

CENAO-RG

STATE PROGRAMMATIC GENERAL PERMIT (SPGP): Residential, Commercial, Institutional and Recreational Development (RCIR) - 26-SPGP-RCIR

Effective Date: 24 August 2026; Expiration Date: 02 August 2031

I. AUTHORITIES/AUTHORIZED ACTIVITIES: Section 404 waters only (not applicable in Section 10 waters).

1. 26-SPGP-RCIR authorizes, by the Secretary of the Army and the Chief of Engineers, under Section 404 of the Clean Water Act (CWA) (33 U.S.C. § 1344), the discharge of dredged or fill material in non-tidal waters of the United States (WOTUS), including wetlands, associated with certain residential, commercial, institutional, and recreational development (RCIR) projects within the geographical limits of the Commonwealth of Virginia and under the regulatory jurisdiction of the U.S. Army Corps of Engineers, Norfolk District (Corps or Norfolk District). The Corps' authority and guidance to develop general permits is contained in 33 U.S.C. § 1344(e), 33 C.F.R. § 325.2(e)(2), 33 C.F.R. § 325.3(b), and Corps Regulatory Guidance Letter (RGL) 83-7.
2. The discharge shall not cause the loss of greater than 2 acres of waters of the U.S. (WOTUS) (e.g., wetlands, open water, and stream channel) with no more than 1500 linear feet of jurisdictional stream channel loss. *Stream channel loss must be reported in acreage and linear feet.*
3. 26-SPGP-RCIR projects must have no more than minimal individual and cumulative impacts and must meet all the terms and conditions outlined herein.
4. The use of 26-SPGP-RCIR is restricted to those projects that have avoided and minimized impacts to WOTUS to the maximum extent practicable on the project site, demonstrated through compliance with the terms and conditions of this permit, analysis of onsite alternatives, and mitigation of unavoidable impacts with an acceptable mitigation plan.

Notification: The applicant must submit a SPGP pre-construction notification (SPGP PCN) prior to commencing the activity (See SPGP condition 31).

II. EXCLUDED ACTIVITIES:

The 26-SPGP-RCIR may not be used to authorize projects that propose the following activities:

1. Mining activities and operations for new and existing mining operations;
2. Standalone substations that are not associated with qualifying residential, commercial, institutional, and recreational projects;
3. Primary energy production facilities (e.g., power plants, solar farms, or wind energy facilities);
4. Stand-alone stormwater management facilities that are not an attendant feature of a RCIR development;
5. Total Maximum Daily Loads (TMDL) projects;
6. Linear transportation projects that are not an attendant feature of a RCIR development.

III. STATE APPROVALS:

Prior to commencing work in WOTUS, and to receiving a 26-SPGP-RCIR verification, permittees must obtain a Virginia Department of Environmental Quality (DEQ) Virginia Water Protection (VWP) individual permit or general permit coverage for the project. When required, permittees must also obtain a Virginia Marine Resources Commission (VMRC) permit prior to commencing work in WOTUS.

IV. 26-SPGP-RCIR VERIFICATIONS

1. The Corps designates under this 26-SPGP the authority to DEQ, with Corps oversight, to evaluate that the proposed impacts to aquatic resources have been avoided and minimized to the maximum extent practicable on the project site, demonstrated through compliance with the terms and conditions of this permit, analysis of onsite alternatives, and mitigation of unavoidable impacts with an acceptable mitigation plan.
2. **Verification Process and Federal Coordination:** Detailed processes are described in the most recent version of the Standard Operating Procedures. Generally, the DEQ will first review the SPGP PCN and determine whether the proposed activity meets the informational, technical, and legal requirements of the 26-SPGP-RCIR. This includes, but is not limited to, an evaluation of the on-site alternatives analysis to confirm that impacts to aquatic resources have been avoided and minimized to the maximum extent practicable on the project site, and a review of the proposed mitigation plan, as documented on the 2026 Federal Coordination Form (FCF). Following DEQ's determination, the Corps will complete all applicable federal coordination required by the conditions of this document. The Corps' project-level review and federal coordination obligations are satisfied and formally documented upon the execution of the 2026 FCF.
3. **The DEQ Written Verification:** After the Corps completes their portion of the 2026 FCF, DEQ will ensure that their portion of the 2026 FCF is complete and issue the 26-SPGP-RCIR verification letter, and convey any special conditions required by the Corps. No work is authorized until the permittee receives this verification letter and any applicable conditions from DEQ.
4. **Project Modifications and Re-Verifications:** If changes are proposed to a project after an SPGP verification has been issued to include, but not limited to, changes in project purpose, overall or cover-type impact totals, resource jurisdiction, or proposed mitigation, the permittee must submit a modified SPGP PCN (Notice of Plan Change - NOPC) to DEQ. A new verification letter is required before any modified work may commence. While updated federal coordination and review may be required, the Corps and DEQ retain discretion to rely on relevant, prior analyses and determinations during review of the modified project. The Corps and DEQ may elect to treat the new application as a separate verification, or they may amend any prior verification and Federal Coordination Form to account for the project changes.
5. **VWP Permit Requirement and Jurisdictional Exclusions:** Use of this SPGP is restricted to projects that qualify for this SPGP and are required to obtain a qualifying DEQ VWP individual permit or general permit coverage. If an entire project is excluded from VWP permitting, the SPGP may not be used.
6. **Expiration of 26-SPGP-RCIR:** Unless further suspended or revoked the 26-SPGP-RCIR will be in effect until August 02, 2031.
 - (a) Activities which have commenced (i.e., are under construction) or are under contract to commence construction in reliance upon 26-SPGP-RCIR will remain authorized provided the activity is completed within twelve months of the date

of this 26-SPGP-RCIR expiration of August 02, 2031, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a)-(e). Activities qualifying for this extension that are not complete by August 02, 2032, must apply for new general and/or individual Corps permit authorization.

- (b) Activities which have NOT commenced and are NOT under contract to commence construction by August 02, 2031, expiration must apply for a new general and/or individual Corps permit authorization/verification.

V. REGIONAL and GENERAL CONDITIONS:

The following conditions have been adapted from the Nationwide Permit Regional and General Conditions and revised as necessary for application to the SPGPs. These conditions apply to all activities authorized under 26-SPGP-RCIR. Work that does not meet one or more of the terms or general conditions of 26-SPGP-RCIR, including work that has been determined to be more than minimal in nature (at any impact level), will require consideration under a different type of Corps permit.

REGIONAL CONDITIONS

RC 1. Waters Containing Submerged Aquatic Vegetation (SAV) Beds:

The SPGP PCN must state whether work will occur in areas that contain submerged aquatic vegetation (SAV). Information about SAV habitat can be found at the Virginia Institute of Marine Science's website: <http://mobjack.vims.edu/sav/savwabmap/>. Additional avoidance and minimization measures, such as relocating, realigning, or extending a structure or time-of-year restrictions (TOYR), may be required to avoid or reduce impacts to SAV habitat.

RC 2. Anadromous Fish Use Areas:

Authorizations associated with the SPGP shall not adversely affect spawning habitat or a migratory pathway for anadromous fish. Areas of anadromous fish use are indicated on the Virginia Department of Wildlife Resources (DWR) information system at <https://services.dwr.virginia.gov/fwis/>. If a project is located within an area documented as an anadromous fish use area (confirmed or potential), all in-stream work is prohibited from occurring between February 15 through June 30 of any given year or other time of year restriction (TOYR) specified by NOAA Fisheries Service. Should the Norfolk District determine that the work is minimal and no TOYR is needed, the District will initiate consultation with NOAA Fisheries Service for their concurrence. A TOYR is not required for dredging activities in the Elizabeth River upstream of the Mid-Town Tunnel on the main-stem and the West Norfolk Bridge (Route 164, Western Freeway) on the Western Branch of the Elizabeth River due to the lack of suitable upstream spawning habitat.

RC 3. Designated Critical Resource Waters, including NOAA-Managed Marine Sanctuaries and National Estuarine Research Reserves:

This SPGP cannot be used to authorize work in designated critical resource waters, including in the Mallow's Bay-Potomac River National Marine Sanctuary and the Chesapeake Bay National Estuarine Research Reserve in Virginia. The Chesapeake Bay National Estuarine Research Reserve within the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Islands, and Goodwin Islands. More information can be found at the following websites:

<https://sanctuaries.noaa.gov/mallows-potomac/>
<http://www.vims.edu/cbnerf/>.

RC 4. Federally Listed Threatened or Endangered Species and Designated Critical Habitat for Non-Federal Permittees

The PCN must state whether the project may affect a federally listed threatened or endangered species or designated critical habitat. The U.S. Fish and Wildlife Service (Service) has developed an online system that allows users to find information about sensitive resources that may occur within the vicinity of a proposed project. This system named "Information, Planning and Conservation System" (IPaC), is located at <http://ecos.fws.gov/ipac/>. The applicant may use IPaC to determine if any federally listed threatened or endangered species or designated critical habitat may be affected by their proposed project. If you are unsure about whether your project will impact federally listed threatened or endangered species, please state this in the PCN, so the Norfolk District may review the action. Further information about the Virginia Field Office "Project Review Process" may be found at <https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>.

Additional consultation may also be required with NOAA Fisheries Service, Protected Resources Division, for listed species or critical habitat under their jurisdiction, including sea turtles, marine mammals, shortnose sturgeon, and Atlantic sturgeon. For additional information about species under their jurisdiction in Virginia, please see <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultations-greater-atlantic-region>.

RC 5. Invasive Species

Plant species listed in the most current Virginia Department of Conservation and Recreation's (DCR) Invasive Alien Plant List shall not be used for re-vegetation for activities authorized by any SPGP. The list of invasive plants in Virginia is found at <https://www.dcr.virginia.gov/natural-heritage/invspdpdflist>. Regional native species for re-vegetation may be found in DCR's Native Plants for Conservation, Restoration and Landscaping brochures for the coastal, piedmont and mountain regions (available at <http://www.dcr.virginia.gov/natural-heritage/nativeplants#brochure>) and the DCR native plant finder (available at <https://www.dcr.virginia.gov/natural-heritage/native-plants-finder>).

RC 6. Countersinking Pipes and Culverts

Norfolk District has determined that fish and other aquatic organisms are most likely present in any nontidal stream being crossed, in the absence of site-specific evidence to the contrary. The following conditions will apply in nontidal waters:

- (a) All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.
- (b) When countersinking culverts, permittees must ensure reestablishment of a surface water channel (within 15 days post construction) that allows for the movement of aquatic organisms and maintains the same hydrologic regime that was present pre-construction (i.e., the depth of surface water through the permit area should match the upstream and downstream depths). This may require the addition of finer materials to choke the larger stone and/or placement of riprap to allow for a low flow channel.
- (c) The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance of pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).
- (d) Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain

flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).

- (e) Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.
- (f) Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:
 - (i) Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations.
 - (ii) A pipe/culvert is being placed in a new location: If the permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, they should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that will allow for countersinking. If the permittee determines that neither a bottomless structure nor an alternative location is practicable, this must be stated in the PCN. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. PCN must also include photographs documenting site conditions. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.
- (g) Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the permittee not want to countersink the pipe/culvert for other reasons, they must state this in the PCN. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals.
- (h) Problems encountered during construction: When a pipe/culvert is being replaced, the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, a utility line, or other documentable obstacle, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with

specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for an SPGP.

- (i) Emergency pipe replacements: In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow the procedures outlined in (f) and/or (g) above.

RC 7. Repair of Pipes

If any discharge of fill material will occur in conjunction with pipe maintenance, such as concrete being pumped over rebar into an existing deteriorated pipe for stabilization, then the following conditions apply:

- (a) If the existing pipe or multi-barrel array of pipes are NOT currently countersunk:
 - (i) As long as the inlet and outlet invert elevations of at least one pipe located in the low flow channel are not being altered, and provided that no concrete apron is being constructed, then the work may proceed under the SPGP for the other pipes, provided it complies with all other Regional or General Conditions. In such cases, additional explanation in the PCN is not required, unless specified in the Regional Conditions for other reasons.
 - (ii) Otherwise, the permittee must state that this condition is not met in the PCN prior to commencing the activity. For all such projects, the following information should be provided:
 - 1) Photographs of the existing inlet and outlet;
 - 2) A measurement of the degree to which the work will raise the invert elevations of both the inlet and outlet of the existing pipe;
 - 3) The reasons why other methods of pipe maintenance are not practicable (such as metal sleeves or a countersunk pipe replacement);
 - 4) A vicinity map showing the pipe locations.The Norfolk District will assess all such pipe repair proposals in accordance with guidelines that can be found under "Pipe Repair Guidelines" at <http://www.nao.usace.army.mil/Missions/Regulatory/GuidanceDocuments.aspx>.
 - (iii) If the Norfolk District determines that the work qualifies for the SPGP, additional conditions will be placed on the verification. Those conditions can be found at the web link above (in item ii).
 - (iv) If the Norfolk District determines that the work does NOT qualify for the SPGP, the applicant will be directed to apply for either Regional Permit 01, applicable only for Virginia Department of Transportation (VDOT) projects or an Individual Permit. However, it is anticipated that the applicant will still be required to perform the work such that the waterway is not blocked or restricted to a greater degree than its current conditions.
- (b) If the existing pipe or at least one pipe in the multi-barrel array of pipes IS countersunk and at least one pipe located in the low flow channel will continue to be countersunk, and no concrete aprons are proposed: Additional explanation in the PCN to the Norfolk District is not required, unless specified in the Regional Conditions for other reasons.

- (c) If the existing pipe or at least one pipe in the multi-barrel array of pipes is countersunk and no pipe will continue to be countersunk in the low flow channel:
This work cannot be performed under the SPGP. The permittee must apply for either a Regional Permit 01 (applicable only for VDOT projects) or an Individual Permit. However, it is anticipated that the permittee will still be required to perform the work such that the waterway is not blocked or restricted more so than its current conditions.

RC 8. Impacts Requiring a Compensatory Mitigation Plan

A compensatory mitigation plan must be submitted if the permanent loss exceeds 0.1 acre of wetlands and/or 0.03 acre of stream bed or 300 linear feet of stream bed unless otherwise stated in the regional conditions (see Regional Condition 10 for Transportation Projects). The stream channel loss must be reported in acreage and linear feet.

RC 9. Removal of Temporary Fills and Impacts

The soils of any temporarily impacted areas located in wetlands that are cleared, grubbed, excavated, dredged and/or filled, must be restored once these areas are no longer needed for their authorized purpose, no later than completion of project construction, and not to exceed twelve (12) months after commencing the temporary impacts. To restore, temporary fill must be removed in its entirety and the affected areas returned to preconstruction elevations, the soil surface loosened by ripping or chisel plowing to a depth of 8-12" and then seeded using native wetland species. See Regional Condition 5: Invasive Species for more information on vegetation recommendations.

Fill or dredged material in waters of the U.S. that is not removed within the 12-month period will be considered a permanent impact, unless otherwise determined by the Corps. This additional impact to waters of the U.S. may result in the Corps initiating a permit non-compliance action, which may include a restoration order, after-the-fact permitting, and/or compensatory mitigation.

RC 10. Transportation Projects Funded in Part or in Total by Local, State or Federal Funds

For all impacts associated with transportation projects funded in part or in total by local, state or federal funds, compensatory mitigation will generally be required for all permanent wetland impacts (including impacts less than 1/10 acre). Therefore, the PCN must include a compensatory mitigation plan.

RC 11. Activities Affecting Structures or Works Built by the United States

Activities that also require a section 408 permission from the Corps pursuant to 33 U.S.C. § 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project are not authorized by the SPGP until the appropriate Corps District office issues the Section 408 permission and the DEQ issues a written SPGP verification.

The locations of Norfolk District Civil Works projects can be found on the Norfolk District Section 408 Program webpage at <https://www.nao.usace.army.mil/408Review/> via the *Norfolk District Section 408 Map*.

Four other Corps Districts, including the Baltimore, Huntington, Nashville and Wilmington Districts, have civil works boundaries within the Commonwealth of Virginia. Please see the USACE Civil Works Boundary layer in the *Norfolk District Section 408 Map* on the Norfolk District Section 408 Program webpage. If your project is located within the civil works boundaries of another District, please contact the corresponding District's Section 408 Coordinator for more information via the links provided on the Norfolk District Section 408 Program webpage. <https://www.nao.usace.army.mil/408Review/>

Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for any questions or additional information.

RC 12. Clean Water Act Section 401 Water Quality Certification

On January 29, 2026, the Virginia Department of Environmental Quality granted water quality certification (WQC) for the 26-SPGP-RCIR and 26-SPGP-LT.

RC 13. Federal Consistency under the Coastal Zone Management Act (CZMA)

On April 17, 2026, DEQ concurred that the 2026 SPGP with the Regional Conditions are consistent to the maximum extent practicable with the Virginia CZM Program.

RC 20. Applicable to NWP 14 - Linear Transportation Projects

Restricted use of NWP 14 Linear Transportation Projects in Nontidal Waters: A portion of NWP 14 overlaps with the 26-SPGP-LT; therefore, NWP 14 may not be used for projects impacting Section 404 only, nontidal waters of the United States, including wetlands, unless the Norfolk District determines that the 26-SPGP is not applicable. NWP 14 may still be considered for projects impacting tidal waters of the United States, other nontidal, Section 10 waters of the United States and in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

RC 24. Applicable to NWP 29 - Residential Developments

Restricted use of NWP 29 for Multiple Unit Residential Developments and Residential Subdivisions: NWP 29 overlaps with the 26-SPGP-RCIR therefore, NWP 29 may not be used to authorize multiple unit residential developments and residential subdivisions, unless the Norfolk District determines that the 26-SPGP is not applicable. NWP 29 may still be used for a single residence and attendant features and in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

RC 25. Applicable to NWP 39 - Commercial and Institutional Developments

Restricted use of NWP 39 for Commercial and Institutional Developments: NWP 39 overlaps with the 26-SPGP-RCIR; therefore, NWP 39 may not be used, unless the Norfolk District determines that the 26-SPGP is not applicable. NWP 39 may still be used in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

GENERAL CONDITIONS

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 NWP 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 pre-construction 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, including tidal flows. The activity must not restrict or impede the passage of normal or high flows, including tidal flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction 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. If mats are used to minimize soil disturbance, the affected areas must be returned to pre-construction elevations, and revegetated as appropriate. In circumstances where the use of mats has caused significant soil compaction, efforts using techniques (e.g., soil reaeration techniques) to break up the compaction should be employed to return the soil to a pre-construction state prior to returning to pre-construction elevations.
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 pre-construction 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 SPGP general conditions, as well as any activity-specific conditions added by the district engineer to an SPGP authorization.
15. Single and Complete Project. The activity must be a single and complete project. The same SPGP cannot be used more than once for the same single and complete project.
16. Wild and Scenic Rivers.
 - (a) No SPGP 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 SPGP 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 state this in their pre-construction notification (see general condition 31). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the SPGP 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 SPGP 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 the SPGP 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 the SPGP 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.
 - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). 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 state in their PCN whether 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. 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.
- (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 SPGP.
 - (e) Authorization of an activity by the SPGP 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 activity, the non-federal permittee should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed 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 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 activity.
 - (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 web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.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 the SPGP 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 the SPGP which may have the potential to cause effects on 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)). 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 state in their PCN whether the activity might have the potential to cause effects on 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 permittees must state which historic properties might have the potential to be affected by the proposed 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)). 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 by the permittees and these identification efforts, the district engineer shall determine whether the proposed activity has the potential to cause effects on 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 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 on historic properties or that NHPA section 106 consultation has been completed. 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 activities authorized by the SPGP, 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 this SPGP for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

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, 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, 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, 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, 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, because streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).
- (e) Compensatory Mitigation Plans for SPGP 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 SPGP, 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 SPGP 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 SPGP 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 SPGP 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 SPGP. However, compensatory mitigation can and should be used, as necessary, to ensure that the SPGP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the SPGP.

- (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 SPGP 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 will 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.
The Virginia Department of Environmental Quality granted water quality certification (WQC) for the 26-SPGP-RCIR and 26-SPGP-LT on January 29, 2026. If the permittee cannot comply with all of the conditions of the water quality certification previously issued by the state, then the permittee must obtain an individual water quality certification in order for the activity to be authorized by an SPGP. The district engineer or state may require additional measures to ensure that the authorized activity is consistent with state water quality certification requirements.
26. Coastal Zone Management. The Virginia Department of Environmental Quality issued the CZMA concurrence for the SGPBs on April 17, 2026. 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 SPGP. 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 district 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 SGPBs. The use of more than one SPGP for a single and complete project is authorized, subject to the following restriction:
- The total acreage loss of waters of the United States for a single and complete project cannot exceed the acreage limit of the SPGP with the highest specified acreage limit when multiple SGPBs are used to authorize an activity.
29. Transfer of SPGP Verifications. If the permittee sells the property associated with a SPGP permit verification, the permittee may transfer the SPGP permit verification to the new

owner by submitting a letter to the Corps district office to validate the transfer. A copy of the SPGP 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 SPGP permit are still in existence at the time the property is transferred, the terms and conditions of this SPGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this SPGP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

30. Activities Affecting Structures or Works Built by the United States. If an SPGP 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 state this in the PCN. An activity that requires section 408 permission and/or review is not authorized by an SPGP until the appropriate Corps office issues the section 408 permission.
31. SPGP PCN. The following information must be submitted as part of the SPGP permit application.
- (a) Contents of SPGP 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 specifically the SPGP 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 all wetlands, other special aquatic sites, and other waters expected to result from the SPGP activity, in acres, square feet, linear feet, or other appropriate unit of measure; an analysis of onsite alternatives; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and other SGPBs, Nationwide Permit(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 the SPGP PCN must include the quantity of all 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. This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project.
 - (iii) Sketches should be provided when necessary to show that the activity complies with the terms of the SPGP. (Sketches usually clarify the activity

and when provided result 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 all waters, wetlands, and other special aquatic sites 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;
 - (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, the prospective permittee must submit a statement describing how the compensatory 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. Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
 - (8) For non-federal permittees, if the SPGP 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. 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 SPGP 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.
- (b) Form of Pre-Construction Notification: 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.
- (c) 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 SPGP and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.
 - (2) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete application to the appropriate federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). These agencies will have 10 calendar days from the

date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail 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. 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 SPGP, 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 SPGP application that the resource agencies' concerns were considered.

- (3) In cases 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.
- (4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

VI. DISTRICT ENGINEER'S DECISION

1. In reviewing the application for the proposed activity, the district engineer will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. This confirmation relies upon an activity's compliance with the terms and conditions of this SPGP and DEQ's initial project-specific determination, and it is documented through the completion of the Federal Coordination Form (FCF). If the district engineer determines that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest, he will exercise discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the SPGP, as well as the cumulative effects caused by all of the crossings of waters of the United States.
2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the proposed activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by the SPGP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the proposed activity, the type of resource that will be affected by the proposed activity, the functions provided by the aquatic resources that will be affected by the proposed activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the proposed activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. Execution of the FCF concludes the district engineer's evaluation of the direct and indirect effects. The district engineer may add activity-specific conditions to the SPGP authorization to address site-specific environmental concerns.
3. If the proposed activity results in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with

the application. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal when determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the proposed activity complies with the terms and conditions of the SPGP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will include any activity specific conditions in the SPGP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences 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. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan and determine whether the proposed mitigation would ensure that the SPGP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the SPGP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will document on the FCF that the SPGP activity can proceed under the terms and conditions of the SPGP, including any activity-specific conditions added to the SPGP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed SPGP activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the SPGP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the SPGP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the SPGP with specific modifications or conditions. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

VII. FURTHER INFORMATION

1. District engineers have authority to determine if an activity complies with the terms and conditions of an SPGP.
2. SGPAs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. SGPAs do not grant any property rights or exclusive privileges.
4. SGPAs do not authorize any injury to the property or rights of others.
5. SGPAs do not authorize interference with any existing or proposed Federal project (see general condition 30).

VIII. DEFINITIONS

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Commercial and Institutional Developments: Construction or expansion of commercial and institutional building foundations, building pads, and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial development include retail stores, industrial facilities, storage facilities, restaurants, business parks, data centers (to include for example artificial intelligence and machine learning facilities), pharmaceutical manufacturing facilities, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable onsite avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic ecosystem restoration, enhancement, or establishment activity. An ecological reference may be based on: (1) the structure, functions, and dynamics of an aquatic ecosystem type or a riparian area type that currently exists in the region; (2) the structure, functions, and dynamics of an aquatic ecosystem type or riparian area type that existed in the region in the past; and/or (3) indigenous and local ecological knowledge that apply to the aquatic ecosystem type or riparian area type (i.e., a cultural ecosystem). Cultural ecosystems are ecosystems that have developed under the joint influence of natural processes and human management activities (e.g., fire stewardship). An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that

occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Linear Transportation: Construction, expansion, modification or improvement of linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways and taxiways).

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an SPGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Nature-based solutions: Actions to protect, sustainably manage, and restore natural or modified ecosystems, that address societal challenges effectively and adaptively, simultaneously providing human well-being and biodiversity benefits.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the SGP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of

flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Recreational Facilities: Construction or expansion of recreational facilities. Examples of recreational facilities include playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas, horse paths, nature centers, and campgrounds (excluding recreational vehicle parks).

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Residential Developments: Construction or expansion of a multiple unit residential development or a residential subdivision including the construction of building foundations, building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of SPGP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an SPGP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. The substrate may also be comprised, in part, of organic matter, such as large or small wood fragments, leaves, algae, and other organic materials. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the SPGP, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

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