



PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: NAN-2005-01288
Issue Date: March 16, 2011
Expiration Date: N/A

REGIONAL GENERAL PERMIT

The U.S. Army Corps of Engineers announces the issuance of a Regional General Permit (RGP) to authorize activities proposed by the U.S. Army Garrison, Fort Drum (Garrison), to facilitate maintenance projects; bridge and culvert repair, road realignment, improvement and construction; and range construction, improvements and modifications located within the boundaries of the Fort Drum Military Reservation (Fort Drum), as well as associated with compensatory mitigation plans implemented on lands within and in the vicinity of Fort Drum.

What is a general permit?

A general permit is a blanket authorization for construction in waters of the United States, including navigable waters, that substantially reduces the time needed by the Corps to process applications for activities that cause only minimal individual and cumulative environmental impacts, when those activities are substantially similar in nature. This allows adequate control of minor construction while avoiding the lengthier and time-consuming processing required to issue an individual permit.

What does this general permit authorize?

This general permit authorizes work and structures located in, or that affect, navigable waters of the United States as prescribed in Corps regulations implementing Section 10 of the Rivers and Harbors Act of 1899, and the discharge of dredged or fill material into waters of the United States, including but not limited to wetlands, as prescribed in Corps regulations implementing Section 404 of the Clean Water Act, would be eligible for consideration under this RGP. This general permit is valid for purposes associated with the military mission at Fort Drum and has an expiration date of February 11, 2016.

Are there any restrictions to this permit?

There are several restrictions to this authorization. For example, No single and complete project authorized by this general permit would involve the loss of more than 500 linear feet of streams (intermittent or perennial) or 2.5 acres of any waters of the United States, including wetlands. A complete list of special conditions can be found on the attached copy of the general permit.

The Corps reserves the right to determine, on a case-by-case basis, that this permit does not apply to a particular project, and that a full public interest review should be undertaken.

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It is the intent of the Corps that this general permit will save both time and paperwork for those applying. The Corps is developing procedures that will insure that all applications are reviewed with dispatch, and that those proposals meeting the terms and conditions of this permit will be authorized as quickly as possible. Nevertheless, all applications should be accurately filled out so that they can be promptly reviewed.

To obtain additional information you can visit our website at <http://www.nan.usace.army.mil> or contact:

Department of the Army
US Army Corps of Engineers, Attn: CENAN-OP-RU
Upstate Regulatory Field Office
1 Buffington St., Building 10, 3rd Fl. North
Watervliet, NY 12189-4000

Telephone: (518) 266-6350

FOR THE DISTRICT ENGINEER:



Richard L. Tomer
Chief, Regulatory Branch

Enclosure

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: US Army Garrison, Fort Drum, New York

PERMIT NUMBER: Regional General Permit NYDGP-20

PERMIT EFFECTIVE DATE: **11 FEB 2011** PERMIT EXPIRATION DATE: **11 FEB 2016**

ISSUING OFFICE: US Army Corps of Engineers - New York District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

REGIONAL GENERAL PERMIT PERMITTED WORKS DESCRIPTION:

Install structures, perform work, and discharge dredged or fill material into regulated waters of the United States, including regulated discharges associated with maintenance projects; bridge and culvert repair; road realignment, improvement and construction; and range construction, improvements and modifications; subject to the specific terms, general and special conditions, and requirements contained in this Regional General Permit and its attachment which is hereby made part of this permit.

PERMITTED WORKS LOCATIONS:

Navigable waters and waters of the United States located within the boundaries of the Fort Drum Military Reservation (Fort Drum) in Jefferson and Lewis Counties, New York State, and regulated work associated with compensatory mitigation projects implemented on lands within Jefferson, Lewis and Saint Lawrence Counties, New York State.

GENERAL PERMIT CONDITIONS:

1. The time limit for completing work authorized under this regional General Permit ends one year from the date of the date of the New York District approval verification letter from. If you find that you need more time to complete the authorized works, submit your request for a time extension to this office for consideration at least one month before the above one-year date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must

immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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

SPECIFIC TERMS AND REQUIREMENTS AND SPECIAL PERMIT CONDITIONS:

Refer to attachment for definitions, specific terms, requirements, and special permit conditions numbered 1 through 20, which are all hereby made part of this Regional General Permit.

FURTHER INFORMATION AND REQUIREMENTS:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization:

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: in issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of This Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit. However, this five-year Regional General Permit cannot be extended.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

 11 FEB 2011

11 FEB 2011
(DATE)

FOR AND IN BEHALF OF

JOHN R. BOULE' II
COL, EN
Commanding

cc

**DEPARTMENT OF THE ARMY
US ARMY USACE OF ENGINEERS [USACE]
NEW YORK DISTRICT**

**ATTACHMENT TO
REGIONAL GENERAL PERMIT NUMBER NYDGP-20**

EFFECTIVE DATE: 11 FEB 2011 EXPIRATION DATE: 11 FEB 2016

A) BACKGROUND: For Military projects and associated compensatory mitigation works undertaken by the US Army Garrison, Fort Drum, New York, including work and structures located in, or that affect, navigable waters of the United States as prescribed in USACE regulations implementing Section 10 of the Rivers and Harbors Act of 1899, and the discharge of dredged or fill material into waters of the United States (WOUS), including but not limited to wetlands, as prescribed in USACE regulations implementing Section 404 of the Clean Water Act, would be eligible for consideration under this Regional General Permit.

This Regional General Permit applies to works undertaken by the US Army Garrison, Fort Drum (Garrison), to facilitate maintenance projects; bridge and culvert repair, road realignment, improvement and construction; and range construction, improvements and modifications located within the boundaries of the Fort Drum Military Reservation (Fort Drum), as well as associated with compensatory mitigation plans implemented on lands within and in the vicinity of Fort Drum. No single and complete project authorized by this general permit would involve the loss of more than 500 linear feet of streams (intermittent or perennial) or 2.5 acres of any WOUS, including wetlands.

B) DEFINITIONS

1. **Army Compatible Use Buffer (ACUB):** Buffer areas established around Fort Drum to limit effects of encroachment and maximize land inside the installation that can be used to support the installation's mission. ACUBs may incorporate requirements for conservation of endangered species and Off-Post Compensatory Mitigation for losses of WOUS due to Fort Drum projects on-post.

2. **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 nonstructural.

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3. **Compensatory Mitigation:** The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Compensatory Mitigation under this Regional General Permit may also include, but is not limited to, the use of a mitigation bank or in-lieu fee to compensate for unavoidable adverse impacts.
4. **Currently Serviceable:** Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.
5. **Discharge:** The term "discharge" means any discharge of dredged or fill material and any activity that causes or results in such a discharge.
6. **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 lead to a decline in other aquatic resource function(s).
7. **Ephemeral Streams:** An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.
8. **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.
9. **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).
10. **Independent Utility:** A test to determine what constitutes a single and complete project in the USACE Regulatory Program. A project is

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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.

11. **Intermittent Stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.
12. **Loss of Waters of the United States:** WOUS that are permanently adversely affected by flooding, excavation, or drainage 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 WOUS is the threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for a Regional General Permit; 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. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. WOUS temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction; are not included in the measurement of loss of WOUS. Impacts resulting from activities eligible for exemptions under Section 404 (f) of the Clean Water Act are not considered when calculating the loss of WOUS.
13. **Non-tidal WOUS:** A non-tidal WOUS is a WOUS that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e. spring high tide line).
14. **Open Water:** 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 standing or flowing 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.

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15. **Ordinary High Water Mark:** An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e) and Regulatory Guidance Letter No. 05-05, dated December 7, 2005).
16. **Perennial Stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.
17. **Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
18. **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 gain of aquatic resource area or functions.
19. **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. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.
20. **Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning 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.
21. **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 purposes of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.
22. **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

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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, or 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 finer substrate characterize pools.

23. **Riparian Areas:** Riparian areas are lands adjacent to open waters. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of services and help improve or maintain local water quality.
24. **Single and Complete Project:** 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 project must have independent utility (see definition).
25. **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.
26. **Stormwater Management Facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, 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.
27. **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. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.
28. **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 stream remains a WOUS.

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29. **Structure:** An object that is arranged in a definite pattern of organization. Examples include, without limitation, any pier, boat dock, boat ramp, wharf, Dolphin, weir, boom, breakwater, 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.

30. **Vegetated Shallows:** Vegetated Shallows are special aquatic sites under 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.

31. **Waterbody:** A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

C) STATE AND LOCAL APPROVALS: This Regional General Permit will not supersede any state or local governmental authorities, and any such approvals must be obtained in order for this Regional General Permit authorization to be valid. Authorization under this Regional General Permit requires an individual Water Quality Certification (WQC), blanket WQC, or waiver from the New York State Department of Environmental Conservation (NYSDEC) under Section 401 of the Federal Clean Water Act (33 U.S.C. Sec. 1341) for all activities involving a discharge of dredged or fill material into WOUS. State Pollutant Discharge Elimination Systems permits may also be required as administered by NYSDEC for the National Pollutant Discharge Elimination System program under Section 402 of the Clean Water Act (40 CFR 123).

D) CATEGORIES OF AUTHORIZATIONS: The Regional General Permit authorizations would consist of two types, to be known as Category 1 [CAT 1] and Category 2 [CAT 2] projects, as described below, and subject to the general conditions and requirements contained in this document and any additional special conditions added by the US Army Corps of Engineers New York District, Regulatory Branch (USACE).

1. **CATEGORY 1**

- a) Category 1 (CAT 1) projects require notification to the USACE at least 45 days prior to the commencement of construction on the project.
- b) CAT 1 projects include activities that cause the loss of no more than 1.0 acres of WOUS and no more than 300 linear feet of

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intermittent streams. CAT 1 projects may also include proposed stream crossings that involve the loss of no more than 100 linear feet of perennial streams, subject to the restrictions in (c) and (d) below.

c) CAT 1 projects exclude stream channelization.

d) CAT 1 projects that involve any proposed crossings in fish-bearing streams must be designed and installed in accordance with the "Stream Crossing Methods" outlined in Appendix A.

2. CATEGORY 2

a) Category 2 (CAT 2) projects require notification to the USACE at least 60 days prior to the commencement of construction on the project.

b) CAT 2 projects include activities that cause the loss of no more than 2.5 acres of WOUS and no more than 500 linear feet of intermittent or perennial streams.

c) CAT 2 projects that involve any proposed crossings in fish-bearing streams must be designed and installed in accordance with "Stream Crossing Methods" in Appendix A, unless the USACE determines in writing that a waiver of the recommended methods is appropriate.

E) PROCESSING OF REQUESTS FOR AUTHORIZATION [RFA]:

1. **USACE Review:** The USACE shall have 30 calendar days to determine whether a Request for Authorization (RFA) is complete and request additional information from the Garrison as necessary. If the USACE does not respond to the Garrison in writing or via electronic mail message to the Garrison Wetlands Program Manager within 30 calendar days from the receipt of the Request For Authorization, then the Garrison shall assume that the submitted Request For Authorization is complete for processing. The USACE shall notify the Garrison of its decision of the potential applicability of this Regional General Permit for CAT 1 and CAT 2 projects as early as possible, and the Garrison shall ensure that the project is not initiated until:

a) Notified by the USACE that the project is authorized under the Regional General Permit as proposed;

b) Notified by the USACE in writing that the project is authorized under the Regional General Permit with the inclusion of certain special conditions as determined by the USACE; or

c) The USACE issues an individual Department of the Army permit (IP) for the project or the Garrison receives written verification from the USACE that the project is authorized under the Nationwide Permit Program (33 CFR Part 330).

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2. **CAT 2 Agency Consultation:** The USACE will review activities proposed under CAT 2 and consult with the federal and state resources agencies to determine whether the expected environmental effects of the project are more than minimal:

- a) Once the USACE determines the RFA to be complete, they shall provide, via facsimile transmission, electronic mail or overnight mail, a copy of the complete request for authorization under CAT 2 to the U.S. Environmental Protection Agency - Region 2, the New York Field Office of the Fish and Wildlife Service of the US Department of the Interior, and the Region 6 office of the New York State Department of Environmental Conservation for review and comment. These review agencies will have the opportunity to provide to the USACE any project-specific comments and/or concerns within 20 days from the receipt of the complete Request For Authorization from the USACE;
- b) The USACE will consider agency comments in its determination whether the project as proposed would qualify under this Regional General Permit; and
- c) Following the receipt of agency comments on a pending CAT 2 request, the Garrison will have the opportunity to modify the proposed project as recommended by the agencies. If the modifications, as determined by the USACE, adequately address the agencies' comments, then the USACE will not be required to consult with the agencies on the modified request and the USACE will conclude its review of the proposed CAT 2 application in an expeditious manner.

3. **USACE Decision:** The USACE reserves the authority to require a full Individual Permit application process [IP process] or CAT 2 agency consultation for any activity proposed under this Regional General Permit, if they determine that the project may result in more than minimal adverse effects to the environment, or because of concerns for the aquatic environment or for any other factor of the public interest. . If the USACE determines an IP is required, they will notify the Garrison within 60 calendar days from the receipt of a complete Request For Authorization that an IP is required, outline the concern(s) or reason(s) why the adverse effects may be more than minimal, and may suggest modifications to the project to minimize potential adverse environmental effects. If so notified, the Garrison may submit a request for an IP, or modify the project as indicated in the USACE determination and submit a revised Request For Authorization for a revised project.

F) **SPECIFIC TERMS & CONDITIONS:** - The following conditions apply to all projects authorized under this Regional General Permit, including all CAT 1 and CAT 2 activities:

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1. **Navigation:** No activity may cause more than a minimal adverse effect on navigation.
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. Culverts placed in streams must be installed to maintain low flow conditions.
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 WOUS that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. **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).
6. **Water Supply Intakes:** No activity may occur in the proximity of a public water supply intake, except where the activity is for repair or improvement of public water supply intake structures or adjacent bank stabilization.
7. **Adverse effects from impoundments:** If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable WOUS, or discharges of dredged or fill material.
8. **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 and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound or manage high flows. The activity may alter the pre-construction course; condition, capacity, and

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location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

9. **Floodplains:** The activity must comply with any applicable FEMA-approved state or local floodplain management requirements.
10. **Equipment:** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
11. **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. To the maximum extent practicable, activities within WOUS authorized under this Regional General Permit will be performed during periods of low-flow or no-flow.
12. **Removal of Temporary Fills:** Temporary fills must be removed in their entirety and the affected areas returned to their pre-construction elevations. The affected areas must be revegetated, as appropriate.
13. **Proper Maintenance:** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
14. **Wild and Scenic Rivers:** No 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 (e.g., National Park Service, US Forest Service, Bureau of Land Management, US Fish and Wildlife Service) has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area.
15. **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.
16. **Endangered Species:** No activity is authorized under this Regional General Permit which is likely to jeopardize the continued

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existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act of 1973 (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under this Regional General Permit which "may effect" a listed species or critical habitat, unless any required consultation under the ESA has been completed by the Garrison for the proposed activity. In order to proceed under this Regional General Permit, the Garrison must provide the USACE with the appropriate documentation to demonstrate compliance with those requirements. The appropriate documentation shall consist of a memorandum indicating where any potential effects are addressed in the current Biological Opinion, which has been developed by the Garrison in consultation with the U.S. Fish and Wildlife Service; or written details and supporting documentation (consistent with documentation previously submitted to and accepted by the USACE) indicating that the potential effects have been evaluated and any required consultation under the ESA has been completed by the Garrison.

17. **Historic Properties:** The Garrison will follow their established procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. In order to proceed under this Regional General Permit, the Garrison must provide the USACE with the sufficient documentation to demonstrate compliance with those requirements, including copies of Section 106 compliance letters from consulting agencies, and allow the USACE to concur that the Garrison has appropriately addressed any potential effects to historic properties.
18. **Designated Critical Resource Waters:** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites. Discharges of dredged or fill material into WOUS are not authorized by this Regional General Permit for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
19. **Mitigation:** the USACE will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal. The project must be designed and constructed to avoid and minimize adverse effects to WOUS to the maximum extent practicable at the project site (i.e., on site). Mitigation^{etc.} in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the

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extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

- a) The amount of required compensatory mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions. In cases where appropriate functional or condition assessment methods or other suitable metrics are available, these methods should be used where practicable to determine how much compensatory mitigation is required. If a functional or condition assessment or other suitable metric is not used, a minimum one-to-one acreage or linear foot compensation ratio must be used.
- b) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre under this Regional General Permit, unless, through consultation with the appropriate Federal and state resource agencies as appropriate, the USACE determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. If compensatory mitigation utilizing a wetlands mitigation bank or in-lieu fee arrangement is not available and practicable, wetland restoration should be the first compensatory mitigation option considered since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced.
- c) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits in this Regional General Permit. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal effects requirement associated with this Regional General Permit.
- d) For losses of streams (intermittent or perennial) or other open waters, the USACE may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- e) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment and maintenance of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns; however it will normally be no less than 25 to 50 feet on each side of the stream bed. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the USACE, through consultation with the appropriate Federal and state resource agencies, may

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waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

- f) The Garrison may propose the use of mitigation banks, in-lieu fee arrangements or permittee-sponsored compensatory mitigation. In all cases, the mitigation plans will identify the party(ies) responsible for implementing the mitigation plans and/or monitoring the site(s).
- g) Where certain functions and services of WOUS are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained line of sight within a firing range or a utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

20. **Request for Authorization:** At least 45 days prior to the commencement of construction of any CAT 1 project, or at least 60 days prior to the commencement of construction of any CAT 2 project, the Garrison would provide to the USACE a Request for Authorization (RFA) under this Regional General Permit. This RFA must include, at a minimum, four (4) legible and complete copies of the following:

- a) A signed Joint Application for Permit form, clearly indicating whether the Garrison is requesting authorization under CAT 1 or CAT 2;
- b) Location map of the work (including UTM coordinates of the center of the site);
- c) Project designs showing the location and extent of any proposed impacts to WOUS for the project;
- d) Table of impacts including the vegetative type (Cowardin classification) and acreage of the loss of WOUS (e.g., 1/12-acre of PEM wetlands), and linear feet of loss of any streams by type (e.g. 100 linear feet of intermittent stream);
- e) Delineation map of the project site;
- f) A signed request for a preliminary jurisdictional determination (JD), with the supporting documentation outlined in the USACE Preliminary JD Form (Appendix B), OR a wetland delineation report including the supporting information required for an approved JD as outlined in the "JD Checklist" (Appendix C) and "Data Required for USACE Review of Jurisdictional Determinations" (Appendix D);
- g) A signed letter from the Garrison, or the Garrison's Cultural Resources Program Manager, indicating whether the project will have any effects on sites listed or eligible for listing in the National Register of Historic Places, and indicating whether any required consultation under Section 106 of the National Historic Preservation Act has been completed. In addition, the

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Garrison must provide sufficient documentation to demonstrate compliance with those requirements, and allow the USACE to concur that the Garrison has appropriately addressed any potential effects to historic properties;

- h) A signed letter from the Garrison, or the Garrison's Fish and Wildlife Program Manager, indicating whether the project will have any impacts on Federally-listed species or their critical habitat, and indicating whether any required consultation under Section 7 of the Endangered Species Act has been completed, including supporting information documenting compliance with the Biological Opinion document dated June 1, 2009, which was issued by the U.S. Fish and Wildlife Service by letter to the Garrison dated June 3, 2009, concerning potential effects on the Indiana bat (*Myotis sodalis*);
- i) For projects that involve any proposed crossings in fish-bearing streams, a detailed description of how the proposed crossings would be installed in accordance with "Stream Crossing Methods" in Appendix A; or written justification of why a waiver of the recommended methods is appropriate; and
- j) A description of the design and construction methods utilized to avoid and minimize adverse effects to WOUS to the maximum extent practicable at the project site, and a proposed compensatory mitigation plan or justification indicating why compensatory mitigation should not be required. When the proposed mitigation involves the debiting of credits from the existing Fort Drum Wetlands Mitigation Bank, the Garrison will additionally provide documentation indicating that all of the required elements of a complete debit request, as outlined in Section 2.11 of the Fort Drum Wetland Mitigation Banking Instrument, have been forwarded to the Interagency Review Team.

21. **Case-by-case conditions:** The activity must comply with all of the applicable terms and conditions of this Regional General Permit, any project-specific special conditions that are added by the USACE, as well as any conditions required by the NYSDEC in its Section 401 Water Quality Certification.

G) GENERAL REQUIREMENTS:

1. **Other Permits:** Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
2. **Minimal Effects:** Projects authorized by this general permit shall have minimal individual and cumulative adverse environmental impacts as determined by the USACE.

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3. **Discretionary Authority:** Notwithstanding compliance with the terms and conditions of this permit, the USACE retains discretionary authority to require an application for an individual permit for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the USACE determines that the potential consequences of the proposed activity warrant individual review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project, that is not already covered by the remaining conditions of the Regional General Permit, that warrants greater review. Whenever the USACE notifies the Garrison that an individual permit may be required, authorization under this general permit is void, and no work may be conducted until the individual USACE permit is obtained, or the USACE notifies the Garrison that further review has demonstrated that the work may proceed under this general permit.
4. **National Lands:** Activities authorized by this general permit shall not impinge upon the value of any National Wildlife Refuge, National Forest, or any other area administered by the US Fish and Wildlife Service, US Forest Service, or National Park Service. This category includes existing mitigation and wetland mitigation banking sites.
5. **Federal Liability:** In issuing this permit, the USACE does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this general permit; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.
6. **Environmental Values:** The Garrison shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values and to discourage the establishment or spread of plant species identified

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as non-native invasive species by any Federal or state agency.

7. **Inspections:** The Garrison shall permit the USACE or authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The USACE may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.
8. **Property Rights:** This permit does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.
9. **Modification, Suspension, and Revocation:** This permit may either be modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; and any such action shall not be the basis for any claim for damages against the United States.
10. **Restoration:** The Garrison, upon receipt of a notice of revocation of authorization under this permit, shall restore the wetland or waterway to its former conditions, as directed by the USACE. If the Garrison fails to comply with such a directive, the USACE or its designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the Garrison.
11. **Special Conditions:** The USACE may impose special conditions on a project authorized pursuant to this Regional General Permit that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. These may be based on concerns from the NYSDEC or Federal resource agencies. Failure to comply with all conditions of this Regional General Permit, including any project-specific special conditions added by the USACE, will constitute a permit violation and may subject the Garrison to criminal, civil, or administrative penalties or restoration.
12. **False or Incomplete Information:** If the USACE makes a determination regarding the eligibility of a project under this permit, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the Garrison, the permit shall not be valid, and the US Government may institute appropriate legal proceedings.

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13. **Abandonment:** If the Garrison decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the USACE.
14. **Enforcement cases:** This general permit does not apply to any existing or proposed activity in the USACE jurisdiction associated with a USACE or EPA enforcement action, until such time as the enforcement action is resolved or the USACE determines that the activity may proceed independently without compromising the enforcement action.
15. **Previously Authorized Activities:** This Regional General Permit does not affect any prior determinations made by the USACE.

c.c.

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APPENDIX A
STREAM CROSSING METHODS

Stream Crossing Methods

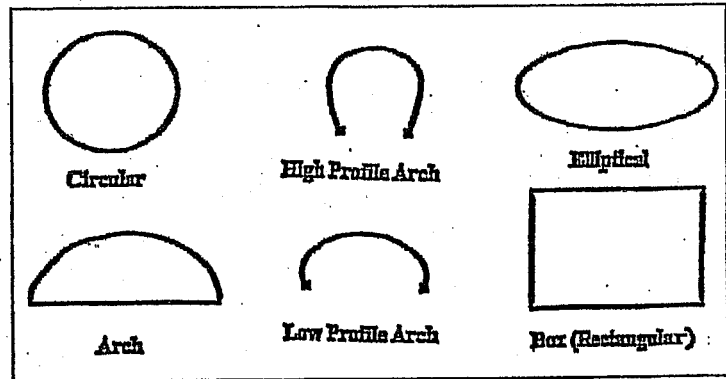
The following recommendations are to assist in designing, installing, and replacing stream crossing structures in small streams. Pre-installation stream conditions should be retained to the maximum extent possible.

Location:

The structure should be located within a stretch of watercourse where the channel is straight, unobstructed, well defined, and has a shallow slope (less than 3%, or 3-foot vertical rise in 100 feet of channel length). When selecting a crossing location, choose a straight, flat area where the streambed/bank characteristics can be easily retained or replicated and erosion potential can be minimized. Areas where wetlands exist along the stream should be avoided when possible.

Selecting the appropriate type of crossing:

In descending order of preference, bridges/open bottom box culverts are the preferred crossing method, followed by open-bottom culverts (an open-bottom culvert is typically an arch installed on concrete footings), box culverts (typically pre-cast concrete), arch or elliptical/squash culverts (metal, concrete, or plastic), then circular culverts (metal, concrete, or plastic).



Culvert length and side slopes:

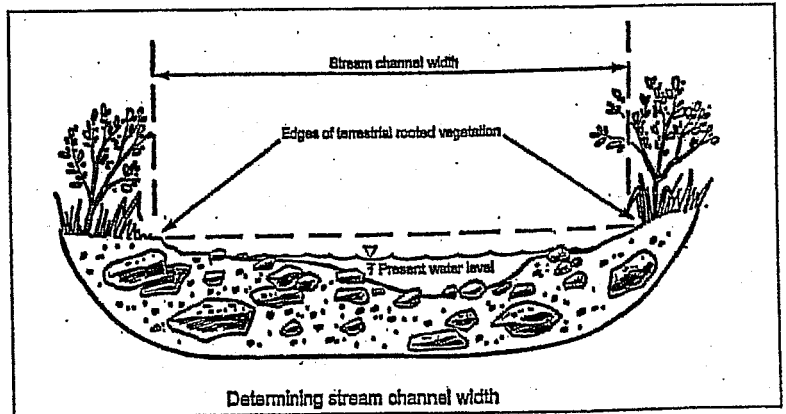
Road and shoulder widths should be the minimum necessary for the crossing and side slopes should be as steep as possible without compromising stability to minimize the length of the culvert. Note: A side slope grade of 2:1 is typically the steepest grade that can be vegetated.

Capacity/Size:

The width of the structure should be equal to the normal width of the streambed. The overall culvert capacity should be able to accommodate expected high flows.

Installation:

All instream work should be coordinated with your regional DEC office. In general, instream work should occur during low flow conditions, typically between June and September, to minimize impacts to fisheries and water quality.

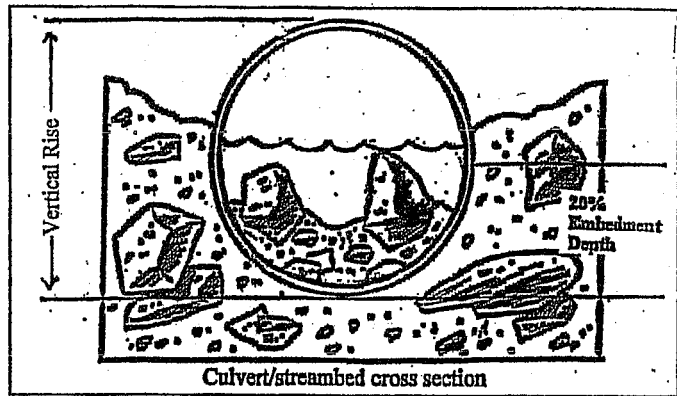


Culvert installation should take place "in the dry", to facilitate construction and reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams. The duration of dewatering should be kept to a minimum.

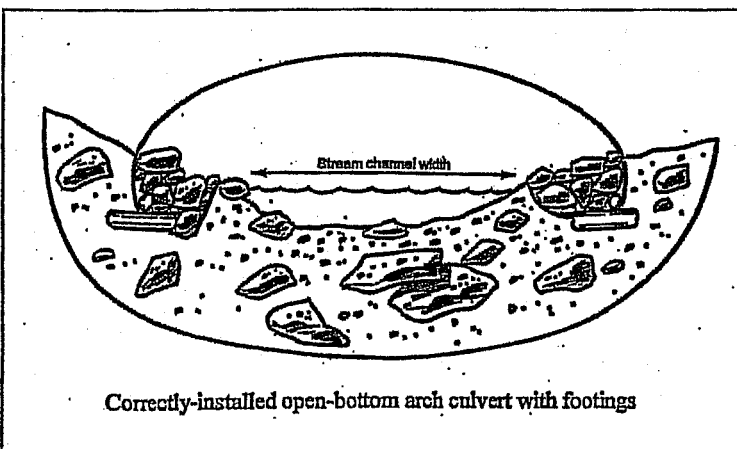
- The culvert should be installed to match the grade of the existing streambed with at least 20% of the vertical rise of the entire culvert embedded below streambed.

Erosion Control:

- If necessary, flared ends and/or riprap should be used to prevent scouring around the inlet and outlet of the culvert. High flows can erode the soil surrounding the inlet and the soil underneath the outlet of a culvert. Both instances can cause culvert undermining and can adversely affect the structural integrity of the road crossing.



- Appropriate erosion and sediment controls, including silt fencing and/or hay bales, should be installed to prevent downstream impacts and should be depicted on project plans.
- Disturbance of the streambed and banks should be limited to that necessary to place the culvert. Affected bank and bed areas should be restored to pre-project conditions following installation of the culvert and the banks should be planted with native vegetation, consistent with that which existed prior to the culvert installation. Seeded banks should be covered with mulch to accelerate plant growth.



Maintenance:

- It is recommended that stream crossing structures are maintained at least once annually, preferably before high spring flows. Typical maintenance includes checking for structural deficiencies such as undermining and debris buildup.

For further information:

Please note that these activities typically require permits from various local, state and federal agencies. For information regarding potential permit requirements, you should contact the Albany Field Office of the U.S. Army Corps of Engineers, New York District, your regional office of the New York State Department of Environmental Conservation (DEC), and local municipality. For projects within the Adirondack Park please contact the Adirondack Park Agency (APA) as well as the DEC.

USACE Albany Field Office (518) 270-0588 266-6350
 DEC Region 4-Schenectady (518) 357-2069
 DEC Region 4-Stamford Field Office (607) 652-7741
 DEC Region 5 (518) 897-1234
 Adirondack Park Agency (518) 891-4050

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APPENDIX B

PRELIMINARY USACE JURISDICTION DETERMINATION [JD]FORM

cc

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State: County/parish/borough: City:

Center coordinates of site (lat/long in degree decimal format): Lat. °

Pick List, Long. ° Pick List.

Universal Transverse Mercator:

Name of nearest waterbody:

Identify (estimate) amount of waters in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.

Cowardin Class:

Stream Flow:

Wetlands: acres.

Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:

Non-Tidal:

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date:

Field Determination. Date(s):

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply

- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name:
- USDA Natural Resources Conservation Service Soil Survey. Citation:

- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of
Regulatory Project Manager
(REQUIRED)

Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1				0.1 acre	section 10 – tidal
2				100 linear feet	section 10 – non-tidal
3				15 square feet	non-section 10 – wetland
4				0.01 acre	non-section 10 – non-wetland

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APPENDIX C

JURISDICTION DETERMINATION [JD] CHECKLIST

CHECKLIST OF INFORMATION INCLUDED WITH REQUESTS FOR JURISDICTIONAL DETERMINATIONS (JD)*

1. Names (including POC if a corporation or other entity), complete mailing addresses and phone numbers of the following:
 - CURRENT PROPERTY OWNER (include a letter granting ACOE access to review the parcel)
 - APPLICANT (Project Sponsor)
 - WETLAND DELINEATOR (Consultant)

2. 8 ½-inch x 11-inch Size Location Map (preferably a copy of the USGS Quad or DEC Wetlands Map with site identified on it), coordinates of the approximate center point of site AND of each potentially jurisdictional waters of the U.S. feature on the site (either Latitude/Longitude or UTM Grid Coordinate), showing the stream orders of all streams in the vicinity of the site AND the location of each stream reach associated with the project review area. Please provide the coordinates of the start and end points of these reaches, and identify them as traditionally navigable waters [TNWs], non-navigable perennial relatively permanent waters [perennial RPWs], non-navigable seasonal relatively permanent waters [seasonal RPWs], or non-navigable tributaries that do not typically flow year-round or have continuous flow at least seasonally [non-RPWs]

3. Cover letter describing the purpose of the request, a general description of the proposed project, the size (acres) of the parcel, and the size of the limits of the project site or review area (if smaller than the parcel)**

4. Delineation report, including the following supporting information:
 - Description of any current and/or historic land uses on the site
 - DEC Wetlands Maps, NWI Maps, Soil Survey Maps
 - Watershed size, drainage area size (for each stream reach), average annual rainfall/snowfall
 - Discussion of whether tributaries (streams) on the site are TNWs, perennial RPWs, seasonal RPWs, or non-RPWs. Include a description of general flow patterns, volume and frequency ***
 - Description of whether each wetland on the site either abuts or is adjacent to a tributary, identify which tributary (e.g. Wetland A directly abuts an unnamed tributary to Kayaderosseras Creek), and provide a discussion of the justification for this determination
 - Description of tributary connections to a TNW for each aquatic resource on the site, including a discussion of wetland and/or other connections (e.g. Wetland B connects to Wetland A via a culvert under Elm St. Wetland B abuts an unnamed tributary to Kayaderosseras Creek, which is a TNW)
 - River miles to a TNW; aerial (straight) miles to a TNW
 - Description of tributary substrate composition (e.g. silts, sands, gravel, etc.)
 - Identify potential pollutants
 - Identify potential habitat for species
 - Justification for proposed "isolated" (SWANCC) or non-jurisdictional determinations on any wetlands or streams
 - Description of vegetative cover types on the site
 - Wetland Delineation Forms for each cover type
 - Color photographs of all representative areas of the site (taken during the growing season), including any connections between tributaries or between tributaries and wetlands

5. Surveyed delineation drawing, including the following:
 - Title block, including drawing date, scale, revision dates, north arrow, existing topographic contours (if available), benchmarks, and the stamp of a licensed surveyor or a narrative describing how the GPS data were obtained
 - Boundary lines of the parcel, AND of the project site, clearly marked with the acres shown on the drawing
 - Delineation flags shown as points that are connected by straight lines (or extend off-site at parcel boundaries), and are identified on the drawing with the corresponding number and/or letter that is written on the flag *****
 - Appropriate hatching and/or shading to identify the extent of waters of the US, including jurisdictional wetlands, and any "isolated" or non-jurisdictional waterbodies or wetlands
 - All defined tributaries on the site, identified either via flagging or a standard tributary symbol that is in the legend, and locations of any other connections between waters (e.g. culverts, ditches and/or swales)
 - Table outlining the acres of the waters of the US, and "isolated" or non-jurisdictional waters, in addition to the linear feet of all tributaries within the boundaries of the project site or parcel

* A JD is a determination of the extent of jurisdictional waterbodies and/or wetlands within the boundaries of a parcel of land *or a project site*

** A project site is the limits of all lands expected to be disturbed for a single and complete project, or the initial phases of a phased project such as a subdivision

*** For seasonal RPWs, non-RPWs and wetlands adjacent to RPWs and non-RPWs that require a significant nexus determination, please also provide information regarding whether the stream and/or wetland has more than an insubstantial or speculative effect on the chemical, physical and/or biological integrity of TNWs, such as a functional assessment of the aquatic resource functions that the stream and its adjacent wetlands provides

**** Delineation flags may need to be replaced on a site prior to scheduling a site inspection with the ACOE

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APPENDIX D

Data Required for USACE Review of Jurisdictional Determinations

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Data Required for USACE Review of Jurisdictional Determinations

Required Sections for All JDs

SECTION I. PROJECT LOCATION AND BACKGROUND INFORMATION

State, County, Center Coordinates (Lat/Long)

Name of nearest waterbody

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows

Name of watershed or Hydrologic Unit Code (HUC)

SECTION IV: DATA SOURCES

Maps-Delineation, USGS, NWI, FEMA

Data Sheets

Corps Navigable Waters Study

Photographs

Case Law

Scientific Literature

Etc.

Required Sections for TNWs

SECTION III: CWA ANALYSIS

Identify TNW

Summarize rationale supporting determination

Identify wetlands adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent"

Provide size estimates in review area

Required Sections for Perennial RPWs and Abutting Wetlands

SECTION III.D. DETERMINATIONS OF JURISDICTIONAL FINDINGS

Provide data and rationale indicating that tributary is perennial

Provide rationale indicating that wetland is directly abutting an RPW

Provide size estimates for jurisdictional waters in the review area

Required Sections for Seasonal RPWs and Non-RPWs

SECTION III.B.1. CHARACTERISTICS OF NON-TNWS THAT FLOW DIRECTLY OR INDIRECTLY INTO TNW

General Area Conditions:

- Watershed Size
- Drainage Area
- Average Annual Rainfall and Snowfall

SECTION III.B.1. Physical Characteristics

Tributary flow route to TNW

River and Aerial Miles to TNW/RPW

Stream Order

Tributary Properties

- Natural, Artificial, or Manipulated
- Width, Depth, Side Slopes
- Substrate Composition
- Bank Stability
- Riffle/Pool Complexes
- Tributary Geometry
- Tributary Gradient

Flow regime: # of Events/Year; Information on Duration and Volume; Discrete and/or Continuous Flow

Presence and Characteristics of Bed and Bank/OHWM or MHW

III.B.1. Chemical Characteristics

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.)

Identify specific pollutants, if known

III.B.1. Biological Characteristics

Riparian Corridor Characteristics

Wetland Fringe Characteristics

Potential Habitat for Species

Required Sections for Wetlands Adjacent to RPWs and Non-RPWs

III.B.2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

General Watershed Characteristics

Wetland Size, Type, Quality

General Flow Relationship

Flow Regime, Information on Duration and Volume; Discrete and/or Continuous Flow

Wetland Adjacency Determination

Abutting, Adjacent, Hydrologic Connection

Wetland Proximity to TNW

III.B.2. Chemical and Biological Characteristics

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.)

Identify specific pollutants, if known

Riparian Buffer

Vegetation Type/Percent Cover

Habitat for Species

Summarize overall biological, chemical and physical functions being performed

III.D. Wetlands adjacent to but not directly abutting, and wetlands directly abutting, an RPW that flow directly or indirectly into TNWs

Provide rationale indicating that wetland is adjacent to but not directly abutting, or is directly abutting an RPW

Provide acreage estimates for jurisdictional wetlands in the review area

III.C. SIGNIFICANT NEXUS DETERMINATION

QUESTIONS

Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?

Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?

Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?

Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Please provide rationale as to why you believe that the resource's (the tributary in combination with its adjacent wetlands) effects on water quality and other aquatic resource functions in the TNW, are more than speculative or insubstantial

Functional Assessment

Please provide this rationale for the resources within the review area, which in combination with the cumulative analysis in Section III.B.3 above, should be used to address the significant nexus questions listed above. Also, provide a description of the method used to assess the aquatic resource functions of these resources.

Required Sections for Isolated Waters

SECTION II.B.2. Non-regulated waters/wetlands

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional

SECTION III.F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

Rationale as to why non-jurisdictional

Failed to meet 1987 Corps Delineation Manual

No substantial nexus to interstate (or foreign) commerce

Prior to SWANCC the area would have been regulated solely on the 'Migratory Bird Rule'

Waters do not meet SN standards

Provide acreage estimates

III.E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:

Which are or could be used by interstate or foreign travelers for recreational or other purposes

From which fish or shellfish are or could be taken and sold in interstate or foreign commerce

Which are or could be used for industrial purposes by industries in interstate commerce

Interstate isolated waters

Other factors

Identify water body and summarize rationale supporting determination

Provide size estimates

SUBJECT: ATTACHMENT TO REGIONAL GENERAL PERMIT NUMBER NYDGP-20

APPENDIX E

Public Notice Announcing the Compensatory Mitigation Guidelines and Mitigation Checklist For Review of Mitigation Plans For the U.S. Army USACE of Engineers, New York District

Available on the New York District website at:

<http://www.nan.usace.army.mil/business/buslinks/regulat/pnotices/mitfinal.pdf>