



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No. Special Public Notice for New Jersey	Date FEB 21 2011
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Application No.	File No.
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In Reply Refer to:
REGULATORY BRANCH

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On February 16, 2011, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue 48 of its existing nationwide permits (NWP) and issue two new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. Many of the proposed NWP require notification to the district engineer before commencing the work, to ensure that the activities authorized by those NWP have minimal individual and cumulative adverse impacts on the aquatic environment.

National Issues Concerning the Proposed NWP: The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2010-0035 at www.regulations.gov, or by email to NWP2012@usace.army.mil or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the February 16, 2011 Federal Register notice. Comments on the proposed NWP are due by April 18, 2011.

Regional Issues Concerning the Proposed NWP, Including Regional Conditioning: Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to ensure that impacts to the aquatic environment authorized by the NWP are minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where impacts authorized by those NWP may be more than minimal. Enclosed with this public notice are the regional conditions currently in place for NWP activities in the State of New Jersey. The Philadelphia District is seeking comments on these regional conditions for re-authorization and/or modification for incorporation into the proposed NWP activities within the State of New Jersey to help ensure that impacts authorized by the proposed NWP are minimal. Comments on regional issues relating to the proposed NWP and regional conditions for the State of New Jersey are to be sent to Mr. Frank J. Cianfrani, Chief of Regulatory Branch at the above address. Additional information relating to these regional conditions can be obtained by contacting Mr. Edward Bonner at 215-656-5932 or by email at Edward.E.Bonner@usace.army.mil. Comments relating to regional conditions are due by **April 7, 2011**. Similar public notices proposing

regional conditions in other regions or States are being published concurrently by other division or district offices.

It should be noted that the State of New Jersey has assumed permitting responsibilities within the State pursuant to Section 404 of the Clean Water Act. As such, the NWP actions described in this notice are restricted to those portions of the State that remain under Federal regulatory jurisdiction. It should be further noted that the Corps' regulatory responsibilities in New Jersey are shared by the Philadelphia District and New York District offices. However, the Philadelphia District has the lead responsibility for this effort in the State of New Jersey and will be coordinating this effort on behalf of Corps' New York District office.

After the final NWPs are issued, the final regional conditions will be issued after they are approved by the North Atlantic Division Commander. Once the final NWPs are issued, the State of New Jersey will make its Clean Water Act Section 401 (401) water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWPs. The final NWPs will go into effect on or before March 19, 2012.

Draft decision documents, which include environmental documentation required by the National Environmental Policy Act, have been prepared by Corps Headquarters. The decision documents will address compliance of the NWPs with the requirements for issuance under general permit authority. These documents, as well as the proposed NWPs, will be available for viewing at the Philadelphia District Office at the above address or on the Internet at www.regulations.gov, docket number COE-2010-005. Final decision documents will be prepared for those NWPs that are issued. In addition, the national NWP decision documents will be supplemented by the North Atlantic Division Engineer to address the decisions concerning regional conditions for the NWPs in the State of New Jersey.

An index of the proposed NWPs and conditions is listed below. Anyone wishing to provide comments may obtain a full text copy of the NWPs through the Corps Home Page at <http://www.usace.army.mil/CECW/Pages/nnpi.aspx>, www.regulations.gov, docket number COE-2010-0035, or the Federal Register address listed below.



Frank J. Cianfrani
Chief, Regulatory Branch

Index of Proposed Nationwide Permits, Conditions, and Definitions

Nationwide Permits

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Definitions

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Non-tidal wetland
Open water
Ordinary high water mark
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NWP REGIONAL CONDITIONS FOR NEW JERSEY

REGIONAL GENERAL CONDITION - 1(G-1).

This regional condition is applicable to all nationwide permits (NWPs) where a preconstruction notification (PCN) is submitted to the District Engineer. This includes the following: (a) those NWPs requiring notification to the District Engineer pursuant to the language of the specific nationwide permit ; (b) those NWPs requiring notification to the District Engineer pursuant nationwide permit general conditions (conditions 15, 17, 18, 19, 20, and 27), (c) those NWPs requiring notification to the District Engineer pursuant to a regional condition, and (d) any other preconstruction notifications to the District Engineer where an applicant has voluntarily requested verification of an NWP authorization. The NWPs that require a PCN include NWPs *3, 7, 8, *10, *11, 12, *13, 14, *15, 17, *18, 19, 21, *22, 23, *27, 28, 29, *30, 31, 33, 34, 35, *36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, *48, 49 and 50. *These NWP activities require notification under certain circumstances. Review the terms of the individual NWP authorization, general condition 19, or the regional conditions to identify these circumstances.

Condition G-1: All preconstruction notifications (PCNs) to the District Engineer shall describe all activities that the applicant plans to undertake that are reasonably related to the same project. All PCNs to the District Engineer shall include the following information, where applicable, in addition to any other information specified in the nationwide permit itself or general conditions: Plan(s) of the proposed work on 8-1/2 by 11 inch paper and full-sized scaled engineering drawings, if available; a location map; longitude and latitude; formal property identification such as lot and block or tax parcel number, representative photographs of the project site; a delineation of areas within Federal jurisdiction, including wetlands, for the entire project area; existing water depths; depth of any cables or pipelines below mean low water; height of any cables, pipelines or other structures above mean high water; the maximum distance that any structure(s) would extend channelward of the mean high water line or ordinary high water in non-tidal areas; the maximum distance that any fill would extend channelward of the high tide line or ordinary high water in non-tidal areas; the width of the waterway at the project site; the location of any mapped floodplain areas; the location of any dredged material disposal area; the distance from the edge of any navigation channel; the location of any temporary work, structures, vessels, or fills required for the construction; a copy of any previous Federal or State approvals; and, the location and nature of any submerged aquatic vegetation (e.g., eel grass *Zostera marina*) or shellfish beds. All work in areas of Federal jurisdiction shall be identified on a scaled plan of the project site. Further, at the discretion of the District Engineer, the Corps may consider a PCN incomplete if it is determined that field verification of a wetland delineation is required.

The PCN shall also include the following information:

(1) Documentation that the applicant has followed the consultation guidance published on the U.S. Fish and Wildlife Service New Jersey Field Office website <http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.htm> to determine if a proposed NWP activity may affect a listed species. The information presented on this web site provides a list of federally listed species by county and municipality and the habitat requirements for each federally listed threatened and endangered species found in New Jersey. If review of the above information reveals that the proposed activity is within a municipality that supports a federally listed species and that the project site supports habitat for a federally listed species, the applicant shall follow the guidance provided on the website and, if necessary, contact the U.S. Fish and Wildlife Service New Jersey Field Office for further coordination prior to applying to the Corps for an NWP verification. If the review of the U.S. Fish and Wildlife Service New Jersey Field Office municipal and habitat information indicate that no federally listed species or their habitats are present, it can be concluded that the proposed activity will not adversely affect any federally listed species under the jurisdiction of the U.S. Fish and Wildlife Service. Additional information on State and federally listed threatened and endangered species can be found at the following websites: <http://www.nj.gov/dep/gis/newmapping.htm> and <http://www.nj.gov/dep/fgw/ensphome.htm>

(2) Documentation from the State agency(s) indicating whether the proposed project is located on a property listed or eligible for listing on the National Register of Historic Places. The appropriate address for this program is also provided below (See Addresses in Special Note 3 below). (For further information see NWP general conditions 18)

(3) A written statement that clearly describes the following: (1) what measures have been taken to avoid impacts on aquatic resources, (2) what measures have been taken to avoid and/or minimize any discharges into wetlands or waters of the United States, and (3) what measures have been developed to compensate for any impacts to wetlands or waters of the United States.

REGIONAL GENERAL CONDITION - 2(G-2).

This regional condition is applicable to those nationwide permit activities that require coordination by the District Engineer with the Federal and State resource agencies. This would include any NWP activities where the loss of wetlands or waters of the United States would exceed 0.5 acres.

Condition G-2: As a part of the PCN to the District Engineer, the applicant shall provide evidence that a duplicate copy of the PCN has been submitted to and received by the other concerned Federal and State resource agencies (e.g., copy of certified/registered mail receipt). The addresses for these agencies are provided below. **(See Addresses in Special Note 4 below.)**

REGIONAL GENERAL CONDITION - 3(G-3).

This regional condition is applicable to all nationwide permit activities located in waters of the United States that are a component of the National Wild and Scenic River System, or have been officially designated as a “study river” for possible inclusion in the system.

Condition G-3: The applicant shall provide written notification to the National Park Service prior to performing the activity, and shall not begin work until notified by the National Park Service in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. A copy of this approval from the National Park Service shall be forwarded to the District Engineer. All notifications to the National Park Service required by this regional general condition shall include the information identified in regional condition G-1 above. The appropriate addresses for the National Park Service are provided below.

(i) For all projects, the applicant shall notify: Mr. Chuck Barscz, National Rivers Program, Northeast Region, National Park Service, 200 Chestnut Street, Third Floor, Philadelphia, Pennsylvania 19106.

(ii) If the proposed project is located in the Upper Delaware River, notification shall also be sent to Mr. Don Hamilton, Upper Delaware National Scenic and Recreational River, R.R. 2, Box 2428, Beach Lake, Pennsylvania, 18405-9737.

The following list includes the waterway locations that are currently subject to this regional condition.

(1) Upper Delaware River; from the confluence of the East and West Branches (below Hancock, New York) downstream to Cherry Island near Millrift in Westfall Township, Pike County (Sparrow Bush, New York), approximately five miles above Port Jervis).

(2) Delaware Water Gap National Recreation Area; Pennsylvania and New Jersey; within the boundaries of the National Recreation Area, beginning approximately four miles below Port Jervis, extending downstream approximately to the boundary between Monroe and Northampton Counties in Pennsylvania (just below the Interstate 80 bridge).

(3) Lower Delaware River; Pennsylvania and New Jersey; from the town of Washington Crossing in Bucks County, Pennsylvania, upstream to Upper Mount Bethel Township in Northampton County, Pennsylvania, plus Tinicum, Paunacussing, and Tohickon Creeks (tributaries). The towns of Belvidere, Phillipsburg, and Easton, as well as existing power plants, water supply intakes and wastewater outfalls are not included in the designated area.

(4) Great Egg Harbor River; New Jersey; from the mouth of Patcong Creek upstream approximately 40 miles plus several tributaries, in Atlantic, Cape May, Gloucester and Camden Counties. This includes Patcong Creek extending upstream from its confluence with Great Egg Harbor River to the Garden State parkway bridge, approximately 2.8 miles.

(5) Maurice River; New Jersey; the Maurice River, from Shell Pile approximately 17 miles upstream to the Millville sewage treatment plant, and portions of Menantico Creek, Manumuskin River and Muskee Creek, in Cumberland and Atlantic Counties.

(6) White Clay Creek; Pennsylvania and Delaware; from the headwaters in Pennsylvania to the confluence with the Christina River in Delaware and all tributaries, including the East, West and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries.

REGIONAL GENERAL CONDITION - 4(G-4).

This regional condition is applicable to any nationwide permit (NWP) activities in New Jersey where a preconstruction notification (PCN) is not required or submitted to the District Engineer.

Condition G-4: Prior to conducting any work, the applicant shall follow the consultation guidance published on the U.S. Fish and Wildlife Service New Jersey Field Office website <http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html> to determine if a proposed NWP activity may affect a listed species. The information presented on this web site provides a list of federally listed species by county and municipality and the habitat requirements for each federally listed threatened and endangered species found in New Jersey. If review of the above information reveals that the proposed activity is within a municipality that supports a federally listed species and that the project site supports habitat for a federally listed species, the applicant shall follow the guidance provided on the website and, if necessary, contact the U.S. Fish and Wildlife Service New

Jersey Field Office for further coordination prior to applying to the Corps for an NWP verification. If the review of the U.S. Fish and Wildlife Service New Jersey Field Office municipal and habitat information indicate that no federally listed species or their habitats are present, it can be concluded that the proposed activity will not adversely affect any federally listed species under the jurisdiction of the U.S. Fish and Wildlife Service. The NWPs that do not require a PCN to the District Engineer include NWPs 1, 2, *3, 4, *5, 6, 9, *10, *11, *15, *18, 20, *22, 24, *25, *30, and *36, *These NWP activities require notification to the District Engineer under certain circumstances, and under those circumstances this regional condition is not applicable. Review the NWP authorization, general conditions, or regional conditions to identify these circumstances.

REGIONAL GENERAL CONDITION – 5 (G-5) This regional condition is applicable to all NWP activities within the State of New Jersey that would occur in designated shellfish habitat, as defined in the State of New Jersey Department of Environmental Protection “Coastal Permit Program Rules” N.J.A.C. 7:7E-3.2(a)(1-4).

Condition G-5: All permanent structures, including piers and docks (piles, stringers, whalers and decking), utility poles, boat lifts, mooring piles, breakwaters, and replacement bulkheads must be constructed with non-polluting material, such as plastic, natural cedar or other untreated wood, polymer coated pressure-treated wood, concrete or other inert products in those cases where the proposed activity would occur in designated shellfish habitat, as defined in State of New Jersey Department of Environmental Protection “Coastal Permit Program Rules” N.J.A.C. 7:7E-3.2(a)(1-4) . Creosote and pressure-treated lumber (i.e. preservative treatment such as CCA-C, ACZA, CC, ACQ, etc.)(wolmanized) which is susceptible to leaching are considered polluting materials and are not acceptable for the purpose of this permit.

REGIONAL CONDITIONS FOR NWP (3) MAINTENANCE:

Condition (a): Any discharges or excavation associated with the removal of accumulated sediments and/or debris in the vicinity of, and within, existing structures shall not extend farther than 50 feet in any direction from the structure.

Condition (b): Any dredging on the Delaware River associated with this NWP shall comply with the dredging windows previously developed in conjunction with the Delaware Basin Fish and Wildlife Management Cooperative.

REGIONAL CONDITION FOR NWP (5) SCIENTIFIC MEASUREMENT DEVICES:

Condition (a): Weirs and flumes cannot be constructed in a manner that would preclude the passage of anadromous fishes.
Condition (b): The construction or installation of subaqueous turbines or similar facilities is not authorized by this NWP.

REGIONAL CONDITION FOR NWP (7) OUTFALL STRUCTURES:

Condition (a): Any proposed intake structures must include “wedge wire” screening with mesh opening sizes of 2 millimeters (mm) or less and intake velocities equal to or less than 0.5 feet per second.

Condition (b): Any excavation, including dredging, shall be limited to 50 cubic yards.

REGIONAL CONDITIONS FOR NWP (10) MOORING BUOYS:

Condition (a): Water depths in the mooring area must be sufficient that any moored vessels float at all stages of the tide.

REGIONAL CONDITIONS FOR NWP (11) TEMPORARY RECREATIONAL STRUCTURES.

Condition (a): This nationwide permit is applicable only to structures associated with discrete or specific recreational events.

Condition (b): All temporary structures must be located with sufficient water depths so that the structures float at all stages of the tide.

Condition (c): This NWP does not authorize the placement of any temporary structures in any areas mapped with submerged aquatic vegetation (SAV).

Condition (d): A PCN shall be submitted to the District Engineer for activities proposed on any waterway containing an authorized Federal or State navigation channel (See Regional General Condition G-1).

REGIONAL CONDITIONS FOR NWP (12) UTILITY LINES.

Condition (a): This nationwide permit is not applicable to activities on the following waterways: (1) Delaware River south of the Penn-Central Railroad Bridge in Trenton, New Jersey; (2) Schuylkill River downstream of Fairmount Dam in Philadelphia, Pennsylvania; (3) Chesapeake and Delaware Canal; (4) Cape May Canal; (5) Point Pleasant Canal; and (6) Lewes and Rehoboth Canal.

Condition (b): A PCN shall be submitted to the DE for all activities in waters of the United States under the terms of this NWP

Condition (c): Any dredging or excavation in the Delaware River associated with this NWP shall comply with the dredging windows previously developed in conjunction with the Delaware Basin Fish and Wildlife Management Cooperative

Condition (d): Any PCN to the District Engineer, which proposes a permanent access or maintenance road, must justify, to the satisfaction of the District Engineer, that any such permanent fills are necessary, and that temporary access roads are not practicable.

Condition (e): This NWP does not authorize stockpiling excavated material in wetlands for longer than 30 days.

Condition (f): Any excavated or stockpiled materials shall be stabilized with straw bales, silt fence, or other acceptable methods to prevent reentry into any waterway or wetland.

Condition (g): Utility lines installed below the plane of ordinary high water of any stream or waterway shall be constructed under dry conditions, using stream diversions other than earthen cofferdams, unless it is demonstrated to the satisfaction of the District Engineer to be impracticable.

Condition (h): Where a utility line is constructed parallel to a stream corridor, a buffer shall be maintained between the utility and the waterway to avoid or minimize potential future impacts to waters of the United States. These disturbances would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance. Measures designed to satisfy this condition must be described in any PCN to the District Engineer.

Condition (i): If a proposed activity would involve impacts to submerged aquatic vegetation (SAV), the applicant shall clearly document all efforts to achieve restoration of these areas. At a minimum, this shall include pre-construction surveys along the entire right-of-way to map all existing SAV, construction schedules, and long term monitoring to assess restoration of SAV areas. This information shall also be furnished to NMFS in consort with the PCN for this NWP(See Condition a above).

For Aerial Transmission Lines Across Navigable Waters:

Condition (i): The following minimum clearances are required. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances, which would be required by the U.S. Coast Guard for new fixed bridges in the vicinity of the proposed transmission line. These clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal System Voltage, (kv)	Minimum additional clearance (feet) above clearance required for bridges
115 and below	20 feet
136	22 feet
161	24 feet
230	26 feet
350	30 feet
500	35 feet
700	42 feet
750 – 765	45 feet

Condition (j): Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten (10) feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

Condition (k): Within 60 days of completion of the work, the permittee shall furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the aerial wire has been installed in compliance with the approved plans. The certification shall include a survey, conducted by a licensed surveyor, which clearly shows the minimum clearance of the aerial wires above the mean high water line at the time of the survey. The certification shall also include a statement by the permittee that the clearance of the wires, at maximum sag conditions, shall never be less than the clearance shown on the approved plans.

For Buried Cables and Pipelines Across Navigable Waters:

Condition (l): The top of the cable or pipeline shall be located a minimum of 4 feet below the existing bottom elevation and shall be backfilled with suitable heavy material to the preconstruction bottom elevation.

Condition (m): Within 60 days after completion of the work, the permittee shall furnish the Corps and National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7230, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the cable or pipeline has been installed in compliance with the approved plans. The certification shall include a survey conducted by a licensed surveyor, or a "drawing of record" if installation is conducted by directional drilling, which clearly shows the elevations and alignment of the cable or pipeline across the waterway. Any discrepancies shall be clearly noted.

Condition (n): There shall be no stockpiling or double handling of any excavated/dredged materials within any waterway, unless specifically reviewed and approved by the District Engineer as a part of any PCN. Further, all excess or unsuitable dredged or excavated material not used as backfill over any cable or pipeline shall be disposed at a disposal site approved by the District Engineer.

For Buried Cables or Pipelines Across Federal Navigation Channels:

Condition (o): The top of the cable or pipeline crossing the Federal project channel shall be located a minimum of 6 feet below the authorized project channel depth and shall be backfilled with suitable heavy materials to the adjacent river bottom elevation. In areas outside the Federal project channel, the top of cable or pipeline shall be located a minimum of 4 feet below existing river bottom elevation and shall be backfilled with suitable material to the adjacent river bottom elevation.

REGIONAL CONDITION FOR NWP (13) BANK STABILIZATION

Condition (a): It is encouraged that bank stabilization efforts be accomplished through the use of non-structural measures such as rip-rap and/or vegetation. As such, any PCN to the District Engineer that does not include such measures shall include an analysis demonstrating that such measures were not practicable and/or appropriate.

REGIONAL CONDITION FOR NWP (14) LINEAR TRANSPORTATION CROSSINGS

Condition (a): A PCN shall be submitted to the DE for all activities in waters of the United States under the terms of this NWP

Condition (b): On the Delaware River, any dredging or excavation associated with this NWP shall comply with the dredging windows previously developed in conjunction with the Delaware Basin Fish and Wildlife Management Cooperative

Condition (c): Any activity proposing a crossing of a stream or open water shall be designed to maintain continuity of existing benthic habitats and to maintain existing stream flow patterns. This can be achieved through the use of elevated structures, bottomless culverts, or by depressing culverts below the stream bottom. This design requirement must include a site-specific evaluation of the particular stream or waterbody to determine if it is experiencing erosion or sedimentation rates, that would alter the bottom elevation. Where a series of culverts are used, only those cells or culverts, which carry the base stream flow, shall be depressed. The bottom of any other culverts or cells shall be raised to pass and maintain existing and expected high flows.

REGIONAL CONDITION FOR NWP (19) MINOR DREDGING

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP. A complete copy of any PCN submitted to the Corps of Engineers shall also be forwarded directly to the National Marine Fisheries Service Habitat Conservation Division, 74 Magruder Road, Sandy Hook, Highlands, New Jersey 07732. The applicant must provide evidence that this has been accomplished. The Corps of Engineers will coordinate review of the PCN with the National Marine Fisheries Service.

REGIONAL CONDITION FOR NWP (22) REMOVAL OF VESSELS

Condition (a): A PCN must be submitted to the Corps of Engineers under certain circumstances. A complete copy of any PCN submitted to the Corps of Engineers shall also be forwarded directly to the National Marine Fisheries Service Habitat Conservation Division, 74 Magruder Road, Sandy Hook, Highlands, New Jersey 07732. The applicant must provide evidence that this has been accomplished. The Corps of Engineers will coordinate review of the PCN with the National Marine Fisheries Service. (See General Condition 19, Regional Conditions G-1 and G-2)

REGIONAL CONDITIONS FOR NWP (23) CATEGORICAL EXCLUSIONS

Condition (a): A PCN must be submitted to the Corps of Engineers for all activities in waters of the United States under the authorization of this NWP.

Condition (b): Activities associated with this NWP shall not cause the loss of more than one acre of waters of the United States, including wetlands.

REGIONAL CONDITION FOR NWP (25) STRUCTURAL DISCHARGES

Condition (a): On the Delaware River, any dredging or excavation associated with this NWP shall comply with the dredging windows previously developed in conjunction with the Delaware Basin Fish and Wildlife Management Cooperative

REGIONAL CONDITIONS FOR NWP (27) STREAM and WETLAND RESTORATION ACTIVITIES

Condition (a): A PCN must be submitted to the Corps of Engineers under certain circumstances. A complete copy of any PCN to the Corps of Engineers shall also be forwarded directly to the National Marine Fisheries Service Habitat Conservation Division, 74 Magruder Road, Sandy Hook, Highlands, New Jersey 07732. The applicant must provide evidence that this has been accomplished. The Corps of Engineers will coordinate review of the PCN with the National Marine Fisheries Service. **(See the terms of the NWP, General condition 19, Regional General Condition G-1, and Regional Condition G-2, if applicable.)**

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

REGIONAL CONDITION FOR NWP (28) MODIFICATIONS OF EXISTING MARINAS.

Condition (a): A PCN must be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP.

Condition (b): This NWP is only applicable to those projects, which have been previously reviewed and approved by the District Engineer through the individual permit process.

REGIONAL CONDITIONS FOR NWP (29) RESIDENTIAL DEVELOPMENTS

Condition (a): A PCN must be submitted to the DE for all activities in waters of the United States under the terms of this NWP.

Condition (b): Under the terms of this NWP, any wetlands that are located within the platted lot lines of any residential development will be considered an adverse affect on waters of the United States, unless the wetlands are protected by conservation easement, deed conveyance or covenants, or any other real estate mechanism that can demonstrate to the District Engineer that these areas will be protected and/or preserved in perpetuity.

Condition (c): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

Condition (d): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

Condition (e): Activities associated with this NWP shall not cause the loss of more than 300 linear feet of streambed, except for man-made ditches constructed in uplands which are determined by the Corps of Engineers to be waters of the United States, and which are determined to be intermittent or ephemeral.

Condition (f): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

THE FOLLOWING REGIONAL CONDITIONS FOR NWP 29 ARE APPLICABLE TO THE CONSTRUCTION OR EXPANSION OF A SINGLE FAMILY RESIDENCE:

Condition (g). The total area of non-tidal waters of the United States, including wetlands, lost as a result of the discharge shall not exceed 40% of the total lot area or 0.25 acres, except for those lots which are less than 0.25 acres in size, in which case the loss of non-tidal waters of the United States, including wetlands shall not exceed 0.10 acres. In no circumstances may the loss of non-tidal waters of the United States including wetlands resulting from a discharge authorized by this NWP exceed 0.25 acres. Loss is defined to include any filled area previously permitted, the proposed fill area, and any other waters of the United States including wetlands that are adversely affected by flooding, excavation, or drainage as a result of the project. The following table provides examples of the permit authorization acreage limitations in effect where the lot size is equal to or greater than 0.25 acres.

Total Acreage Of Lot	40% of Lot	Maximum Loss Area Authorized
0.25 acre	X 0.40	= 0.10 acre
0.33 acre	X 0.40	= 0.13 acre
0.50 acre	X 0.40	= 0.20 acre
0.625 acre	X 0.40	= 0.25 acre
>0.625 acre		= 0.25 acre

Condition (h). This NWP may be used only once by an individual.

Condition (i). This NWP may only be used for a single-family home for a personal residence by an individual who purchased the lot prior to November 21, 1991.

Condition (j). This NWP may only be used on residential lots with access to a central sewage system which is in place and operational at the time of notification, except in instances where the discharge is for expansion of an existing residence.

Condition (k): This NWP does not authorize the discharge of fill into waters of the United States, including wetlands, for the purpose of installing or expanding an on-lot sewage disposal system.

Condition (l). This NWP does not authorize the discharge of dredged or fill material in wetlands located within a 100-year floodplain. Absent any established maps or other information to the contrary, the 100-year floodplain is assumed to extend fifty (50) feet landward from the top of the stream bank.

Condition (m). Any notification to the District Engineer shall include a sketch plan depicting the proposed footprint of fill. The sketch plan shall also include the property dimensions, building setbacks, wetland boundaries, acreage of the proposed wetland loss, location and acreage of any previously permitted wetland fills, location(s) of any streams, drainage courses, and floodplain limits, location of proposed house, driveway, and utilities.

Condition (n). Individuals who wish to use this NWP may be required to compensate for the loss of waters of the United States including wetlands by one of the following, where the loss of waters of the United States would be greater than 0.05 acres:

- a.) construct a replacement wetland in accordance with a plan approved by the Corps of Engineers;
- b.) participate in a wetland mitigation bank approved by the Corps of Engineers.
- c.) participate in an "in lieu fee" program approved by the Corps of Engineers.

REGIONAL CONDITIONS FOR NWP (33) TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING

Condition (a): On the Delaware River, any in-water work associated with this NWP shall comply with the dredging windows previously developed in conjunction with the Delaware Basin Fish and Wildlife Management Cooperative

REGIONAL CONDITIONS FOR NWP (35) MAINTENANCE DREDGING OF EXISTING BASINS.

Condition (a): This nationwide permit is **not** applicable to activities on the following waterways: (1) Delaware River south of the Penn-Central Railroad Bridge in Trenton, New Jersey; (2) Schuylkill River downstream of Fairmount Dam in Philadelphia, Pennsylvania; (3) Chesapeake and Delaware Canal; (4) Cape May Canal; (5) Point Pleasant Canal; and (6) Lewes and Rehoboth Canal.

Condition (b): A PCN shall be submitted to the Corps of Engineers for activities on all other waterways not listed above. A complete copy of any PCN submitted to the Corps of Engineers shall also be forwarded directly to the National Marine Fisheries Service Habitat Conservation Division, 74 Magruder Road, Sandy Hook, Highlands, New Jersey 07732. The applicant must provide evidence that this has been accomplished. The Corps of Engineers will coordinate review of the PCN with the National Marine Fisheries Service. (See General Condition 19, Regional General Condition G-1, and Regional Condition G-2, if applicable.)

Condition (c): This NWP is only applicable to those projects, which have been previously reviewed and approved by the District Engineer through the individual permit process.

REGIONAL CONDITION FOR NWP (36) BOAT RAMPS.

Condition (a): This nationwide permit is **not** applicable to activities on the following waterways: (1) Delaware River south of the Penn-Central Railroad Bridge in Trenton, New Jersey; (2) Schuylkill River downstream of Fairmount Dam in Philadelphia, Pennsylvania; (3) Chesapeake and Delaware Canal; (4) Cape May Canal; (5) Point Pleasant Canal; and (6) Lewes and Rehoboth Canal.

REGIONAL CONDITIONS FOR NWP (39) COMMERCIAL & INSTITUTIONAL ACTIVITIES.

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP.

Condition (b): Under the terms of this NWP, any wetlands that are located within the platted lot lines of any commercial or institutional development will be considered an adverse affect on waters of the United States, unless the wetlands are protected by conservation easement, deed conveyance or covenants, or any other real estate mechanism that can demonstrate to the District Engineer that these areas will be protected and/or preserved in perpetuity.

Condition (c): The discharge of fill for the construction or expansion of a single-family residential structure, including any attendant features or structures, is **not** authorized by this NWP. This type of activity may be eligible for authorization under the terms and conditions of NWP 18 or NWP 29.

Condition (d): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

Condition (e): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

Condition (f): Activities associated with this NWP shall not cause the loss of more than 300 linear feet of streambed, except for man-made ditches constructed in uplands which are determined by the Corps of Engineers to be waters of the United States, and which are determined to be intermittent or ephemeral.

Condition (g): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

REGIONAL CONDITION FOR NWP (40) AGRICULTURAL ACTIVITIES.

Condition (a): This NWP does not authorize any activities located in any perennial stream.

REGIONAL CONDITIONS FOR NWP (41) RESHAPING EXISTING DRAINAGE DITCHES.

Condition (a): A PCN shall be submitted to the DE for any proposed activity in waters of the United States, including wetlands, under the terms of this NWP. (See Regional General Condition G-1)

REGIONAL CONDITIONS FOR NWP (42) RECREATIONAL FACILITIES.

Condition (a): This NWP does not authorize any support facilities or buildings such as parking facilities, storage or maintenance buildings, rental buildings or office buildings. In addition, the NWP does not authorize fill for the construction or expansion of golf courses or ski areas.

Condition (b): This NWP does not authorize construction of ponds or storm-water management basins in waters of the United States.

Condition (c): This NWP does not authorize construction of sewage disposal systems in waters of the United States.

Condition (d): Activities associated with this NWP shall not cause the loss of more than 300 linear feet of streambed, except for man-made ditches constructed in uplands which are determined by the Corps of Engineers to be waters of the United States, and which are determined to be intermittent or ephemeral.

Condition (e): This NWP is not applicable for activities located within the geographic boundaries of the Hackensack Meadowlands District.

REGIONAL CONDITIONS FOR NWP (43) STORMWATER MANAGEMENT FACILITIES.

Condition (a): A PCN shall be submitted to the Corps of Engineers for all activities in waters of the United States under the terms of this NWP.

REGIONAL CONDITIONS FOR NWP (48) EXISTING COMMERCIAL SHELLFISH AQUACULTURE ACTIVITIES.

A PCN is required to the Corps of Engineers under certain circumstances. A duplicate copy of any PCN to the Corps of Engineers shall be forwarded to the National Marine Fisheries Service, Habitat Conservation Division, 74 Magruder Road, Sandy Hook, Highlands, New Jersey 07732.

SPECIAL NOTES:

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

(2) Effective March 2, 1994, the State of New Jersey assumed the Federal Section 404 permit program from the U. S. Army Corps of Engineers. As such, these nationwide permits including all regional conditions developed for waters of the United States within the State of New Jersey are only effective for those waters which have **not** been assumed by the State of New Jersey.

(3) The following address shall be used for contacting the appropriate State agency to obtain information relating to historic resources that are described above in **Regional General Conditions G-1**.

New Jersey Department of Environmental Protection
Historic Preservation Office
5 Station Plaza
501 East State Street, 4th Floor
Trenton, New Jersey 08625

(4) The following addresses shall be used for notification to those Federal and State agencies, where the review of the PCN must be coordinated by the District Engineer. These addresses are required for **Regional General Conditions G-2**.

National Marine Fisheries Service
Habitat Conservation Division
74 Magruder Road, Sandy Hook
Highlands, New Jersey 07732

Field Supervisor
U.S. Fish and Wildlife Service
927 North Main Street (Building D)
Pleasantville, New Jersey 08232

U.S. Environmental Protection Agency, Region II
Water Programs Branch
290 Broadway
New York, New York 10007-1866

Administrator
Land Use Regulation Program
NJ Department of Environmental Protection
5 Station Plaza
501 East State Street, 2nd. Floor
Trenton, New Jersey 08625

NJ Department of Environmental Protection
Historic Preservation Office
5 Station Plaza
501 East State Street
Trenton, New Jersey 08625

(20 Jan 2009)