

Nationwide Permit (14) Linear Transportation Projects
(Effective Date: 3/19/2017 and Expiration Date: 3/18/2022)

Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See General Condition 32.)

(Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of General Condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see General Condition 23).

REGIONAL CONDITIONS:

Applicable Regional Conditions and Water Quality Certification and/or Coastal Zone Consistency Certification Special Conditions are attached in "JACKSONVILLE DISTRICT 2017 NATIONWIDE PERMITS Summary of Applicability, Limits, State and Tribal Certifications, and Regional Conditions" dated March 14, 2017 (ENCLOSURE 1) and/or available at: http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/permitting/nationwide_permit/20170316-NWP-Regional-Conditions.pdf?ver=2017-03-17-084001-273.

GENERAL CONDITIONS:

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

1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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

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

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

6. *Suitable Material*. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
7. *Water Supply Intakes*. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects from Impoundments*. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows*. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g. stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains*. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment*. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls*. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.
13. *Removal of Temporary Fills*. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance*. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
15. *Single and Complete Project*. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
16. *Wild and Scenic Rivers*.
 - (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
 - (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
- (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>
17. *Tribal Rights*. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.
18. *Endangered Species*.
 - (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.
 - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If preconstruction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
 - (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
 - (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species specific permit conditions to the NWPs.
 - (e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take"

means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

- (f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.
- (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their worldwide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.
19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
20. *Historic Properties.*
- (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
- (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.
- (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate

identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

- (d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
- (e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.
21. *Discovery of Previously Unknown Remains and Artifacts.* If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
22. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.
- (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

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

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

- (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.*, on site).
- (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
- (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.
- (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).
- (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.*, conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.*, riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
- (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.
 - (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.
 - (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal

individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

- (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.
 - (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
 - (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.
 - (6) Compensatory mitigation requirements (*e.g.*, resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).
 - (g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.
 - (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
 - (i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.
24. *Safety of Impoundment Structures.* To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
25. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
27. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
28. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
29. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:
- When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.*
- _____
(Transferee)
- _____
(Date)
30. *Compliance Certification.* Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:
- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
 - (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
 - (c) The signature of the permittee certifying the completion of the activity and mitigation.
- The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.
31. *Activities Affecting Structures or Works Built by the United States.* If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or

temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a preconstruction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. *Pre-Construction Notification.*

- (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:
- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
 - (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).
- (b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:
- (1) Name, address and telephone numbers of the prospective permittee;
 - (2) Location of the proposed activity;
 - (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
 - (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army

authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has Corps, as appropriate;
 - (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
 - (7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
 - (8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;
 - (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and
 - (10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.
- (c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and

supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.
- (2) Agency coordination is required for:
 - (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States;
 - (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed;
 - (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and
 - (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.
- (3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the reconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

DISTRICT ENGINEER'S DECISION

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than

minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.
3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.
4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either:

- (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (b) That the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or
- (c) That the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

Type of Nationwide Permit	Applicable Waters	Acres & Linear Limits	PCN Threshold and/or Requirements	Coordination by Corps with Federal and state agencies required	WQC FL	CZM FL	WQC PR	CZM PR	CZM PR	WQC VI	CZM VI	WQC STF	WQC MTIF	GENERAL CONDITIONS Permittee must satisfy all applicable general conditions. General Condition #22 restrictions are noted below.	Regional Conditions and Water Quality Certification and/or Coastal Zone Consistency Certification Special Conditions NOTE: U.S. Army Corps of Engineers (Corps) Regional Conditions are Jacksonville District conditions and have (COE) beside the condition. All others are special conditions attached to Water Quality Certification or concurrence to the Corps' Coastal Zone Consistency. A Nationwide permit cannot be used in an exclusion area designated by the Corps (COE). Exclusion areas attached to WQC/CZM are denied without prejudice until a project-specific WQC and /or CZM concurrence is received. Where technical notes, guidelines, etc. are referenced in the regional conditions below, these documents may be subject to revision at any time. It is our intention that the most recent version of these conditions shall be utilized during the evaluation of the permit application.
All Nationwide Permits	All	N/A	Regional Condition #2	Regional condition #2	NA	NA	NA	NA	NA	NA	NA	NA	NA	#16 Wild and Scenic Rivers	1. The USFWS Information for Planning and Conservation (IPaC) online database (https://ecos.fws.gov/ipac/), should be used in order to identify USFWS trust resources (i.e., migratory birds, species proposed or listed under the ESA, inter-jurisdiction fishes, specific marine mammals, and National Wildlife Refuge lands). IPaC can be used to determine potential impacts to USFWS resources. Impacts to USFWS resources protected under the ESA may require consultation. (USFWS) 2. PCN required for any activities that occur within or adjacent to the river segments identified in the National Rivers Inventory: https://www.nps.gov/ncrc/programs/rtca/nri/index.html. In accordance with the Presidential Directive, dated August 2, 1979, activities must be designed and constructed to avoid and mitigate adverse effects to these segments and in some situations require consultation with the National Park Service. (COE) 3. In addition to GC#20 (Historic Properties), in Florida, if a PCN is not required (or not voluntarily submitted), the prospective Permittee (entity who proposes to perform work to be authorized by the NWP) shall contact the Florida Master Site File (FMSF) to conduct an historic properties search. The applicant shall provide the FMSF with the project area and Section/Township/Range information to sitefile@dos.myflorida.com or contact the FMSF office at (850) 245-6440. If the FMSF includes any historic property within 50 meters of the project area that is listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, the prospective Permittee shall submit a PCN to the Corps, including the information exchanged with the FMSF office, for further review and consultation. Submittal of a PCN is not required where the FMSF report for the property (or all properties if more than one) shows the SHPO Evaluation ('SHPO Eval' column) to be "Not Eligible" and also shows the property(ies) is/are not listed or proposed for listing on the National Register of Historic Places ('NR Status' column). However, in accordance with GC#20, a PCN is required if the prospective permittee has knowledge of a historic property that is listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties (SHPO) 4. In addition to GC#21 (Discovery of Previously Unknown Remains and Artifacts), in Florida, if prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface or ground disturbance within a 100 meter diameter of the discovery. The Permittee (the entity performing work authorized by the NWP) shall contact the United State Army Corps of Engineers within the same business day (8 hours). The Corps will contact the Florida Department of State, Division of Historical Resources Compliance Review Section (SHPO) at (850)-245-6333

Type of Nationwide Permit	Applicable Waters	Acres & Linear Limits	PCN Threshold and/or Requirements:	Coordination by Corps with Federal and state agencies required	WQC FL	CZM FL	WQC PR	CZM PR	WQC VI	CZM VI	WQC STF	WQC MTIF	GENERAL CONDITIONS Permittee must satisfy all applicable general conditions. General Condition #22 restrictions are noted below.	Regional Conditions and Water Quality Certification and/or Coastal Zone Consistency Certification Special Conditions
														NOTE: U.S. Army Corps of Engineers (Corps) Regional Conditions are Jacksonville District conditions and have (COE) beside the condition. All others are special conditions attached to Water Quality Certification or concurrence to the Corps' Coastal Zone Consistency. A Nationwide permit cannot be used in an exclusion area designated by the Corps (COE). Exclusion areas attached to WQC/CZM are denied without prejudice until a project-specific WQC and /or CZM concurrence is received. Where technical notes, guidelines, etc. are referenced in the regional conditions below, these documents may be subject to revision at any time. It is our intention that the most recent version of these conditions shall be utilized during the evaluation of the permit application. and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions. In addition, in the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the Permittee shall notify the medical examiner, in accordance with Section 872.05, Florida Statutes, as well as the Corps and SHPO. On federal or tribal lands, or situations where the Archaeological Resources Protection Act of 1979 or Native American Graves Protection Repatriation Act of 1990 applies, the Permittee shall notify the Corps who will notify the SHPO and THPO(s). Once activities have ceased for any of the situations identified in this Regional Condition, they shall not resume without written authorization from the Corps. (SHPO)
1. Aids to Navigation (10)	Navigable	NA	Regional Condition #6, #7, #9, #12	No	NA	Yes ⁶	NA	Yes				NA		1. Activities qualifying for this NWP must receive applicable Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) consistency concurrence (CZCC) or waiver/exemption from the appropriate delegated authority. WQC may be waived for certain activities in accordance with Agency statutes. In Florida, under 33 C.F.R. § 325.2(b)(2), the Corps may presume CZCC concurrence for the exempted activities by operation of s. 380.23(7), F.S., and the rules of the F.A.C. adopted thereunder. (WQC/CZM-FL) 2. In Florida, prior to installation of aids to navigation and other water dependent informational signs, the permittee must have the appropriate authorization required from the U.S. Coast Guard and the Florida Fish and Wildlife Conservation Commission. (CZM-FL) 3. Aids to navigation may not be located on Tribal lands or in Tribal waters without prior written approval from the Seminole Tribe of Florida or the Miccosukee Tribe. (WQC-STF, MTIF) 4. Excluded from all navigable waters within the boundaries of the Florida Keys National Marine Sanctuary, except when the individual project is approved by the Sanctuary. (COE) 5. Excluded within the boundaries of Designated Marine Reserves, Marine Protected Areas ⁸, or Parks in the Antilles, ⁴ except when used within those areas by the local or federal agency responsible for the management of those areas. (COE) 6. PCN required for projects in waters that are accessible to manatees. In Florida, the permittee shall utilize the following "Standard Manatee Conditions for In-Water Work": (http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Manatee/2011_StandardConditionsForIn-waterWork.pdf). In Puerto Rico, the permittee shall use the following "Antillean Manatee Conservation Measures for In-Water Work": (https://www.fws.gov/caribbean/es/documents/USFWSAntilleanManateeConservationMeasuresJanuary2012.pdf). (COE)

Type of Nationwide Permit	Applicable Waters	Acres & Linear Limits	PCN Threshold and/or Requirements:	Coordination by Corps with Federal and state agencies required	WQC FL	CZM FL	WQC PR	CZM PR	CZM PR	WQC VI	CZM VI	WQC STF	WQC MTIF	GENERAL CONDITIONS Permittee must satisfy all applicable general conditions. General Condition #22 restrictions are noted below.	Regional Conditions and Water Quality Certification and/or Coastal Zone Consistency Certification Special Conditions
															NOTE: U.S. Army Corps of Engineers (Corps) Regional Conditions are Jacksonville District conditions and have (COE) beside the condition. All others are special conditions attached to Water Quality Certification or concurrence to the Corps' Coastal Zone Consistency. A Nationwide permit cannot be used in an exclusion area designated by the Corps (COE). Exclusion areas attached to WQC/CZM are denied without prejudice until a project-specific WQC and /or CZM concurrence is received. Where technical notes, guidelines, etc. are referenced in the regional conditions below, these documents may be subject to revision at any time. It is our intention that the most recent version of these conditions shall be utilized during the evaluation of the permit application. 10. PCN required for projects in waters accessible to manatees. In Florida, the permittee shall utilize the following "Standard Manatee Conditions for In-Water Work:" (http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Manatee/2011_StandardConditionsForIn-waterWork.pdf). In Puerto Rico, the permittee shall use the following "Antillean Manatee Conservation Measures for In-Water Work:" (https://www.fws.gov/caribbean/es/documents/USFWSAntilleanManateeConservationMeasuresJanuary2012.pdf). (COE) 11. PCN required for projects in WOTUS accessible to sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose sturgeon. The permittee shall utilize the "Sea Turtle and Smalltooth Sawfish Construction Conditions" (see http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/sea_turtles/inwaterWorkSeaTurtle032306.pdf) as appropriate for the proposed activity as appropriate for the proposed activity. (COE)
14. Linear Transportation Projects (10/404)	Non-tidal waters _____ Tidal Waters	1/2 acre _____ 1/3 acre	1/10 acre; or Discharges into special aquatic sites; Regional Conditions #3, #6, #7,	When required by GC#32(d) (2)	Yes ⁶	Yes ⁶	Yes ¹²	Yes					Yes	22. Discharges not authorized in Designated Critical Resource Waters ³ and/or their adjacent wetlands.	1. Activities qualifying for this NWP must receive applicable Water Quality Certification (WQC) and Coastal Zone Management Act (CZM) consistency concurrence (CZCC) or waiver/exemption from the appropriate delegated authority. WQC may be waived for certain activities in accordance with Agency statutes. In Florida, under 33 C.F.R. § 325.2(b)(2), the Corps may presume CZCC concurrence for the exempted activities by operation of s. 380.23(7), F.S. and the rules of the F.A.C. adopted thereunder. (WQC/CZM-FL) 2. In the Antilles, ⁴ this NWP is excluded from use in forested wetlands, submerged aquatic vegetation, ⁷ coral assemblages, ⁵ and/or tidal wetlands. (COE)

			#8, #9, #10, #11													3. PCN required for all projects in the Antilles⁴ and shall be made through the Joint Permit Process using the most recent and valid DA Permit Application ENG FORM 4345 and the form must indicate it is a NWP Pre-Construction Notification. (COE) 4. Excluded from use in the Belle Meade South area bounded by I-75 to the north, CR 951 to the west, Miller Canal to the east, and U.S. 41 to the south in Collier County, FL. (COE) 5. Excluded from use in Golden Gate Estates, south of Alligator Alley in Collier County. This NWP may apply up to the 0.5 acre limit within Golden Gate Estates north of Alligator Alley. (COE) 6. PCN required for projects in WOTUS accessible to the Florida panther. This NWP does not authorize impacts which may result in adverse effects to the Florida panther or designated CH unless consultation with USFWS has been concluded with a determination of no jeopardy and/or no adverse modification to critical habitat. (COE) 7. PCN required for projects in waters that are accessible to manatees. In Florida, the permittee shall utilize the following "Standard Manatee Conditions for In-Water Work:" (http://www.sai.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Manatee/2011_StandardConditionsForIn-waterWork.pdf). In Puerto Rico, the permittee shall use the following "Antillean Manatee Conservation Measures for In-Water Work:" (https://www.fws.gov/caribbean/es/documents/USFWSAntilleanManateeConservationMeasuresJanuary2012.pdf). (COE) 8. PCN required for projects in waters accessible to sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose sturgeon. If any of these species occurs, the permittee shall utilize the following "Sea Turtle and Smalltooth Sawfish Construction Conditions" (see http://www.sai.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/sea_turtles/inwaterWorkSeaTurtle032306.pdf). (COE) 9. PCN required for projects proposed within critical habitat for the smalltooth sawfish (COE) 10. PCN required for projects in the following rivers, creeks, and their tributaries: Escambia River, Yellow River, Shoal River, Choctawhatchee River, Chipola River, Apalachicola River, Ochlockonee River, Santa Fe River, New River (Bradford and Union County line), and Econfina Creek. (COE) 11. PCN required for all projects in the Florida Keys through the Joint Permit Process, or the most recent and valid ENG FORM 4345. <u>Projects require approval from NOAA Florida Keys National Marine Sanctuary prior to construction. This NWP cannot be used authorize projects involving discharges of dredged or fill material within, or directly affecting, the NOAA Florida Keys National Marine Sanctuary (FKNMS), including wetlands adjacent to same per General Condition #22 (GC #22). Projects other than those precluded by GC #22 and that are within the FKNMS require approval from NOAA FKNMS prior to verification.</u> (COE) 12. For projects in the Antilles,⁴ if bottomless culverts or single-span bridges are not feasible, culvert construction must comply with the 'Culvert Design and Construction Guidance, Antilles'⁴ (http://www.sai.usace.army.mil/Portals/44/docs/regulatory/sourcebook/other_permitting_factors/2017%20Antilles%20Culvert%20Construction%20Conditions.pdf?ver=2017-01-23-143059-963)
15. U.S. Coast Guard Approved Bridges (404)	All	None	Regional Conditions #3, #4; #5,	No	Yes ^a	Yes ^a	Denied	Yes						Yes	22. Activities in Designated Critical Resource	1. Activities qualifying for this NWP must receive applicable Water Quality Certification (WQC) and Coastal Zone Management Act (CZM) consistency concurrence (CZCC) or waiver/exemption from the appropriate delegated authority. WQC may be waived for certain activities in accordance with Agency statutes. In Florida, under 33 C.F.R. §

♦ Indicates a special condition requiring State of Florida individual review language in verification letter.

1. Puerto Rico: Culebra Island; the coastal zone of La Parguera from Punta Jorobado for a distance of approximately twenty kilometers west to Cabo Rojo; Cartagena Lagoon; Tortuguero Lagoons; Mona Island; Forest Reserve Area at Piñones and Torrecilla; Las Cabezas; El Yunque; Jobos Bay; Mar Negro; Río Mameyes; Las Cucharillas Marsh; Caño Tiburones; Río Herrera/Miñi-Miñi/Mediania area; entire Municipality of Cabo Rojo; Caño Boquillas west of PR-2; Cayures Marsh in Aguada and its contiguous wetlands; the basin wetlands of Bajuras at Isabela, Camuy, and Carrizales in Arecibo; Prieta wetlands at Vega Alta; San Pedro wetlands in Dorado and Toa Alta; Cienaga Baja in Río Grande; wetlands associated with Herrera and Espíritu Santo Rivers; coastal wetlands of Santa Isabel; and all Commonwealth designated Natural Reserve areas. Also, areas along Martín Peña Channel and associated wetlands; Pinones State Forest wetlands; Torecilla Alta Pterocarpus Forest - Loiza; El Faro (Cabezas de San Juan) - Fajardo; wetlands in the Guanica State Forest; Humacao Swamp and Pterocarpus Forest; Caja de Muertos - Ponce, Jobos Bay - Salinas, Mar Negro - Salinas, Boqueron State Forest - Cabo Rojo; Dorado Pterocarpus Forest; Vieques Bioluminescent Bay; Laguna Tortugero; Caño Tiburones; Espinar Swamp (Aguada-Aguadilla); Laguna Joyuda mangroves - Cabo Rojo; Pandura and Guardarraya Special Planning Area; and Ceiba State Forest.

2. U.S. Virgin Islands: St. Croix Annally, Green Cay, Isaac Bay, Cramer's Park and East Point, Sandy Point, Salt River, Teague Bay Reef, Vagthus Point, Altonna Lagoon; St. John -- All Cays, Lagoon Point Newfound Bay, Chocolate Hole, Fish Bay; and St. Thomas -- Botany Bay and Sandy Bay, Coki Cliffs, Mangrove Lagoon (in its entirety), Bovoni wetland area; All cays, Cane Bay, Magens Bay, Mandahl Bay, Neltjeberg Bay and Stumpy Bay.

3. In accordance with General Condition No. 22, Designated Critical Resource Waters in Florida are:

- (a) Wetlands and other surface waters in National Estuarine Research Reserves, NOAA-managed National Marine Sanctuaries and marine monuments, and state designated Outstanding National Resource Waters: Biscayne National Park; Everglades National Park.
- (b) State natural heritage sites, and the Marjorie Harris Carr Cross Florida Greenway State Recreation and Conservation Area.
- (c) Wetlands and other surface waters in the Florida Keys, except where explicitly allowed by regional condition for a specific NWP.
- (d) Wetlands and other surface waters in active designated State of Florida Areas of Critical State Concern, including the Green Swamp, and the Big Cypress Swamp, and surface waters of the state (as defined in rule 62-312.030, F.A.C.) in the City of Apalachicola.

4. Antilles: For purposes of these regional conditions, the term "Antilles" means the provision is applicable within the geographic extents of both the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands.

5. The term "coral assemblage" includes coral reefs and hard bottom communities, which host species of the genus *Acropora* as well as other hard and soft coral communities.

6. The term "live/hard-bottom communities" includes any area that contains varying biological assemblages of algal species and/or invertebrates such as corals (stony, soft or black corals), hydroids, gorgonians, teleostaceans, anemones, zoanthids, corallimorphs, worms, bryozoans, tunicates or sponges, living upon and attached to naturally occurring permanent or ephemeral hard or rocky formations with rough, broken or smooth topography and of variable vertical relief. This would include both natural reefs (e.g., coral reefs, oyster reefs, and worm reefs), and artificial reefs.

7. The term "submerged aquatic vegetation" means the occurrence of one or more species of seagrass, including, but not limited to the following: turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), shoal grass (*Halodule wrightii*), and dwarf seagrass (*Halophila* spp).

8. Marine Protected Area: In accordance with Executive Order 13158 (May 26, 2000), a Marine Protected Area is defined as "any area of the marine environment that has been reserved by Federal, State, territorial, Tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein".

9. Use of gabions for flood control, river channelization or bank stabilization shall not provide a permanent or long term solution (DNER 2009, Guía Para el Manejo de Ríos en Puerto Rico). Gabions are subject to mesh failure, scour or undercutting, collapse and hydraulic impacts of the water itself. The use of gabions or reno mattress should not be used in coastal areas, or large river systems. The removal of accumulated sediments and debris from bridges is limited to 50 feet upstream and downstream of the bridge. Heavy equipment shall work from existing upland areas (ie bridges, upland banks) whenever possible. If heavy equipment must work in channel, the removal of riparian vegetation is limited to the access and egress point. The elimination of riverine features such as point bars and pools is not part of this NWP. Post construction, all temporary fords or crossings shall be removed; banks and channel shall be returned to pre-existing contours and depths. The stream banks shall be fully stabilized using stream bank restoration treatments.

10. Optimal window for benthic survey of submerged aquatic vegetation is during the period June 1 through September 30. Please access our Source Book for additional guidance and information on benthic survey protocol.

11. More information on Living Shorelines can be obtained from the following website: http://www.dep.state.fl.us/northwest/ecosys/section/living_shorelines.htm. This website link is provided for information only and does not imply support for, or opposition to, living shorelines.

12. "We wish to point out that the coverage of the GWQC or the issuance of an individual WQC is subject to the compliance of the activity with Article 4(B)(3) of Law No. 416 of September 22, 2004 (Puerto Rico Environmental Public Policy Act), regarding the submission of an Environmental Impact Statement or Environmental Assessment in order to provide to any interested party all the pertinent information and discussion of the possible impacts of the project on the environment." (Gobierno de Puerto Rico Junta de Calidad Ambiental letter dated March 3, 2017)

Acronyms Used in this list of Regional Conditions:

COE: U.S. Army Corps of Engineers
CZM: Consistency with the State's Coastal Zone Management Plan
DEP: Florida Department of Environmental Protection
EEZ: Exclusive Economic Zone
FL: Florida
FKNMS: Florida Keys National Marine Sanctuary
FWC: Florida Fish and Wildlife Conservation Commission
FWS: U.S. Fish and Wildlife Service
MTIF: Miccosukee Tribe of Indians of Florida
NA: Not Applicable
NAJ: Not applicable in the Jacksonville District
NMFS: National Marine Fisheries Service
NPS: National Park Service
NOAA: National Oceanic and Atmospheric Administration
PCN: Pre-construction notification
PR: Commonwealth of Puerto Rico
SAV: submerged aquatic vegetation
SHPO: State Historic Preservation Office
STF: Seminole Tribe of Florida
USVI: Territory of the U.S. Virgin Islands
WMD: Water Management District
WOTUS: Waters of the United States
WQC: Water Quality Certification conferred by the State