would

[1] District Boundaries can be found at the weblinks listed in Special Note 1.

include efforts that result in stream velocities over, around or past the intake structure that exceed the velocities through the intake structure.

E. Nationwide Permit 10 *Mooring Buoys*:

1. Water depths in the mooring area must be sufficient so that any moored vessels float at all stages of the tide or mean low water.

2. Mooring buoys are prohibited in areas containing submerged aquatic vegetation.

F. Nationwide Permit 11 *Temporary Recreational Structures*:

1. Prior to doing the work, permittees must submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

2. Water depths in mooring areas must be sufficient so that any moored vessels float at all stages of the tide or mean low water.

3. This Nationwide Permit (NWP) does not authorize the placement of any temporary structures in any areas containing submerged aquatic vegetation.

4. For activities located in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, NWP #11 is applicable only to structures associated with discrete or specific recreational events.

G. Nationwide Permit 13 *Bank Stabilization*: The following regional conditions are applicable only to the Philadelphia District Regulatory Area of Responsibility in Pennsylvania:

1. Any activity requiring a Pre-Construction Notification (PCN) to the District Engineer that does not utilize bioengineering, vegetative stabilization, or combinations of vegetative and structural bank stabilization methods must include an analysis demonstrating that such measures were not practicable and/or appropriate.

2. This Nationwide Permit may not be used to authorize any stabilization activity where no demonstrable erosion or threat of erosion is evident.

3. A PCN shall be provided to the Corps for all in-water structures, such as bioengineering, break waters, sills, gabion baskets, wave attenuation devices (WADs), or any combinations of bank stabilization techniques, placed offshore of the bank for the purpose of erosion control or prevention. The District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

H. Nationwide Permit 14 *Linear Transportation Projects*:

1. Prior to doing the work, permittees shall submit a Pre-Construction Notification to the District Engineer, (see General Condition 32 and Regional General Condition 32) if a Section 10 permit is required.

2. For activities located in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, stream or open water crossings shall be designed to maintain continuity of existing benthic habitats and to maintain existing stream flow patterns. This can be achieved through the use of elevated structures, bottomless culverts, or by depressing culverts below the stream bottom. This design requirement must include a site-specific evaluation of the particular stream or water body to determine if it is experiencing erosion or sedimentation rates that would alter the bottom elevation. Where a series of culverts are used, only those cells or culverts, which carry the base stream flow, shall be depressed. The bottom of any other culverts or cells shall be raised to pass and maintain existing and expected high flows. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width of depth of the stream channel.

I. Nationwide Permit 18 *Minor Discharges*:

Prior to doing the work, permittees shall submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

J. Nationwide Permit 19 *Minor Dredging*:

Prior to doing the work, permittees shall submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

K. Nationwide Permit 23 *Approved Categorical Exclusions*:

Prior to commencing the activity, permittees shall submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

L. Nationwide Permit 27 *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*:

1. Prior to commencing the activity, permittees shall submit a Pre-Construction Notification (PCN) to the District Engineer. (See General Condition 32 and Regional General Condition 32).

2. Any activity involving shellfish seeding, such as the placement of shell material or any other habitat development or enhancement for shellfish, is restricted to shellfish species that are native to that waterbody.

3. For activities in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

M. Nationwide Permit 28 *Modifications of Existing Marinas*:

1. Prior to doing the work, permittees shall submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

2. For projects in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, this Nationwide Permit is only applicable to those marinas previously reviewed and approved by the District Engineer through the Individual Permit process.

N. Nationwide Permit 30 *Moist Soil Management for Wildlife*:

Prior to commencing the activity, permittees must submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

O. Nationwide Permit 35 *Maintenance Dredging of Existing Basins*:

1. Permittees must submit a Pre-Construction Notification to the District Engineer. (See General Condition 32 and Regional General Condition 32).

2. For activities in the Philadelphia District Regulatory Area of Responsibility in Pennsylvania, this Nationwide Permit is only applicable to maintenance dredging of existing basins previously reviewed and approved by the District Engineer through the Individual Permit process.

P. Nationwide Permit 38 Cleanup of Hazardous and Toxic Waste:

For activities in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania, a Pre-Construction Notification (PCN) is required, and the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

Q. Nationwide Permit 53 *Removal of Low-Head Dams*:

For activities in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania, a Pre-Construction Notification (PCN) is required, and the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

R. Nationwide Permit 54 *Living Shorelines*: For activities located in the Philadelphia District Regulatory Area of Responsibility within Pennsylvania:

1. A Pre-Construction Notification (PCN) is required, and the District Engineer will coordinate review of the PCN with the National Marine Fisheries Service-Habitat and Ecosystem Services Division.

2. Fill or dredged material used for the purpose of establishing or re-establishing a vegetative plane must be of appropriate grain size to support plant growth and development.

3. Sills shall be constructed of riprap, gabion baskets, or clean broken concrete free of metal and re-bar. Alternative materials may be considered for use at the discretion of the District Engineer.

4. Sills shall be designed with at least one 5-foot window/gap per property and per every 100 linear feet of sill unless waived by the District Engineer.

5. The sill height shall be a maximum of +1 foot above mean high water and should be placed at a distance no greater than 30 feet from mean low water to the landward peak side of the sill unless waived by the District Engineer.

6. The total amount of vegetated wetlands which may be filled, graded, or excavated, in square feet, may not exceed the acreage of living shoreline establishment or re-establishment unless the District Engineer waives this criterion by making a written determination concluding that the project will result in minimal adverse effects. All temporary impacts to sub-tidal, inter-tidal, and/or existing wetland vegetation shall be restored to previous conditions and may require a wetland planting plan.

7. If the proposed project results in temporary impacts to existing wetland vegetation, then the permittee shall monitor the re-establishment of wetland vegetation until such time as the vegetation meets pre-disturbance conditions (i.e., coverage and density). If the wetland is not restored to previous conditions within two complete growing seasons, the permittee shall provide a modification request to the Corps and may be required to provide compensatory mitigation.

II. Regional Conditions Applicable to All 2021 Nationwide Permits within the State of Pennsylvania Unless Otherwise Stated:

Note: To qualify for Nationwide Permit (NWP) authorization, the permittee must comply with the following regional general conditions, as applicable, in addition to any specific NWP regional conditions identified above in Section I, the terms and conditions found in the issuance and reissuance of the NWPs published in the *Federal Register* on December 27, 2021 (86 FR 73522), and any activity-specific verification conditions imposed by the Corps.

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

1. For activities in the Philadelphia District Regulatory Area of Responsibility, in order to protect diadromous fish migrations, spawning activities, and EFH, in-water work shall be avoided in accordance with the following time of year restrictions, unless otherwise authorized by the District Engineer through the PCN process:

    a. To protect diadromous fish migrations and spawning, in the Delaware River main stem from the Pennsylvania and Delaware State Borders to the U.S. Route 1 Bridge, in Morrisville, and ALL tributaries within this reach, in-water work shall be avoided from ***March 1 to June 30***. This time of year restriction is not applicable to waters of the United States located upstream of an obstruction that precludes fish passage.

    b. To protect diadromous fish migrations and spawning in the Delaware River mainstem above the U.S. Route 1 Bridge, in Morrisville, and ALL tributaries north of this point, in-water work shall be avoided from ***March 1 to July 31*.** This time of year restriction is not applicable to waters of the United States located upstream of an obstruction than precludes fish passage.

    c. Work within cofferdams that fully enclose and dewater the project area can proceed any time during the year provided that the cofferdams are installed and removed outside of the seasonal work restriction and do not preclude the free movement of migrating and spawning aquatic species to ensure compliance with NWP General Condition 2 and 3.

    d. A request for waiver from these timing restrictions may be requested by submitting a PCN to the Corps and shall include a written statement that clearly describes one or more of the following: (1) why the use of cofferdams cannot be implemented; (2) evidence documenting the waterway does not or has not historically supported migrations and/or spawning habitat; (3) what additional measures have been taken or are being proposed to avoid impacts; (4) and, why the activity must be conducted within the restricted time periods. Cost and logistics along will not be sufficient. The Corps shall coordinate the request with the NMFS.

2. For activities in the Philadelphia and Baltimore Districts area of responsibility, all culverted road crossings of perennial and intermittent streams must meet the below culvert depression criteria, or a Pre-Construction Notification (PCN) is required to be submitted to the District Engineer for review and coordination with the National Marine Fisheries Service – Habitat and Ecosystem Services Division. Extensions of existing culverts that are not depressed below the stream bottom do not require a PCN.

    a. Culverts measuring greater than 36 inches in diameter must be depressed 12 inches below the stream bottom; or

b. Culverts measuring 36 inches or less in diameter must be depressed 6 inches below the stream bottom.

3. If depression of the culvert is not practicable in accordance with this depression criteria, the applicant must submit a Pre-Construction Notification, including a narrative documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The Corps shall provide a copy of the PCN, including the supporting documentation, to the NMFS for any culvert which cannot be depressed as outlined in this Regional General Condition 2 for Aquatic Life Movements. The applicant may find it helpful to contact National Marine Fisheries Service for recommendations about the measures to be taken to allow for fish passage.

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

1. Permittees must provide a PCN if a proposed NWP activity will occur in the following officially designated National Wild and Scenic Rivers:

   a. Allegheny River, from the Kinzua Dam mile 197.2, downstream approximately 7 miles to US Route 6 Bridge, at mile 190.7, in Warren, then from the Buckaloons Recreation Area in Allegheny National Forest at mile 181.7 downstream 47 miles to Alcorn Island just north of Oil City at river mile 133.7, and then continuing from the Franklin Wastewater Treatment Plant at mile 122.7, downstream 31 miles to the refinery at Elmenton mile 90.7;

   b. Clarion River from mile 91.1 in the Borough of Ridgeway, Elk County, Pennsylvania, at the National Forest and State Game Lands boundary to mile 39.4 at the normal pool elevation of Piney Dam;

   c. Upper Delaware Scenic and Recreational River, including the ¼ mile buffer from each bank, beginning at Hancock, New York, and continuing 73.4 river miles to Mill Rift, Pennsylvania;

   d. Middle Delaware Scenic and Recreational River (from bank to bank) beginning approximately four miles below Port Jervis, extending downstream approximately to the boundary between Monroe and Northampton Counties in Pennsylvania (just below the Interstate 80 bridge);

   e. Lower Delaware River beginning 7 river miles north of Belvidere, New Jersey, continuing to Washington Crossing, Pennsylvania, including Paunnacussing Creek, within Solebury Township; all of the Tinicum Creek,

including Rapp Creek and Beaver Creek Tributaries; and Tohickon Creek from the mouth to the Lake Nockamixon Dam, including a ¼ mile buffer from each bank. The towns of Belvidere, Phillipsburg, and Easton, as well as existing power plants, water supply intakes and wastewater outfalls are not included in the designated area; and

f. White Clay Creek watershed including all of its tributaries.

2. For activities in the Philadelphia District Regulatory Area of Responsibility within Wild and Scenic Rivers, coordination between the prospective permittee and the National Park Service is required for any activity potentially affecting a component of the National Wild and Scenic Rivers System or a river under official study status. No work shall begin until the National Park Service has determined in writing that the proposed activity will not adversely affect the designation or study status. Documentation of coordination and National Park Service concurrence shall be forwarded to the Corps of Engineers. Additional coordination between the Corps of Engineers, the prospective permittee, and National Park Service may be necessary on a case-by-case basis to address identified Wild and Scenic River issues.

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

   a. For projects located within the Upper Delaware Scenic and Recreational River, the applicant shall send all correspondences to: Natural Resources Chief, Upper Delaware Scenic and Recreational River, 274 River Road, Beach Lake, Pennsylvania 18405-9737.

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

   c. For projects located within the Lower Delaware River and White Clay Creek Wild and Scenic, the applicant shall send all correspondence to: The National Park Service, Interior Region 1, 1234 Market Street, Philadelphia, Pennsylvania, 19107.

3. For activities in the Pittsburgh District Regulatory Area of Responsibility within Wild and Scenic Rivers, prior to the prospective permittee performing any activity in waters of the U.S., U.S Forest Service approval shall be obtained for the project by the Pittsburgh District prior to Nationwide Permit verification.

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

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

   a. Prior to commencing the activity, the applicant must complete a Pennsylvania Natural Diversity Inventory (PNDI) project screening for federally listed threatened and endangered species. The PNDI Environmental Review Tool is located at: https://conservationexplorer.dcnr.pa.gov/. If the PNDI receipt identifies a "Potential Impact" or "Avoidance Measure" relevant to a listed or eligible for listing USFWS species, then the applicant must submit a PCN to the District Engineer and forward the PNDI to the USFWS (see General Condition 32 and Regional General Condition 32), prior to doing work. **(See Addresses in Special Note below)**. The applicant shall provide evidence that a duplicate copy of the PCN has been submitted to, and received by the USFWS (e.g., copy of certified/registered mail receipt or email). A USFWS letter (issued pursuant to the ESA) serves as evidence that the permittee has contacted the USFWS.

   b. Prior to any work within the **Delaware River** whereby the regulated activities extend across State Boundaries (PA/NJ), the applicant shall document that they have followed the consultation guidance published on the New Jersey Field Office website: http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html to determine if a proposed NWP activity may affect a listed species. The permittee shall generate a list of federally listed species for the action area using the USFWS's Information for Project Planning and Conservation (IPaC) at the following website https://ecos.fws.gov/ipac/. Upon your review of IPaC report, the proposed activity shall be screened for potential adverse effects to any listed species using the screening procedures published on the New Jersey Field Office website, or other more specific screening procedures that have been developed by the New Jersey Field Office for particular agencies, organizations, activities, or species. The permittee shall follow the guidance provided on the New Jersey Field Office website. If necessary, contact the New Jersey Field Office for further coordination prior to applying (PCN) to the District Engineer for an NWP verification.

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

   a. Prior to any work, the prospective permittee shall generate a list of federally-listed species by accessing the NOAA Fisheries ESA Section 7 Mapper found at: https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater#esa-section-7-mapper. If upon completion of this review the species list determination indicates there are listed, proposed, or candidate species found in the action area, the prospective permittee

is *required* to submit a PCN to the Corps of Engineers to determine if the action will result in an "EFFECT" to the listed species, except in the following waterways:

i. Delaware River mainstem above the U.S. Route 202 Bridge in New Hope, Pennsylvania; and

ii. ALL tributaries above the U.S. Route 202 Bridge in New Hope, Pennsylvania, located off of the Delaware River mainstem.

b. Additional technical consultation guidance to determine if a proposed NWP activity may affect a listed species can be found on the NOAA Fisheries Website: https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic.

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

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

1. **For PCN activities in the Philadelphia District Regulatory Area of Responsibility:** The prospective permittee shall notify the Philadelphia District Corps of Engineers in accordance with NWP General Condition 32, *Pre-Construction Notification* by using a signed pre-construction notification form (Form ENG 6082).

2. **Conditions for Waters Containing Submerged Aquatic Vegetation (SAV) Beds:** The prospective permittee shall submit a PCN to the District Engineer for any NWP activity that is proposed within **50 feet** of SAV beds, or mapped SAV habitat. Additional avoidance and minimization measures, such as relocating a structure or time-of-year restrictions (TOYR) may be required to reduce impacts to SAV habitat.

3. All PCNs to the District Engineer shall be completed using the established District Engineer permit application procedures for that locality (For Philadelphia District see Section II.D.1., above; For Pittsburgh District see: https://www.lrp.usace.army.mil/Missions/Regulatory/Forms-and-Publications/; For Baltimore District see: https://www.nab.usace.army.mil/Missions/Regulatory/Permits-PA/). Preferably all PCN information can be submitted electronically using district-specific procedures; alternatively, a hard copy may be sent to the Corps. All PCNs to the District

Engineer shall include the following information, where applicable, in addition to the information specified in the NWP conditions, including General Condition 32:

a. For projects located in the vicinity of a Federal navigation channel, the location and depth of any Federal navigation channel shall be shown in relation to the proposed project.

b. Copy of response from the FWS concerning any federally listed Threatened and Endangered Species that may be affected by the proposed activity. Completion of the required screening identified in General Regional Conditions #18, *Endangered Species*, and submission of the required documents of the PCN serves as compliance with this condition.

c. Copy of response from the SHPO concerning historic properties that may be affected by the proposed activity.

d. Documentation from the appropriate state agency indicating whether the proposed project is located within a State Natural Heritage site (https://www.dcnr.pa.gov/Communities/HeritageAreas/Pages/default.aspx#:~:text=Pennsylvania%20Route%206%20Alliance,Susquehanna%20National%20Heritage%20Area), Outstanding National Resource Water, or National Estuarine Research Reserve (https://coast.noaa.gov/nerrs/). For further information, reference NWP General Condition 22.

E. Nationwide Permit Regional General 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. District Engineer regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over District Engineer lake projects. In instances where both this regional condition and ER 1110-2-4401 apply, the greater minimum clearance is required; and

c. Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

2. Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (i.e., Section 10 waters), the permittee shall furnish the District Engineer and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland, 20910 with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the mean high water line at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.

3. Aids to Navigation: If the Corps or the U.S. Coast Guard determine that private aids to navigation are required to mark the project area, the permittee must prepare and provide for United States Coast Guard (USCG) approval (address below) using a Private Aids to Navigation Application (CG-2554), and the approval must be received prior to commencement of the authorized work. The form can be found at this link: https://www.navcen.uscg.gov/pdf/AIS/CG_2554_Paton.pdf.
Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the applicable Corps District.

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

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

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

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

H. Section 401 Water Quality Certification Conditions:

1. Prior to beginning any activity authorized by the Corps under a NWP, the applicant shall obtain from the Pennsylvania Department of Environmental Protection (PADEP) all necessary environmental permits or approvals, and submit to PADEP environmental assessments and other information necessary to obtain the permits and approvals, as required under State law, including The Clean Streams Law (35 P.S. §§ 691.1-691.1001), the Dam Safety and Encroachments Act (32 P.S. §§ 693.1-693.27), the Floodplain Management Act (32 P.S. §§ 679.101-679.601), the Oil and Gas Act (58 Pa.C.S. §§ 3201-3274), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1-1396.19b), the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301-3326), the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1-1406.21), the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51-30.66), the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.101-6020.1305), the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101-6026.908), 58 Pa.C.S. §§ 3201-3274 (relating to development), the Sewage Facilities Act 35 P.S. §§ 750.7b and 750.9, the Air Pollution Control Act (35 P.S. §§ 4001-4015) and the regulations promulgated thereunder, including 25 Pa. Code Chapters 16, 71, 77, 78, 78a, 86-91, 92a, 93, 95, 96, 102, 105, 106, 127, 245, and 260a-299.

2. Fill Material may not contain any waste as defined in the Solid Waste Management Act.

3. Applicants and projects eligible for these NWPs must obtain all State permits or approvals, or both, necessary to ensure that the project meets the state's applicable water quality standards, including a project-specific State Water Quality Certification.*

   *The scope of the issuance of this State Water Quality Certification (SWQC) is related only to the scope and applicability of the proposed NWPs. Any activity or project requiring PADEP to issue 401 SWQC that is beyond the scope of these proposed NWPs will require the applicant to obtain a project-specific SWQC from PADEP. This would include any activity or project requiring a SWQC associated with an authorization, permit or license issued by a Federal agency, such as FERC or NRC. Such activities or projects include, but are not limited to, an interstate natural gas pipeline, a gas storage field or a nuclear or hydroelectric project.

I. Coastal Zone Management Act Consistency Determination Condition:

The Pennsylvania Department of Environmental Protection, Pennsylvania Coastal Resource Management (CRM) Program concurs that the NWPs and Pennsylvania Regional Conditions are consistent with the Pennsylvania CRM Program's enforceable policies, subject to the following condition applicable to NWPs 26 and 59:

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

SPECIAL NOTES:

1. The Philadelphia District Area of Responsibility can be found at:
   http://www.nap.usace.army.mil/Missions/Regulatory/District-Boundaries/
   The Baltimore District Area of Responsibility can be found at:
   http://www.nab.usace.army.mil/Missions/Regulatory/Baltimore-District-Regulatory-Boundary-Map/
   The Pittsburgh District Area of Responsibility can be found at:
   https://www.lrp.usace.army.mil/Portals/72/Regulatory_District_Map_Poster%2020190925_0921.pdf

2. As required, the District Engineer shall coordinate a PCN with the following Federal and State agencies:

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

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

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

   NOAA Fisheries Greater Atlantic Regional Fisheries Office
   Protected Resources Division

55 Great Republic Drive
Gloucester, MA 01930
Nmfs.gar.esa.section7@noaa.gov

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

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

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

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

April 29, 2026

Conceptual Approval

Mariana Bergerson
U.S. Fish and Wildlife Service
8601 Lindbergh Blvd
Philadelphia Pennsylvania 19153

RE: **PA ERFO 2020 1(1) - John Heinz NWR Road Rehabilitation** (**FY26-PAER-8386-01**)

Project Address:	**2550 S 84TH ST**	Earth Disturbance:	**59,703** ft^2
Development Type:	**RD - Redevelopment**	Flood Management District:	**C**
Watershed:	**Darby Creek**	Sewer Type:	**Non-Contributing**

Dear Mariana Bergerson:

The Philadelphia Water Department (PWD) has completed its review of the Conceptual Review Submission Package for this project. PWD has determined that the project meets the requirements for Conceptual Approval.

Conceptual Approval is a preliminary approval only and does not constitute final PWD approval of the project, nor does it relieve the applicant from meeting the requirements of other City agencies. The applicant may use this letter when filing for a Zoning Permit; however, PWD does not stamp Zoning Permit applications. The applicant is responsible to obtain any required federal, state, and local permits outside of this review.

Below and on Page 2 of this letter are the PWD reviews applicable to this project which must be completed prior to construction activity proceeding. Please see Section 2.5 of the Manual for more information about these reviews:

1. If water or sewer disconnections are proposed, then approvals must be obtained through PWD Water Transport Records. Any abandoned laterals must be properly cut and sealed as specified in Chapter 5 of the PWD Regulations and the PWD Sewer Connection and Repair Manual.

VALID TWO YEARS FROM DATE OF ISSUANCE

2. Post-Construction Stormwater Management Plan (PCSMP) Review

Development Exemption Review Path
This project is not subject to Post-Construction Stormwater Management Requirements in accordance with §14-704.3 and the Philadelphia Stormwater Management Regulations because the proposed work is considered maintenance activity that does not result in increased impervious areas; however, the project must obtain Erosion and Sediment Control (E&S) Approval. Review of the Erosion and Sedimentation Control Plan is deferred to the Pennsylvania Department of Environmental Protection (PA DEP). The PA DEP review and release of the NPDES permit is required before demolition activities may commence. Please send PWD a copy of all plans approved by PA DEP. Please refer to Section 2.3.3 of the Manual for additional information.

Sincerely,

Matthew Pinson
Stormwater Plan Review
Phone: (215) 685-6387
Email: Matthew.Pinson@phila.gov

Jo-Marie McNulty
Supervisor, Conceptual Stormwater Plan Review
Phone: (215) 685-6387
Email: Jo-Marie.McNulty@phila.gov

Katelyn Csatari
Manager, Stormwater Plan Review
Phone: (215) 686-9718
Email: Katelyn.Csatari@phila.gov

Cc:
E. Smith
S. Chiu
A. Fody
B. Duong (FHWA)
T. Belish (FHWA)

VALID TWO YEARS FROM DATE OF ISSUANCE

From: Daryani, Govind
To: Belish, Timberley (FHWA)
Cc: Rose, Kevin (FHWA); mariana_bergerson@fws.gov; Suanlarm, Paul
Subject: RE: [External] E5101225-011 Response to Admin Incomplete Letter 11/4/2025
Date: Friday, January 9, 2026 3:53:35 PM

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Came to know that DEP does not include Federal entities.

Please withdraw this permit and contact ACOE with regards to their permitting avenue.

Thanks,

Govind Daryani, P.E. | Project Manager
Department of Environmental Protection | Southeast Regional Office
2 East Main Street| Norristown, PA 19401
Phone: 484.250.5165 | Fax: 484.250.5971
www.dep.pa.gov

From: Belish, Timberley (FHWA) <Timberley.Belish@dot.gov>
Sent: Wednesday, January 7, 2026 12:11 PM
To: Daryani, Govind <gdaryani@pa.gov>
Subject: [External] E5101225-011 Response to Admin Incomplete Letter 11/4/2025

ATTENTION: *This email message is from an external sender. Do not open attachments or click links from unknown senders. To report suspicious email, use the Report Phishing button in Outlook.*

Hello and Happy New Year Daryani,

Please find the response to the administrative incompleteness letter that was sent in November 2025. I have attached supporting documentation to supplement the original application along with an updated JPA form.

I've also uploaded to the OnBase electronic system an updated plan set with changes to the M: sheets resulting from discussions with the City of Philadelphia regarding the floodplain.

Thank you very much. We look forward to hearing from you.

Timberley

Timberley Belish
Environmental Protection Specialist
FHWA-EFLHD
22001 Loudoun County Parkway
Bldg 2, STE 200
Ashburn, VA 20176

(703) 404-6341

Pennsylvania
Department of
Environmental Protection

INTERSTATE WATER RESOURCES MANAGEMENT DIVISION

November 25, 2025

Kevin Rose Kevin.Rose@dot.gov
U.S. Department of Transportation, Eastern Federal Lands Highway Division of the
Federal Highway Administration (FHWA-EFLHD)
22001 Loudoun County Parkway
Building 2, Suite 200
Ashburn, VA 20147
Via email only

Re: CZMA Federal Consistency: John Heinz National Wildlife Refuge Emergency Road Repair

Dear Mr. Rose:

The Pennsylvania Coastal Resource Management (CRM) Program has reviewed the information for the John Heinz National Wildlife Refuge Emergency Road Repair (Project) received in this office on 9/30/2025. The proposed activity includes an emergency road repair on portions of two roads that were damaged during a 2020 tropical storm event in Philadelphia County, PA.

The Project is subject to CRM's federal consistency review under Section 307 of the Coastal Zone Management Act (16 U.S.C. § 1456) and the National Oceanic and Atmospheric Administration regulations at 15 C.F.R. Part 930 Subpart C -- Consistency for Federal Agency Activities. CRM reviewed the Project for consistency with its enforceable policies in the *Commonwealth of Pennsylvania Coastal Resources Program (CRMP) Guidance Document* (394-0300-001). CRM requested public comment on the proposed activity in the *Pennsylvania Bulletin* on 11/8/2025 (55 Pa.B.45). No comments were received.

CRM hereby concurs that the proposed activity is consistent with the program's enforceable policies.

Please note that this determination pertains only to the federal consistency review requirements under the CZMA and NOAA's regulations at 15 C.F.R. Part 930 and does not constitute a waiver from Department of Environmental Protection reviews, permits, or other requirements.

Sincerely,

Jared Jacobini
Federal Consistency Coordinator
Coastal Resources Management Program

Cc: Timberly Belish
Emily Ashberry