SUPPLEMENTAL DOCUMENT
FOR NATIONWIDE PERMIT 58

This document is a supplement to the national decision document for Nationwide Permit (NWP) 58 prepared under 33 CFR § 330.5(c)(1)(iii) and addresses the regional modifications, conditions, or revocations of this NWP that may result through assertion of discretionary authority in the Norfolk District. In the Commonwealth of Virginia, the Norfolk District is the lead district for most of Virginia; however, the Baltimore District implements the NWP program in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility and the Nashville District implements the NWP program in South Holston Lake within Nashville District's Area of Responsibility. The North Atlantic Division Engineer has considered the potential individual and cumulative adverse environmental effects that could result from the use of this NWP in Norfolk District, including the need for additional modifications of this NWP by imposing regional conditions to ensure that those individual and cumulative adverse environmental effects are no more than minimal. The Division Engineer has also considered the exclusion of this NWP from certain geographic areas or specific waterbodies. These regional conditions are necessary to address important regional issues relating to jurisdictional waters and wetlands. These regional issues are identified in this document. These regional conditions are being required to ensure that this NWP authorizes activities that result in no more than minimal individual and cumulative adverse environmental effects. This document also identifies regionally important high-value waters and other geographic areas in which this NWP should have regional conditions or be excluded from NWP eligibility, as described below, to further ensure that the NWP does not authorize activities that have more than minimal individual and cumulative adverse environmental effects.

1.0 Background

In the June 18, 2025, issue of the Federal Register (90 FR 26100), the U.S. Army Corps of Engineers (Corps) published its proposal to reissue 56 existing NWPs, to issue one new NWP, and not to reissue one NWP. To solicit comments on its proposed regional conditions for these NWPs, the Norfolk District issued a public notice on June 20, 2025.

In a final action published in the Federal Register on January 8, 2026 (91 FR 768), the Corps reissued 56 existing NWPs and issued one new NWP. In that final action, the Corps also reissued the NWP general conditions and definitions. Those NWPs and the NWP general conditions and definitions went into effect on March 15, 2026. The NWPs will expire on March 15, 2031.

After the issuance of the final NWPs, the Norfolk District considered the need for regional conditions for this NWP. The North Atlantic Division's findings are discussed below.

2.0 Consideration of Public Comments

2.1 General Comments

In response to the Norfolk District's request for comments, the NOAA Fisheries Service, Habitat and Ecosystem Services Division, provided comments on specific Regional Conditions, which are addressed below. No comments were received from the public or other agencies in response to the public notice. Comments were also received from the Virginia Department of Environmental Quality (DEQ) during coordination for the Section 401 Water Quality Certification (WQC) under the Clean Water Act and the federal consistency determination under the Coastal Zone Management Act (CZMA).

2.2 General Comments on Nationwide Permit 58

Norfolk District did not receive any general comments specific to this NWP.

2.3 Proposed Regional Conditions

The following is a discussion of all the NWP regional conditions that are applicable to NWP 58 and that were proposed in the Norfolk District's June 20, 2025, public notice, the comments that the Norfolk District received on each proposed regional condition, and the Norfolk District's responses to the comments.

2.3.1 Proposed Regional Condition 1 Applicable to Multiple NWPs

Waters Containing Submerged Aquatic Vegetation (SAV) Beds:

This condition applies to: NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 39, 45, 48, 52, 53, 54, 55, 57, and 58.

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

Comments received: NOAA Fisheries Service commented that the NWP 'A' should be added within the first paragraph pending the number associated with the new NWP. The comment also indicated that the activities of 'realigning and extending' should be included within the second paragraph.

Response: Based on the comments above, the revisions to include 'NWP A', which was finalized as 'NWP 60', and the addition of 'realigning and extending' are included below.

This condition applies to: NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 39, 45, 48, 52, 53, 54, 55, 57, 58 and 60.

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

2.3.2 Proposed Regional Condition 2 Applicable to Multiple NWPs

Anadromous Fish Use Areas:

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

Comments received: During the Section 401 Water Quality Certification process, the Norfolk District and the Certifying Authority discussed the removal of 'specified by the DWR, Virginia Marine Resources Commission (VMRC)' since this coordination is conducted with NOAA Fisheries Service.

Response: Norfolk District removed the reference to coordination with the state agencies.

Comments received: NOAA Fisheries Service commented requesting the addition of 'and/or NOAA Fisheries Services' within the TOYR statement and an inclusion of 'due to the lack of suitable upstream spawning habitat (VIMS, 2016)' within the last sentence.

Response: An earlier version of this Regional Condition did not include 'NOAA Fisheries Services.' However, it was added prior to the public notice announcing the proposed Regional Conditions. During a meeting with NOAA Fisheries Service on September 25, 2025, the Norfolk District indicated that the words 'NOAA Fisheries Service' were included in the condition as the specified TOYR agency. Norfolk District added to the

last sentence to provide the reason no TOYR is required in a specific waterway but determined that the reference to VIMS 2016 was not needed.

The revised and final version is below:

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

2.3.3 Proposed Regional Condition 3 Applicable to Multiple NWPs

> ***Designated Critical Resource Waters, which include National Estuarine Research Reserves:***
>
> *A PCN is required for work under NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54 in the Chesapeake Bay National Estuarine Research Reserve in Virginia. This multi-site system along a salinity gradient of the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Islands, and Goodwin Islands. More information can be found at: http://www.vims.edu/cbnerr/.*
>
> *NWPs 7, 12, 14, 16, 17, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 cannot be used to authorize the discharge of dredged or fill material in the Chesapeake Bay National Estuarine Research Reserve in Virginia.*

Comments received: NOAA Fisheries Service requested the change in title for a more accurate coverage from National Estuarine Research Reserves to NOAA-Managed Marine Sanctuaries and National Estuaries and Research Reserves. NOAA Fisheries also suggested adding any applicable NOAA-Managed Marine Sanctuaries and National Estuaries and Research Reserves.

Response: The change was approved and modified in the September 25, 2025, meeting with NOAA and the revised version is below. Norfolk District reviewed the list of NOAA-Managed Marine Sanctuaries and National Estuaries and Research Reserves and determined it was appropriate to add the Mallows Bay-Potomac River National Marine Sanctuary to the list. The Sanctuary is located in the Potomac River which is within the Baltimore District Area of Review. However, projects could potentially extend

from the Virginia land side into the Sanctuary.

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

A PCN is required for work under NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54 in the Mallows Bay-Potomac River National Marine Sanctuary and the Chesapeake Bay National Estuarine Research Reserve in Virginia. The Chesapeake Bay National Estuarine Research Reserve within the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Islands, and Goodwin Islands. More information can be found at the following websites: https://sanctuaries.noaa.gov/mallows-potomac/ http://www.vims.edu/cbnerr/.

NWPs 7, 12, 14, 16, 17, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 cannot be used to authorize the discharge of dredged or fill material in the Mallows Bay-Potomac River National Marine Sanctuary and the Chesapeake Bay National Estuarine Research Reserve in Virginia.

2.3.4 Proposed Regional Condition 4 Applicable to Multiple NWPs

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

For ALL NWPs, a PCN is required for any project that may affect a federally listed threatened or endangered species or designated critical habitat. The U.S. Fish and Wildlife Service (Service) has developed an online system that allows users to find information about sensitive resources that may occur within the vicinity of a proposed project. This system named "Information, Planning and Conservation System" (IPaC), is located at: http://ecos.fws.gov/ipac/. The applicant may use IPaC to determine if any federally listed threatened or endangered species or designated critical habitat may be affected by their proposed project. If your Official Species List from IPaC identifies any federally listed threatened or endangered species, you are required to submit a PCN for the proposed activity, unless the project clearly does not impact a listed species or suitable habitat for the listed species. If you are unsure about whether your project will impact federally listed threatened or endangered species, please submit a PCN, so the Norfolk District may review the action. Further information about the Virginia Field Office "Project Review Process" may be found at: http://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html.

Additional consultation may also be required with NOAA Fisheries Service, Protected Resources Division, for listed species or critical habitat under their jurisdiction, including sea turtles, marine mammals, shortnose sturgeon, and Atlantic sturgeon. For additional information about species under their jurisdiction in Virginia,

please see https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultations-greater-atlantic-region .

Comments received: No comments were received on this proposed regional condition.

Response: The phrase "unless the project clearly does not impact a listed species or suitable habitat for the listed species" was removed from the fifth sentence in order to more closely align this Regional Condition with the requirements of NWP General Condition #18 by requiring a PCN whenever the Official Species List generated by IPaC reflects that a listed species or designated critical habitat (or species proposed for listing or critical habitat proposed for designation) might be affected by or is within the vicinity of the activity.

2.3.5 Proposed Regional Condition 5 Applicable to Multiple NWPs

Invasive Species

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

Comments received: During the Section 401 WQC and CZMA review process, DEQ suggested removing the reference to state agency recommendations to be consistent with the other regional conditions and Corps' authorities.

Response: To be consistent with other conditions, the language was revised. The references were retained to provide additional information to the public.

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

2.3.6 Proposed Regional Condition 6 Applicable to Multiple NWPs

Countersinking Pipes and Culverts

This condition applies to: NWPs 3, 7, 12, 14, 17, 18, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 57, and 58.

NOTE FOR WORK IN TIDAL WATERS: New and replacement pipes/culverts in tidal waters must be installed with the inverts no higher than the prevailing stream/channel bottom elevation. If the permittee determines that matching existing elevations is not practicable, then a PCN is required. This condition does not apply to pipe extensions in tidal waters.

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

a. *All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.*

b. *When countersinking culverts, permittees must ensure reestablishment of a surface water channel (within 15 days post construction) that allows for the movement of aquatic organisms and maintains the same hydrologic regime that was present pre-construction (i.e. the depth of surface water through the permit area should match the upstream and downstream depths). This may require the addition of finer materials to choke the larger stone and/or placement of riprap to allow for a low flow channel.*

c. *The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance to pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).*

d. *Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).*

e. *Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.*

f. *Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:*

   i. *Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations.*

   ii. *A pipe/culvert is being placed in a new location: If the permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, they should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that will allow for countersinking. If the permittee determines that neither a bottomless structure nor an alternative location is practicable, then a PCN is required. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. PCN must also include photographs documenting site conditions. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.*

g. *Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools*

occur along a stream. Should this be the case, or should the permittee not want to countersink the pipe/culvert for other reasons, they must submit a PCN. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals.

h. *Problems encountered during construction: When a pipe/culvert is being replaced, and the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, a utility line, or other documentable obstacle, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for an NWP.*

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

countersinking, and if so, should follow the procedures outlined in (f) and/or (g) above.

Comments received: NOAA Fisheries Service questioned why this special condition does not apply to tidal waters. During the Section 401 WQC and CZMA review process, DEQ suggested removing the reference to state agency recommendations to be consistent with the other regional conditions and Corps' authorities.

Response: During the September 25, 2025, meeting, NOAA Fisheries Service indicated that based on a conversation with the Virginia Department of Transportation, no further revisions or action regarding this condition was necessary. VDOT coordinated with the Norfolk District during a previous NWP reissuance and expressed concerns about the requirements for tidal waters and VDOT reiterated those concerns to NOAA Fisheries Service who agreed that the conditions would not be practicable in all tidal situations. To be consistent with other conditions, the reference to DWR recommendations was removed from the second paragraph.

2.3.7 Proposed Regional Condition 7 Applicable to Multiple NWPs

Repair of Pipes

This condition applies to: NWPs 3, 7, 12, 14, 17, 18, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 57, and 58.

NOTE FOR WORK IN TIDAL WATERS: New and replacement pipes/culverts in tidal waters must be installed with the inverts no higher than the prevailing stream/channel bottom elevation. If the permittee determines that matching existing elevations is not practicable, then a PCN is required. This condition does not apply to pipe extensions in tidal waters.

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

a. *If the existing pipe or multi-barrel array of pipes are NOT currently countersunk:*

    i. *As long as the inlet and outlet invert elevations of at least one pipe located in the low flow channel are not being altered, and provided that no concrete apron is being constructed, then the work may proceed under the NWP for the other pipes, provided it complies with all other NWP General Conditions. In such cases, a PCN is not required, unless specified in the Regional Conditions for other reasons, and the permittee may proceed with the work.*

ii. *Otherwise, the permittee must submit a PCN prior to commencing the activity. For all such projects, the following information should be provided:*

1) *Photographs of the existing inlet and outlet;*
2) *A measurement of the degree to which the work will raise the invert elevations of both the inlet and outlet of the existing pipe;*
3) *The reasons why other methods of pipe maintenance are not practicable (such as metal sleeves or a countersunk pipe replacement);*
4) *A vicinity map showing the pipe locations.*

The Norfolk District will assess all such pipe repair proposals in accordance with guidelines that can be found under "Pipe Repair Guidelines" at: http://www.nao.usace.army.mil/Missions/Regulatory/GuidanceDocuments.aspx.

iii. *If the Norfolk District determines that the work qualifies for the NWP, additional conditions will be placed on the verification. Those conditions can be found at the web link above (in item ii).*

iv. *If the Norfolk District determines that the work does NOT qualify for the NWP, the applicant will be directed to apply for either Regional Permit 01, applicable only for Virginia Department of Transportation (VDOT) projects or an Individual Permit. However, it is anticipated that the applicant will still be required to perform the work such that the waterway is not blocked or restricted to a greater degree than its current conditions.*

b. *If the existing pipe or at least one pipe in the multi-barrel array of pipes IS countersunk and at least one pipe located in the low flow channel will continue to be countersunk, and no concrete aprons are proposed:*

   No PCN to the Norfolk District is required, unless specified in the Regional Conditions for other reasons, and the permittee may proceed with the work.

c. *If the existing pipe or at least one pipe in the multi-barrel array of pipes IS countersunk and no pipe will continue to be countersunk in the low flow channel:*

   This work cannot be performed under the NWPs. The permittee must apply for either a Regional Permit 01 (applicable only for VDOT projects) or an Individual Permit. However, it is anticipated that the permittee will still be required to perform the work such that the waterway is not blocked or restricted more so than its current conditions.

d. *In emergency situations, if conditions or timeframes do not allow for compliance with the procedure outlined herein, then the pipe can be*

temporarily repaired to the condition before the washout. If the temporary repair would require a PCN by the above procedures, the permittee must submit the PCN at the earliest practicable date, but no longer than 15 days after the temporary repair.

Comments received: No comments were received on this proposed regional condition.

Response: This regional condition has been in place since the 2007 NWPs and the Norfolk District believes it conveys important information to the regulated public. Norfolk District has not proposed to revise this condition.

2.3.8 Proposed Regional Condition 8 Applicable to Multiple NWPs

Impacts Requiring a Compensatory Mitigation Plan

When a PCN is required, a compensatory mitigation plan must be submitted if the permanent loss exceeds 0.1 acre of wetlands and/or 0.03 acre of stream bed or 300 linear feet of stream bed unless otherwise stated in the regional conditions (see Regional Condition 11 for Transportation Projects). The stream channel loss must be reported in acreage and linear feet.

Comments received: No comments were received on this proposed regional condition.

Response: This regional condition has been in place since the 2007 NWPs and the Norfolk District believes it conveys important information to the regulated public. Norfolk District has not proposed to revise this condition.

2.3.9 Proposed Regional Condition 9 Applicable to Multiple NWPs

Removal of Temporary Fills and Impacts

The soils of any temporarily impacted areas located in wetlands that are cleared, grubbed, excavated, dredged and/or filled, must be restored once these areas are no longer needed for their authorized purpose, no later than completion of project construction, and not to exceed twelve (12) months after commencing the temporary impacts. To restore, temporary fill must be removed in its entirety and the affected areas returned to preconstruction elevations, the soil surface loosened by ripping or chisel plowing to a depth of 8-12" and then seeded using native wetland species. See Regional Condition 6: Invasive Species for more information on vegetation recommendations.

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

Comments received: NOAA Fisheries Service indicated that the regional condition mentioned in the first paragraph should be Regional Condition 5, because a previous regional condition was removed.

Response: Based on the comment from NOAA Fisheries Service and internal review, a change was made to reference Regional Condition '5' instead of Regional Condition '6' due to updates in the order and revisions with removal of a previous regional condition (Trout Water). Below is the modified section.

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

2.3.10 Proposed Regional Condition 10 Applicable to Multiple NWPs

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

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

Comments received: No comments were received on this proposed regional condition.

Response: This regional condition has been in place since the 2007 NWPs and the Norfolk District believes it conveys important information to the regulated public. Norfolk District has not proposed to revise this condition.

2.3.11 Proposed Regional Condition 11 Applicable to Multiple NWPs

Activities Affecting Structures or Works Built by the United States

A PCN is required if the NWP activity also requires a section 408 permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. The activity is not authorized by the NWP until the appropriate Corps District office issues the section 408 permission and the District Engineer issues a written NWP verification [NWP GC #31 and GC #32(b)(1)].

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

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

https://www.nao.usace.army.mil/408Review/

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

Comments received: No comments were received on this proposed regional condition.

Response: This regional condition has been in place since the 2007 NWPs and the Norfolk District believes it conveys important information to the regulated public. Norfolk District has not proposed to revise this condition.

2.3.12 Proposed Regional Condition 12 Applicable to Multiple NWPs

To be determined through ongoing consultation with VDEQ.

When the Norfolk District proposed the regional conditions, ongoing consultation with the DEQ regarding the Clean Water Action Section 401 WQC was being conducted, so this condition was treated as a placeholder, and no specific language was proposed. The final Clean Water Act Section 401 Water Quality Certification was received by Virginia Department of Environmental Quality on November 6, 2025. The condition is included below.

Clean Water Act Section 401 Water Quality Certification

On November 6, 2025, the Virginia Department of Environmental Quality (DEQ) granted water quality certification (WQC) for the 2026 Nationwide Permits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, and 60 pursuant to Section 401 of the Clean Water Act (CWA) (33 U.S.C. § 1341), Virginia Code §§ 62.1-44.14 & 62.1-44.41, and 9 Va. Admin. Code 25-210-130.

Applicants must review the following statements provided by DEQ:

DEQ finds that activities which may result in a discharge of dredged or fill material into waters of the United States (WOTUS) and authorized by one or more Proposed 2026 NWPs will comply with the requirements of the applicable water quality standards under Virginia Administrative Code 9VAC25-260 et seq., as established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA; Title 62.1 of the Code of Virginia; and the applicable Virginia Water Protection (VWP) Permit Program regulations, provided that permittees abide by all requirements and conditions of this WQC and the applicable Proposed 2026 NWP (including the District Regional Conditions).

This WQC applies to activities that satisfy all requirements and conditions to be authorized for coverage under one or more Proposed 2026 NWPs (including the applicable District Regional Conditions).

WQCs are not permits. Therefore, they do not relieve the applicant or permittee from complying with all applicable requirements of the Clean Water Act, State Water Control Law, and local, state, and federal government laws or regulations, nor do the WQCs affect DEQ's authority to take any permitting, compliance, and enforcement action allowed under Chapter 3.1 of Title 62.1 of the Code of Virginia or applicable Virginia Water Protection (VWP) Permit Program regulations (9VAC25-210 et seq., 9VAC25-660 et seq., 9VAC25-670 et seq., 9VAC25-680 et seq., 9VAC25-690 et seq.). In such cases, submittal of an application to DEQ may be required for state review, unless the activity is otherwise excluded or waived from VWP permitting requirements.

2.3.13 Proposed Regional Condition 13 Applicable to Multiple NWPs

'To be determined through ongoing consultation with VDEQ.'

When the Norfolk District proposed the regional conditions, ongoing consultation with the DEQ regarding the federal consistency determination under the CZMA was being conducted, so this condition was treated as a placeholder, and no specific language was proposed.

The Virginia Department of Environmental Quality issued the federal consistency determination under the CZMA for the 2026 Nationwide Permits on August 22, 2025. The inclusion of this regional condition is referenced below based on the correspondence received from VDEQ. Recommendations in the CZMA have been incorporated in other places within the regional conditions.

Received and included as below:

Federal Consistency under the Coastal Zone Management Act (CZMA)

DEQ concurred that the 2026 NWPs with the Regional Conditions are consistent to the maximum extent practicable with the Virginia CZM Program.

Applicants should review the CZMA Federal Consistency Determination for compliance: https://www.nao.usace.army.mil/Missions/Regulatory-Branch/Regulatory-Permits/.

2.3.14 Proposed Regional Condition 33 Applicable to NWP 58

Utility Line Activities for Water and Other Substances

1. *Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.*

2. *A PCN is required when the activity involves greater than 0.10 acres of mechanized land clearing in a forested wetland for the utility line right-of-way.*

3. *For utility activities requiring a PCN, the permittee shall provide the following information:*

   a. *A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).*

   b. *An analysis of onsite minimization, which specifically addresses the following:*

      i. *Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.*

      ii. *Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia: http://www.dcr.virginia.gov/natural-heritage/vaconvision.*

      iii. *Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent easement, wetland vegetation shall only be removed at or above the ground*

surface unless written justification is provided and the impacts are reviewed and approved by the Corps.

iv. For overhead utility lines, allowance of natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.

v. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any Federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408 Program webpage at https://www.nao.usace.army.mil/408Review/ via the Norfolk District Section 408 Map. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a Federal project. Any utility lines crossing under a Federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the Federal project. Specific minimum depth requirements under the Federal channel and side slopes, and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the Federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and maximum authorized depths for specific Federal navigation projects or other Federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling is hereby authorized provided that:

a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be

stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District Commander if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year may apply, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. For utility lines landing in Virginia from the Outer Continental Shelf (OCS), the applicant shall send the PCN to the following federal agencies:

Director, Naval Seafloor Cable Protection Office
Naval Facilities Engineering Command
1322 Patterson Ave SE, Suite 1000
Washington DC 20374

Bureau of Ocean Energy Management (BOEM)
Atlantic OCS Region
1201 Elmwood Park Blvd.
New Orleans, LA 70123-2394.

8. For utility line projects completed by horizontal directional drilling or other boring methods, a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures needs to be included with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

9. When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of anadromous fish:

a. Screening over the mouth of the intake with mesh size that does not exceed 1mm;

b. Intake velocities that do not exceed 0.25 feet per second;
c. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.

Comments received: NOAA Fisheries Service questioned when the intake specifications under Regional Condition 9 would apply. No other comments were received.

Response: During the September 25, 2025, meeting, NOAA Fisheries retracted their comments concerning the intake conditions and agreed that no revisions to this regional condition are necessary. These conditions were developed when this NWP was authorized in 2021. The conditions are based on the conditions of the previous NWP 12, which authorized these activities prior to 2021.

2.4 Recommendations for Additional Regional Conditions

Norfolk District did not receive any comments or recommendations for additional regional conditions.

3.0 Alternatives

3.1 No Regional Conditions

Regional conditions for this NWP will be necessary to ensure that no more than minimal adverse impacts occur within the area regulated by the Norfolk District. The conditions that apply to certain waters and localities are necessary to allow the state and federal resource agencies the opportunity to comment and to ensure that impacts to federally listed threatened and endangered species and/or special aquatic habitats are minimized and to allow, when necessary, time-of-year restrictions to be placed on this NWP verification. Therefore, an alternative imposing no regional conditions is not acceptable.

3.2 Alternative Regional NWP Limits or Pre-Construction Notification Thresholds

No commenters suggested additional PCN thresholds or lowering acreage limits of NWPs. Norfolk District has developed PCN thresholds and regional requirements for multiple NWPs (Regional Conditions 1, 2, 4, 8, 10, and 11) to ensure compliance with Section 7 of the Endangered Species Act, to minimize impacts to SAVs and federal projects, and to ensure compliance with the Magnuson Stevens Fisheries Act. The information required in the regional conditions helps the Norfolk District and resource agencies determine compliance with applicable laws and regulations and ensure that adverse impacts are no more than minimal. The Norfolk District has established alternative regional NWP limits and PCN thresholds to ensure that impacts are not more than minimal to resources within the Commonwealth of Virginia.

3.3 Other Regional Conditions

No new regional conditions were considered but not adopted for this NWP.

4.0 Section 7 of the Endangered Species Act

4.1 General Considerations

For all PCNs, the Norfolk District will ensure that activities authorized by the NWPs will comply with Section 7 through assessment tools, a specific review process, and with regional conditions requiring notification in known areas of listed species and critical habitat. The regional conditions help ensure compliance with Section 7 for nonreporting projects. The Norfolk District project managers use project specific location information to define a project area in the National Regulatory Viewer, which provides general information about listed species in the project review area. Project managers review the Norfolk District's ESA Project Review Process to determine when coordination with the Fish and Wildlife Service (FWS) and/or NOAA Fisheries Service-Protected Resources Division (PRD) is required. The "NAO ESA Project Review Process" addresses impacts to both terrestrial and aquatic listed species. This process includes guidance on making "No Effect," "Not Likely to Adversely Affect" (NLAA), and "May Adversely Affect" calls. For reporting activities, the Norfolk District will coordinate with FWS and NOAA Fisheries Service-PRD in areas containing federally listed species and other designated areas of concern. For NWP activities in designated critical habitat or known locations of federally listed endangered or threatened species, the Norfolk District may: (1) consult with FWS or NOAA Fisheries Service-PRD during the NWP review process, or (2) the Norfolk District may assert its discretionary authority to require an individual permit for proposed work and initiate consultation through the individual permit process. If the consultation is conducted under the NWP process without the District asserting discretionary authority, then the applicant will be notified not to proceed until consultation is complete. If the Norfolk District determines that the activity would have no effect on any endangered species, then the District will complete the review, document the finding, and then issue the NWP verification.

For the 2026 NWP reauthorization, Norfolk District reviewed the Programmatic Consultation Verification process with the NOAA Fisheries Service-PRD staff. This is a checklist type of form that the Norfolk District project managers use to assess potential impacts to NOAA-listed species from various construction activities and then coordinate with NOAA Fisheries Service-PRD staff. This form has been successfully used to coordinate for impacts verified under the 2021 NWPs.

Within the Nationwide Permit verification letter, the Norfolk District will include a paragraph stating that any injuries or mortalities occurring to sea turtles or Atlantic sturgeon as a result of discharges of dredged or fill material, or through the construction of structures or other work in navigable waters, must be reported to NOAA Fisheries, PRD and the Corps regulatory office.

4.2 Local Operating Procedures for Section 7 of the Endangered Species Act

Norfolk District project managers use the NAO ESA Project Review Process as developed in conjunction with FWS to ensure compliance with the Endangered Species Act. For reporting activities, the Norfolk District reviews all available information through the Regulatory Reporting Tool and the FWS' online "Information, Planning, and Conservation System" (IPaC). Project managers use IPaC to assess potential project impacts to federally listed and proposed candidate, threatened, and endangered species, designated critical habitats, and FWS refuges that may exist or occur in the identified areas or that may be affected by the proposed activities. If no potential or documented occurrence is found, the project manager documents the project file and does not notify the FWS. If a potential or documented occurrence is found, the project manager notifies FWS by email and the project manager waits 60 calendar days for a response. If FWS concurs with a May Affect, Not Likely to Adversely Affect (MANLAA) determination or does not respond with 60 days, the project manager documents the finding and may proceed with issuing the permit verification. For cases when the project manager reaches a May Affect, Likely to Adversely Affect determination for a listed species, formal consultation will be initiated with the FWS, and a Biological Assessment will be submitted per the requirements at 50 CFR § 402.14.

Applicants using nonreporting permits also may use IPAC to determine if listed species are present. Regional Condition 4 indicates that applicants are required to submit a PCN for the proposed activity unless the project clearly does not impact a listed species or suitable habitat for the listed species. If applicants are unsure about whether their project will impact listed species, they should submit a PCN, so the Norfolk District may review the action.

NOAA Fisheries Service, Protected Resources Division has designated habitat, including critical habitat, in certain Virginia rivers for Atlantic Sturgeon and Shortnose Sturgeon, as well as for sea turtles and right whales. Project managers use the National Regulatory Viewer and IPaC to evaluate if potential habitat is present within the project action area. Project managers consult the NAO ESA Project Review Process and the "Standard Operating Procedures (SOPs) for the GARFO PRD-USACE NAD 2017 NLAA Program" to determine whether the activity will meet the criteria of a No Effect determination and will not require any further consultation with NOAA Fisheries Service or will meet the criteria under the NLAA programmatic agreement. If an activity is covered under the NLAA programmatic agreement, the project manager coordinates the project with NOAA Fisheries Service-PRD staff through the NLAA checklist form, which includes a description of the work, proposed conservation measures, and justifications for meeting the NLAA. The NLAA process has been successfully used for NWP coordination since 2017.

5.0 Section 106 of the National Historic Preservation Act

5.1 General Considerations

The Norfolk District Regulatory Branch ensures that activities authorized by NWPs will comply with Section 106 of the National Historic Preservation Act (NHPA) through

agreements and procedures which have been implemented for many years and are continually updated to ensure compliance. The Norfolk District has a Programmatic Agreement (the Agreement) executed in 1996 with the Virginia Department of Historic Resources (VDHR) (Virginia State Historic Preservation Officer) and the Advisory Council on Historic Preservation (ACHP) to address the Corps' requirements under NHPA. This Agreement established Programmatic Streamlined Review for certain Nationwide Permits whereby activities qualifying for streamlined permits do not require coordination with VDHR. Activities qualifying for programmatic streamlined review do not require coordination, provided VDHR's Virginia Cultural Resource Information System (V-CRIS) does not indicate the existence of inventory properties listed as eligible or potentially eligible for the National Register of Historic Places within the project area and the activity is not associated with other actions requiring coordination with VDHR. Norfolk District met with Virginia Department of Historical Resources on October 10, 2025, to discuss the Programmatic Streamlined Review list. The Programmatic Streamlined Review list was updated on December 9, 2025, and consultation with VDHR and concurrence from the SHPO is expected prior to the effective date of these NWPs. The Norfolk District consulted with VDHR to update the Programmatic Streamlined Review list to incorporate the changes to the newly issued Nationwide Permits.

Norfolk District currently operates under guidelines developed in conjunction with VDHR in 1996, and most recently updated in October 2023. Through a cooperative agreement, VDHR has made their V-CRIS available to the Norfolk District. V-CRIS is an online system that merges a geographic information system (GIS) with a comprehensive information database of known historic and prehistoric sites throughout Virginia. The V-CRIS identifies the location of known architectural and archaeological historic sites throughout the state and each resource is identified in the V-CRIS by a unique VDHR file number that is assigned after a property has been surveyed by professionals working in the field. Norfolk District project managers search V-CRIS using the project site locational information. In addition, the V-CRIS database has been incorporated in the National Regulatory Viewer. This ensures that Norfolk District project managers are using all available information in their decision-making process. If known historic resources are on the project site or are within the visual effects Area of Potential Effects (APE), then the project manager initiates further coordination with VDHR. Coordination for the NWPs is discussed in the next section. In addition, Norfolk District has specific procedures and template letters in place for coordinating with ACHP when a project manager determines that a project may have an adverse effect on a known historic property.

Many geographic areas that have a high site potential or contain known locations of cultural resources – including prehistoric sites, historic sites, battlefields, historic districts, traditional cultural properties, state landmarks or National Historic Landmarks – are within localities that require historic resources review. Applicants may request technical assistance using the Department of Historic Resources Electronic Project Information Exchange (ePIX). The ePIX system was developed by the VDHR Review and Compliance Division (RCD) as a tool to aid their customers in the submission of

projects that require their review pursuant to specific provisions of state and federal law and to streamline consultation with their office. Applicants working under nonreporting permits may choose to request technical assistance from VDHR to help ensure compliance with NWP General Condition 20, *Historic Properties*.

In cases where potential historic properties are present, the District Commander may: (1) consult with VDHR during the NWP review process, or (2) the District Commander may assert his/her discretionary authority to require an individual permit for proposed work and initiate consultation through the individual permit process. If the consultation is conducted under the NWP process without the District asserting discretionary authority, then the applicant must be notified that work cannot be verified under the NWP until all Section 106 requirements have been satisfied. If the District determines that the activity would have no potential to cause effects on any historic properties, the District may complete the review, document the findings, and proceed to issue the NWP authorization without further consultation with the VDHR.

5.2 Local Operating Procedures for Section 106 of the National Historic Preservation Act

The Norfolk District has developed specific procedures for coordinating with VDHR entitled, “Norfolk District Standard Operating Procedures for Section 106 Coordination with the Virginia Department of Historic Resources (VDHR)” (revised October 2023), and these procedures ensure that activities authorized by this NWP will comply with the NHPA. For individual permit applications with undertakings determined to have a potential to cause effects on historic properties, the project manager implements the local procedures for coordinating with VDHR. Project managers establish the Corps’ permit area for the project and then determine, through review of the National Regulatory Viewer and/or V-CRIS, if there are any known historic properties in the Corps’ permit area or any National Register listed or potentially eligible historic resources (architectural, landscapes, battlefields, etc.) that could be affected visually by the undertaking. Provided V-CRIS does not indicate the existence of inventory properties listed as eligible or potentially eligible for the National Register of Historic Places within the project area, and the activity is not associated with other actions requiring coordination with VDHR, certain NWP activities are programmatically excluded from further review. The Norfolk District updated the list of NWPs, which meet the Streamlined Review criteria, and it has been reviewed and approved by VDHR.

When coordination is required, the Norfolk District project manager submits coordination to VDHR through their ePIX web portal. This system provides for submission of projects to VDHR electronically and allows uploading of digital versions of the District’s coordination form, maps, project drawings, photographs, plans, Phase I cultural resource surveys, etc. The project manager completes the online form, which includes the project description and information about historic properties and uploads any relevant documents. The project manager will receive an automatic notification that the submittal has been received by VDHR, and if complete, the 30-day review time frame by VDHR begins the next business day after submission. The project manager must

also notify the applicant that they may not proceed with the work under the NWP until coordination for Section 106 has been completed as specified in General Condition 20. If the project manager decides that the undertaking will have “no effect” or “no adverse effect” on historic properties and VDHR either concurs or does not object within 30 days of receipt, then the Section 106 process concludes. The project manager documents the file as appropriate. For projects that require the identification of historic properties, the project manager ensures that reports of archeological and architectural surveys conducted by applicants are submitted to VDHR for review and comment. For projects with adverse effects, the project manager notifies ACHP to determine their participation and the project manager issues a public notice in order to provide the public with an opportunity to participate in the Section 106 process. The project manager will consult with VDHR to identify consulting parties such as Tribes, local governments, historic preservation groups, and others with a demonstrated interest in the project. Consultation on measures to resolve the adverse effects involves the consulting parties through various consultation methods (emails, conference calls, face-to-face meetings), as determined appropriate for the project. In most cases, a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) addressing how the adverse effects will be resolved is executed and incorporated as a special condition in any issued permit.

The Norfolk District follows the procedures outlined in Appendix C of 33 CFR Part 325 “Procedures for the Protection of Historic Properties,” 36 CFR Part 800 “Protection of Historic Properties,” and the “Revised Interim Guidance for Implementing Appendix C of 33 Part 325 with the New Advisory Council on Historic Preservation Regulations at 36 CFR Part 800” (dated April 25, 2005), which address the required consultation with SHPO and ACHP. The procedures in place in the Norfolk District will ensure that activities authorized by this NWP comply with the NHPA.

6.0 Government-to-Government Consultation with Tribes

6.1 Consultation Summary

On June 25, 2025, the Norfolk District sent letters to the following tribes to initiate consultation on the 2026 NWPs, including regional conditions, the potential for suspension or revocation of the NWPs in specific geographic areas, and the development of coordination or consultation procedures for NWP PCNs: Chickahominy Indian Tribe, Chickahominy Indian Tribe-Eastern Division, Monacan Indian Nation, Nansemond Indian Nation, Pamunkey Tribe, Rappahannock Tribe, Inc., and the Upper Mattaponi Tribe.

Prior to sending the formal letter to the federally recognized tribes who reside in Virginia, the Norfolk District initiated consultation by introducing the proposed NWPs to the tribes during a quarterly virtual Tribal Workshop on May 30, 2025. Norfolk District discussed the NWP program in general terms, how the reissuance process works, including development of regional conditions, and briefly discussed proposed changes. During the May workshop, Norfolk District provided an overview of the proposed changes to the NWPs and the corresponding changes to the regional conditions.

Norfolk District provided opportunities for comment during the meeting, and the tribes expressed their appreciation for the information and had no comments at that time.

A follow-up email was sent to the tribes on July 31, 2025, requesting comments and input and noting that the initial suspense date of August 4, 2025, was approaching but extensions could be granted. No comments were received from the tribes during the public notice comment period or through the additional outreach.

6.2 Local Operating Procedures for Protecting Tribal Rights

In the past, federally recognized tribes with an interest in Virginia have expressed concerns about impacts to stream channels, anadromous fish waters and other sensitive habitats, such as those containing endangered species and SAVs. The Norfolk District regional conditions contain provisions to enhance protections to these resources. During quarterly Tribal Workshops, the Virginia tribes have expressed support for these types of regional conditions. Due to the PCN requirements, the Norfolk District will receive notification about proposed projects that may impact these types of resources, and which may be located within areas of tribal concerns. The Norfolk District has developed a Tribal Data Viewer, which allows the tribes to see pending projects under review by the Norfolk District and select the project to view additional information about the project and contact information for the Corps' project manager. The Tribal Data Viewer does not replace regular consultation with the tribes, which is governed by the Norfolk District Standard Operating Procedures for Consulting with Federal Tribes, last updated on October 23, 2025. The Tribal Data Viewer is an additional tool, which allows the tribes to view all pending projects. The Norfolk District will continue to consult with the tribes on specific NWP verifications through the established process.

7.0 Essential Fish Habitat

The Commonwealth of Virginia is located on the Atlantic coast of the Mid-Atlantic United States, between 36° 32'N to 39° 28' N and 75° 15' W to 83° 41' W. Virginia is situated between the Atlantic Ocean to the east, the Chesapeake Bay to the northeast, Potomac River to the north, and Appalachian Mountains to the west. Virginia has a variety of habitat designated as Essential Fish Habitat (EFH) as defined by NOAA Fisheries Service, Habitat and Ecosystem Services Division along with some unique or threatened habitats designated as Habitat Areas of Particular Concern (HAPC) such as submerged aquatic vegetation (SAV), oyster reefs, and shellfish beds.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. § 1801 et seq., defines essential fish habitat as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." 16 U.S.C. § 1802(10). The MSA applies to federally managed species under the management of regional fishery management councils. Under the MSA, fishery management plans must identify and describe EFH for the fishery, minimize adverse effects from fishing on the fishery and

sustainably manage the resource. NOAA's regulations implementing the MSA defines Habitat Areas of Particular Concern (HAPC). This designation identifies EFH that is particularly important to the long-term productivity of the species, is particularly vulnerable to degradation, or both. *See* 50 CFR § 600.815(a)(8). The intent of the HAPC designation is to focus greater attention on conservation efforts. Section 305(b)(2) of the MSA, 16 U.S.C. § 1855(b)(2), requires a federal agency to consult with NOAA Fisheries Service regarding any action or proposed action authorized, funded, or undertaken by the agency that may adversely affect EFH. The EFH Designations within the Northeast Region (Maine to Virginia) dated March 1, 1999, have identified EFH for several species and their life stages. These Designations were updated in January 2025, with publication of the NEFMC'S 2018 Omnibus EFH Amendment 2, including current EFH designations for 28 managed stocks.

For activities authorized by the 2026 NWPs, the Norfolk District has the responsibility to preliminarily determine if the activities authorized under the NWPs would have no more than minimal individual and cumulative adverse effects on the quality and/or quantity of EFH for a variety of federally managed species. When the Norfolk District determines that an action may adversely affect EFH, the agency must initiate consultation with NOAA Fisheries Service. 16 U.S.C. § 1855(b)(2). To initiate EFH consultation, the Norfolk District must submit an EFH assessment containing "a description of the action; an analysis of the potential adverse effects of the action of EFH and the managed species; the Federal agency's conclusions regarding the effects of the action on EFH; and proposed mitigation, if applicable" to NOAA Fisheries Service. 50 CFR § 600.920(e)(3). NOAA Fisheries Service may request the responsible Federal agency to include additional information in the EFH assessment, such as the results of on-site inspections, view of recognized experts, a review of pertinent literature, an analysis of alternatives, and any other relevant information. 50 CFR § 600.920(e)(4). Depending on the type and severity of the effects to EFH, compensatory mitigation may be necessary to offset temporary and/or permanent impacts of the project. If the project was expected to result in substantial adverse effects to EFH, an expanded EFH consultation may be required. 50 CFR § 600.920(i).

<u>EFH of the Chesapeake Bay and its tidal tributaries</u>

The mixing zone of the Chesapeake Bay mainstem and its tidal tributaries with salinities ranging between 0.5 ppt to <25ppt has EFH designations for red hake (*Urophycis chuss*) eggs, larvae, juvenile, adult; clearnose skate (*Raja eglanteria*), juvenile and adult; winter skate (*Leucoraja ocellata*), juvenile; sandbar shark (*Carcharhinus plumbeus*), neonate and juvenile; windowpane flounder (Scopthalmus aquosos) juvenile and adult; bluefish (*Pomatomus saltatrix*) juvenile and adult; Atlantic butterfish (*Peprilus triacanthos*) eggs, larvae, juvenile and adult; summer flounder (*Paralicthys dentatus*) larvae, juvenile and adult; black sea bass (*Centropristus striata*) juvenile and adult. The seawater portions of the Chesapeake Bay with salinities ≥25 ppt has EFH designations for red hake (*Urophycis chuss*) juvenile and adult; windowpane flounder (*Scopthalmus aquosos*) juvenile and adult; Atlantic sea herring (*Clupea harengus*) adult; bluefish (*Pomatomus saltatrix*) juvenile and adult; Atlantic butterfish (*Peprilus*

triacanthos) eggs, larvae, juvenile and adult; summer flounder (*Paralicthys dentatus*) larvae, juvenile and adult; scup (Stenotomus chrysops) juvenile and adult; black sea bass (*Centropristus striata*) juvenile and adult; sandbar shark (*Carcharhinus obscurus*), juvenile and neonate; sand tiger shark (*Carcharias taurus*), adult, juvenile and neonate; clearnose skate (*Raja eglanteria*), adult and juvenile; and Atlantic sharpnose shark (*Rhizoprionodon terraenovae*), adult and juvenile.

EFH Effects Determination

For activities authorized by the 2026 NWPs, the Norfolk District has the responsibility to preliminarily determine if the activities of the 2026 Nationwide Permits will have no more than minimal individual and cumulative adverse effects on the quality and/or quantity of EFH. The general conditions of the NWPs and the Norfolk District's regional conditions have been developed in part to further reduce potential impacts to EFH to the maximum extent practicable. The Norfolk District project managers follow the NAO ESA Review Process (which contains the NOAA Fisheries Coordination Procedures for MSA and Fish and Wildlife Coordination Act (FWCA), as revised August 2023), and coordinate with NOAA when proposed projects may potentially affect EFH, species of concern, or federally listed species, as required under the MSA, FWCA, and Section 7 of the Endangered Species Act. The coordination will be either on an individual project basis when EFH is designated and appropriate habitat occurs or through the development of a general concurrence. NOAA has previously provided general concurrence for a number of NWPs, including those subject to our proposed regional conditions. General concurrence is a process that identifies specific types of federal actions that may adversely affect EFH, but for which no further consultation is required because NOAA has determined, through analysis, that the actions authorized under certain NWPs will likely result in no more than minimal adverse effects both individually and cumulatively.

When either the notification requirements of the regional conditions specify coordination, or when the proposed impacts to EFH or HAPC may be more than minimal as determined by the Norfolk District project manager, the project manager shall initiate EFH consultation with NOAA, Virginia Field Office. Per 50 CFR § 600.920(h)(4), the MSA EFH consultation procedures require a minimum 30-day comment period for NOAA to review required PCNs. Because their EFH review extends into nontidal rivers and streams supporting migratory fish passage (important prey for federal predatory species), a 30-day review and comment period should be anticipated for all projects in tidal and nontidal rivers and streams.

Norfolk District and NOAA Fisheries met to review draft proposed Regional Conditions for the 2026 NWPs on May 20, 2025. On July 21, 2025, Norfolk District submitted an EFH Assessment to NOAA Fisheries Service and Norfolk District provided a revised EFH Assessment to NOAA Fisheries on September 18, 2025, based on comments received. Norfolk District met with NOAA Fisheries on September 25, 2025, to discuss NOAA's comments on the proposed regional conditions and the draft EFH Assessment. Norfolk District completed appropriate revisions to the Regional Conditions, based on the written comments and the meeting with NOAA Fisheries. In a January 13, 2026,

letter, NOAA Fisheries Service finalized programmatic EFH consultation for the reissuance of the 56 existing NWPs and one new NWP. The letter provided general concurrence for 50 of the NWPs and requested additional coordination procedures for seven of the NWPs. The coordination procedures are outlined in the "NAO ESA Review Process" as discussed above.

The EFH regulations require that actions qualifying for general concurrence must be tracked to ensure that the cumulative effects are no more than minimal. Tracking should include numbers of actions, and the amount and type of habitat adversely affected and should specify the baseline against which the actions will be tracked. NOAA suggested that the information be provided to them, the applicable fishery management councils, and the public on an annual basis. During the District's May 20, 2025, meeting with NOAA to discuss the proposed regional conditions, the District discussed annual reporting on the NWP actions and EFH consultation. On July 9, 2025, Norfolk District submitted an annual report to NOAA of FY 24 data. The data included the finalized actions of Regional General Permits (RGP), Nationwide Permits (NWP), and Programmatic General Permits (PGP).

8.0 Regional/Local Impacts Expected to Result from Activities Authorized by this NWP

This section uses the framework of the public interest review factors and the 404(b)(1) factual determinations to support the Division Engineer's rationale for the determination that regional impacts resulting from activities authorized by the NWP will have no more than minimal adverse environmental impacts, individually and cumulatively. The Norfolk District has considered the regional impacts expected to result from the activities authorized by this NWP, including the reasonably foreseeable cumulative effects of those activities, in light of the discussion in the national decision document for this NWP.

8.1 Public interest review factors

In addition to the discussion in the national decision document for this NWP, the Norfolk District has considered the local impacts expected to result from the activities authorized by this NWP, including the reasonably foreseeable cumulative effects of those activities.

(a) Conservation: Same as discussed in the national decision document.

(b) Economics: Same as discussed in the national decision document.

(c) Aesthetics: Same as discussed in the national decision document.

(d) General environmental concerns: The Norfolk District's regional condition pertaining to invasive species will help reduce impacts to the environment from species that have been determined to be a nuisance.

(e) Wetlands: In addition to the information discussed in the national decision document, impacts to wetlands are expected to be minimal within the Norfolk District. Regional Condition 8 requires that a compensatory mitigation plan be submitted if the permanent loss exceeds 0.1 acre of wetlands and/or 0.03 acre of stream bed or 300 linear feet of stream bed. Regional Condition 10 requires a mitigation plan for impacts associated with transportation projects. The duration of temporary impacts is addressed in Regional Condition 11 to help ensure that temporary impacts do not become more than minimal. These measures will further minimize wetland impacts. For unavoidable wetland impacts, compensatory mitigation may be required for permanent conversion of wetlands.

(f) Historic properties: To comply with General Conditions 20 and 32, permittees may use the V-CRIS system to determine if known resources are present within their project area. For projects requiring a PCN, project managers screen all projects using the National Reporting Viewer, which includes the information available in VCRIS. These actions have project managers determine when to consult with VDHR and/or the federally recognized tribes.

(g) Fish and wildlife values: The regional conditions contain notification requirements for anadromous fish use areas. Time of year restrictions are required for certain activities to protect anadromous fish. Regional conditions require countersinking of pipes and culverts to help prevent impacts to instream habitat. The regional conditions protect the sensitive life stages of anadromous fish through specifications for intake screening and velocities. A regional condition helps protect SAV areas, which provide food and habitat for birds and other wildlife.

(h) Flood hazards: Same as discussed in the national decision document.

(i) Floodplain values: Same as discussed in the national decision document.

(j) Land use: Same as discussed in the national decision document.

(k) Navigation: A regional condition provides the locations of Norfolk District Civil Works projects, so applicants may determine if their activity requires permission from the Corps pursuant to 33 U.S.C. § 408 because it will alter or temporarily or permanently occupy or use a Corps Federally authorized Civil Works project. These actions may affect navigation, and the regional condition helps to ensure the appropriate coordination for nonreporting permits.

(l) Shore erosion and accretion: Same as discussed in the national decision document.

(m) Recreation: Same as discussed in the national decision document.

(n) Water supply and conservation: Same as discussed in the national decision document.

(o) Water quality: The State Water Control Board provided Section 401 Water Quality Certification (WQC) for Norfolk District's Regional Conditions applicable to the 2026 NWPs on November 6, 2025. The Norfolk District revised Regional Condition 12 to address the Section 401 WQC.

(p) Energy needs: Same as discussed in the national decision document.

(q) Safety: Same as discussed in the national decision document.

(r) Food and fiber production: Same as discussed in the national decision document.

(s) Mineral needs: Same as discussed in the national decision document.

(t) Considerations of property ownership: Same as discussed in the national decision document.

8.2 Potential Impacts on Physical, Chemical, and Biological Characteristics of the Aquatic Ecosystem; Special Aquatic Sites; and Potential Effects on Human Use Characteristics

(a) Substrate: Same as discussed in the national decision document.

(b) Suspended particulates/turbidity: Same as discussed in the national decision document.

(c) Water: Same as discussed in the national decision document.

(d) Current patterns and water circulation: Same as discussed in the national decision document.

(e) Normal water level fluctuations: Same as discussed in the national decision document.

(f) Salinity gradients: Same as discussed in the national decision document.

(g) Threatened and endangered species: Notification requirements for areas with an abundance of federally listed species have been incorporated as regional conditions in addition to the standard requirements for coordination under Section 7 of the Endangered Species Act.

(h) Fish, crustaceans, molluscs, and other aquatic organisms in the food web: The regional conditions contain notification requirements for anadromous fish use areas. Time of year restrictions are required for certain activities to protect anadromous fish. Regional conditions require countersinking of pipes and culverts to help prevent impacts to instream habitat. The regional conditions protect the sensitive life stages of

anadromous fish through specifications for intake screening and velocities.

(i) Other wildlife: Regional Condition 1 helps protect SAV areas, which provide food and habitat for birds and other wildlife.

(j) Special aquatic sites: The potential impacts to specific special aquatic sites are discussed below:

(1) Sanctuaries and refuges: Same as discussed in the national decision document.

(2) Wetlands: The regional conditions require the submission of a mitigation plan when the permanent loss of wetlands exceeds certain thresholds. Another regional condition addresses temporary impacts to wetlands and establishes criteria for when the impacts are considered permanent.

(3) Mud flats: Same as discussed in the national decision document.

(4) Vegetated shallows: Notification requirements for areas that contain submerged aquatic vegetation (SAVs) have been incorporated as regional conditions.

(5) Coral reefs: Same as discussed in the national decision document.

(6) Riffle and pool complexes: Same as discussed in the national decision document.

(k) Municipal and private water supplies: Same as discussed in the national decision document.

(l) Recreational and commercial fisheries: Same as discussed in the national decision document.

(m) Water-related recreation: Same as discussed in the national decision document.

(n) Aesthetics: Same as discussed in the national decision document.

(o) Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar areas: Same as discussed in the national decision document.

8.3 Regional Cumulative Effects Analysis

This section discusses the anticipated cumulative effects of the use of NWP 58 in the Commonwealth of Virginia during the period this NWP is in effect.

The cumulative effects of this NWP are dependent upon the number of times the NWP is anticipated to be used in the region and the quantity and quality of waters of the United States anticipated to be impacted as a result of the activities authorized by this NWP (see 40 CFR § 230.7(b)). The cumulative effects of this NWP are also dependent on compensatory mitigation that may be required during the period this NWP is in effect, when compensatory mitigation offsets impacts to waters of the United States authorized by this NWP.

Based on reported use of this NWP during the period February 1, 2022, to February 1, 2025, the Norfolk District estimates that this NWP will be used approximately 173 times per year in Virginia, resulting in impacts to approximately 13 acres of waters of the United States. The reported use includes pre-construction notifications submitted to the Norfolk District, as required by the terms and conditions of the NWP, as well as regional conditions imposed by division engineers. The reported use also includes voluntary notifications submitted to the Norfolk District where the applicants request written verification in cases when pre-construction notification is not required. The reported use does not include activities that do not require pre-construction notification and were not voluntarily reported to the Norfolk District. The Norfolk District estimates that 9 NWP 58 activities will occur each year that do not require pre-construction notification, and that these activities will impact 0.53 acres of jurisdictional waters each year.

Based on reported use of this NWP between February 2022 and February 2025, the Norfolk District estimates that 18.5 percent of the NWP 58 verifications will require compensatory mitigation to offset the authorized impacts to waters of the United States and ensure that the authorized activities result in only minimal individual and cumulative adverse environmental effects. The verified activities that do not require compensatory mitigation will have been determined by the Norfolk District to result in no more than minimal individual and cumulative adverse environmental effects without compensatory mitigation. During 2026-2031, the Norfolk District expects little change to the percentage of NWP 58 verifications requiring compensatory mitigation, because there have been no substantial changes in the mitigation general condition or the NWP regulations for determining when compensatory mitigation is to be required for NWP activities. The Norfolk District estimates that approximately 15 acres of compensatory mitigation and 306 stream credits will be required each year to offset authorized impacts. The demand for these types of activities could increase or decrease during the five-year period this NWP is in effect.

Based on these annual estimates, the Norfolk District estimates that approximately 908 activities could be authorized until this NWP expires, resulting in impacts to approximately 68.79 acres of waters of the United States. Approximately 76 acres of compensatory mitigation and 1532 stream credits would be required to offset those impacts. Compensatory mitigation is the restoration (re-establishment or rehabilitation), establishment, enhancement, and/or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. 33 CFR § 332.2.

The regulatory jurisdiction of the Norfolk District encompasses the entire state of Virginia, except for certain military installations in Northern Virginia and South Holston Lake within Nashville District. Virginia is approximately 40,767 square miles in size and can be subdivided into five physiographic regions. From west to east, these are the Appalachian Plateau, the Valley and Ridge province, the Blue Ridge, the Piedmont Plateau, and the Coastal Plain. Virginia's aquatic resources include tidal and nontidal wetlands, and ephemeral, intermittent, and perennial streams. The Virginia State Wetlands Program Plan, Plan Years 2015-2020 indicates that Virginia has lost roughly 40% of the original wetlands that were found within the state. Virginia has approximately 1,000,000 acres of wetlands remaining, with 25% being tidal wetlands and 75% being nontidal wetlands. The past losses are primarily attributable to agricultural conversion and fill for development. The rate of wetland losses has since been reduced, primarily through state and federal regulatory protection and permitting programs.

The primary activities that affect, directly and indirectly, the aquatic resources of Virginia include commercial and residential development, coal and other mining activities, forestry practices, agricultural conversion of wetlands, stream impoundment, and hydrologic modifications including stream channelization and ditching for mosquito control. Stormwater runoff, which changes the frequency and intensity of runoff, modifications to riparian areas and upland buffers, ecosystem degradation due to invasive species, shoreline erosion, and saltmarsh dieback, point and nonpoint source pollution, and shoreline hardening due to bulkheads and revetments also affect Virginia's aquatic resources. The Corps of Engineers, the DEQ, and the Virginia Marine Resources Commission (VMRC) all have regulatory authority over Virginia's aquatic resources in differing capacities.

Virginia's streams and wetlands are often impacted through activities permitted by these regulatory agencies. Permitted actions include the placement of fill, stream channelization, road and other transportation crossings, stream impoundments, water withdrawals, dredging of rivers and estuaries, the construction of armored or hardened shorelines, utility line crossings, and point source discharges of stormwater and industrial effluent. In addition to these anthropogenic changes, sea level rise, coastal storms, and floods result in shoreline erosion and subsidence and additional wetland loss.

In addition to verifying projects using NWPs, the Norfolk District also issues letters of permission (LOP), regional general permits (RGP), and a State Programmatic General Permit (SPGP) for Piers, Aquaculture, Shoreline, Dredging, Other (23-SPGP-PASDO). These permits are used to authorize activities such as the construction of small impoundments, the maintenance of drainage and mosquito ditches, private open-pile piers and mooring piles, commercial piers, and activities also authorized by VMRC (e.g., beach nourishment, living shorelines, maintenance dredging, bulkheads and riprap, boat ramps, certain aquaculture activities construction of reefs for fish and shellfish, and commercial moorings). The SPGP Residential, Commercial, Institutional and Recreational Development (22-SPGP-RCIR) and the SPGP Linear Transportation (22-SPGP-LT) authorize impacts due to residential, commercial and institutional

developments and transportation projects. The Norfolk District's SPGPs are administered by the Virginia DEQ. The projects authorized under SPGPs are often most similar to those that could qualify for NWPs 14, 18, 29, 39, and 43. However, projects authorized under SPGPs may have up to one acre of impacts. NWPs 14, 29 and 39 are regionally conditioned as to not overlap with the SPGP. Standard permits (SP), which are also referred to as individual permits, typically authorize projects with more than one acre of impacts, or those projects which may not be authorized under NWPs, RGPs or the SPGPs.

During the time period from February 1, 2022, through February 1, 2025, Norfolk District verified 3,034 projects using the NWPs; issued 2,082 PGPs; 1,808 RGPs, and 106 SPs. These totals show that most of the District's permitted projects qualified for general permits, which typically have minimal adverse impacts to Virginia's aquatic resources. The acreage of impacts under the RGPs includes large environmental restoration projects, most of which were oyster reefs. These aquatic habitat restoration projects mostly impacted subaqueous bottom and were not wetland losses. The impact acreages below include temporary impacts and impacts associated with beach nourishment, which generally do not require mitigation. Temporary impacts are restored to pre-existing conditions, so the acres of wetland loss are much smaller than reported below.

Permit type	Acres of Impacts Avoided	Acres of Impacts Authorized	Acres of Mitigation	Linear Feet of Stream Mitigation
NWP	4	482	106	14,633
PGP	0	25	325	1618
RGP	0	2,675	1	0
SP	8	304	4,428	103,829

Based on annual reporting from DEQ for the reporting period of 2022 through 2025, DEQ reports that 196.78 acres of wetlands were lost through permit actions. DEQ also reports that 310.19 acres/credits of compensatory mitigation were required for those impacts. The wetland impacts were associated with general permit coverages, individual permits, and include non-tidal and isolated wetlands that were permanently impacted (DEQ Review of the USACE-Norfolk District State Program General Permits (22-SPGP-RCIR, 22-SPGP-LT)).

Both the Corps of Engineers and the DEQ implement "no net loss" policies in their permitting programs. The Norfolk District determines wetland mitigation on a project-specific basis and may not always require compensation for wetland impacts less than 1/10 of an acre or for stream impacts less than 0.03 acres or 300 linear feet. The District Commander may add special conditions to NWPs, including wetland or stream compensation, to ensure that the permitted activities will result in minimal adverse effects on the aquatic environment.

The “no net loss” wetlands goal may still be met even though compensation may not be required for projects with smaller individual impacts. The Norfolk District generally requires 2:1 replacement for forested wetland impacts, 1.5:1 for scrub-shrub wetland impacts, and 1:1 for emergent wetlands. Stream channel compensation depends upon calculations using the United Stream Methodology, and compensation for dredged mudflats, filled or dredged submerged aquatic vegetation (SAV) beds, and open water varies according to the functions and services of the impacted aquatic resource. These compensation ratios help to reduce the magnitude and significance of cumulative impacts within Virginia.

Two regional conditions help ensure that impacts are compensated appropriately. Regional Condition 8 specifies that a mitigation plan is required when the permanent loss exceeds 0.1 acre of wetlands and/or 0.03 acre of stream bed or 300 linear feet of stream bed. Regional Condition 10 further specifies that when a PCN is required, compensatory mitigation is generally required for all wetland impacts (including impacts less than 1/10 acre) associated with transportation projects funded in part or in total by local, state, or federal funds.

As of October 2025, the Norfolk District contains 170 operational mitigation banks (banks) and in-lieu fee sites (sites) throughout Virginia; these banks/sites currently have approximately 920 non-tidal wetland credits, 362,000 tidal wetland credits and 150,000 stream credits available for purchase or use. These credits equate to 1,794 acres of wetlands and 241,265 linear feet of stream channel. The availability of credits varies by watershed and by demand for credits in that watershed. Mitigation bank and in-lieu credits are tracked in the Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS). Wetland mitigation banks are constructed before permitted impacts are taken and therefore can be considered as an offset for the temporal losses that are associated with permittee-responsible mitigation. Due to their larger size and landscape locations, wetland and stream banks usually offer ecological advantages over smaller individual permittee-responsible mitigation sites.

In addition to its wetland and stream banks, the Norfolk District has agreements with entities that provide additional methods of satisfying compensatory mitigation requirements. The Nature Conservancy’s Virginia Stream and Wetland Mitigation Program (SWMP) and the Coastal Virginia Conservancy (CVC) provide compensatory mitigation. The SWMP uses funds for aquatic resource creation, establishment, re-establishment, enhancement, and preservation throughout Virginia. The CVC concentrates on restoring water quality through sediment remediation projects and oyster reef construction within the Elizabeth River watershed in southeastern Virginia.

The Norfolk District’s regional conditions and the standard operating procedures for complying with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act and the Magnuson-Stevens Fishery Conservation and Management Act will help ensure that the NWPs do not result in more than minimal individual and cumulative adverse environmental effects.

9.0 List of Final Corps Regional Conditions:

See attached list of Regional Conditions.

10.0 Water Quality Certification and Coastal Zone Management Act consistency determinations

Norfolk District requested a Clean Water Act (CWA) Section 401 water quality certification (WQC) prefiling meeting with DEQ in November 2024 and a prefiling meeting was held with DEQ on January 10, 2025. Norfolk District provided additional information in a letter dated May 5, 2025. On June 23, 2025, Norfolk District sent a WQC request to DEQ that included a 6-month "reasonable period of time" (RPOT) to complete the WQC determination. However, DEQ proposed a shortened RPOT ending on November 1, 2025. Subsequently, DEQ requested an extension of the RPOT until November 15, 2025, to adequately conduct their public comment period and Norfolk District granted the extension request.

On November 6, 2025, the Virginia Department of Environmental Quality (DEQ) granted water quality certification (WQC) for the 2026 Nationwide Permits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, and 60 pursuant to Section 401 of the Clean Water Act (CWA) (33 U.S.C. § 1341), Virginia Code §§ 62.1-44.14 & 62.1-44.41, and 9 Va. Admin. Code 25-210-130.

DEQ provided the following statements:

> *DEQ finds that activities which may result in a discharge of dredged or fill material into waters of the United States (WOTUS) and authorized by one or more Proposed 2026 NWPs will comply with the requirements of the applicable water quality standards under Virginia Administrative Code 9VAC25-260 et seq., as established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA; Title 62.1 of the Code of Virginia; and the applicable Virginia Water Protection (VWP) Permit Program regulations, provided that permittees abide by all requirements and conditions of this WQC and the applicable Proposed 2026 NWP (including the District Regional Conditions).*
>
> *This WQC applies to activities that satisfy all requirements and conditions to be authorized for coverage under one or more Proposed 2026 NWPs (including the applicable District Regional Conditions).*
>
> *WQCs are not permits. Therefore, they do not relieve the applicant or permittee from complying with all applicable requirements of the Clean Water Act, State Water Control Law, and local, state, and federal government laws or regulations, nor do the WQCs affect DEQ's authority to take any permitting, compliance, and enforcement action allowed under Chapter 3.1 of Title 62.1 of the Code of Virginia or applicable Virginia Water Protection (VWP) Permit Program regulations (9VAC25-210 et seq.,*

9VAC25-660 et seq., 9VAC25-670 et seq., 9VAC25-680 et seq., 9VAC25-690 et seq.). In such cases, submittal of an application to DEQ may be required for state review, unless the activity is otherwise excluded or waived from VWP permitting requirements.

Norfolk District reviewed the 401 WQC and the associated conditions to ensure that they are reasonably implementable or enforceable, according to 33 CFR § 325.4(c). Corps Headquarters completed the coordination with EPA Headquarters to determine if the discharge may affect water quality in a neighboring jurisdiction. The Clean Water Act Section 401(a)(2) process has been completed for the NWPs that were issued on January 8, 2026. No regional conditions were added or identified through the 401(a)(2) process.

Norfolk District submitted a Coastal Zone Management Act (CZMA) consistency determination to DEQ on June 25, 2025. Norfolk District received the CZMA determination from the DEQ for the proposed NWPs on August 22, 2025. Norfolk District reviewed the CZMA determination and the associated conditions to ensure that they are reasonably implementable or enforceable, according to 33 CFR § 325.4(c).

Norfolk District has incorporated the applicable 401 WQC and CZMA conditions into the regional conditions in accordance with 33 CFR § 330.4(c)(2) and 33 CFR § 330.4(d)(2). The specific regional conditions are discussed in Section 2.4 of this document. Norfolk District also incorporates conditions into the NWP verification letters, which require applicants to seek approval from the Virginia Marine Resource Commission (VMRC) and/or the Local Wetlands Board, as appropriate, prior to commencement of work in tidal and nontidal waters under the jurisdiction of those agencies to address the CZMA consistency determination. Norfolk District will also incorporate a statement into the NWP verification templates to address NWP 32 and DEQ's request that applicants coordinate NWP 32 verifications with DEQ.

11.0 Measures to Ensure No More Than Minimal Adverse Environmental Effects

The terms and conditions of the NWP, including the pre-construction notification requirements and the regional conditions listed in Section 9.0 of this document, will ensure that this NWP authorizes only activities with no more than minimal individual and cumulative adverse environmental effects. High value waters will be protected by the restrictions in General Condition 22, the regional conditions discussed in this document, and the pre-construction notification requirements of the NWP. Through the pre-construction notification process, the Norfolk District will review certain activities on a case-by-case basis to ensure that those activities result in no more than minimal adverse environmental effects, individually and cumulatively. Through the pre-construction notification review process, the district engineer can add special conditions to an NWP authorization to ensure that the NWP activity results in no more than minimal adverse environmental effects, individually and cumulatively. During the pre-construction notification process, the district engineer will exercise discretionary authority and require an individual permit for a proposed activity that will result in more

than minimal individual and cumulative adverse environmental effects.

The Norfolk District has established regional conditions that apply to this NWP to ensure that activities authorized by this NWP will result in no more than minimal individual and cumulative adverse environmental effects. These regional conditions help prevent adverse impacts in areas containing SAVs, anadromous fish and federally listed species. The regional conditions also require submission of a mitigation plan to help ensure that impacts are not more than minimal.

If, at a later time, there is clear, unequivocal evidence that the use of this NWP would result in more than minimal individual and cumulative adverse environmental effects, the modification, suspension, or revocation procedures at 33 CFR § 330.4(e) or 33 CFR § 330.5 will be used.

12.0 Final Determination

Based on the considerations discussed above, and in accordance with 33 CFR §§ 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, as well as these regional conditions, will authorize only those activities that have no more than minimal individual and cumulative adverse environmental effects.

13.0 References

Virginia State Wetlands Program Plan, Plan Years 2015-2020; Submitted by The Department of Environmental Quality in Collaboration with Virginia Institute of Marine Science - Center for Coastal Resources Management and Virginia Marine Resources Commission. Updated Link: https://www.epa.gov/sites/default/files/2016-04/documents/virginia_wetland_plan_final_2016.pdf

Review of the USACE-Norfolk District State Program General Permits (22-SPGP-RCIR, 22-SPGP-LT) – Reporting Period: September 1, 2022 – August 31, 2023 | Report Date: February 28, 2024

Review of the USACE-Norfolk District State Program General Permits (22-SPGP-RCIR, 22-SPGP-LT) – Reporting Period: September 1, 2023 – August 31, 2024 | Report Date: November 15, 2024

Review of the USACE-Norfolk District State Program General Permits (22-SPGP-RCIR, 22-SPGP-LT) – Reporting Period: September 1, 2024 – June 30, 2025 | Report Date: July 24, 2025

Norfolk District Final Regional Conditions (RC) for the 2026 Nationwide Permits (NWPs) Applicable in Virginia (Including Northern Virginia Military Installations within Baltimore District's Area of Responsibility and South Holston Lake within Nashville District)

I. REGIONAL CONDITIONS APPLICABLE TO ALL NWPS UNLESS OTHERWISE STATED:

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

This condition applies to: NWPs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 39, 45, 48, 52, 53, 54, 55, 57, 58 and 60.

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

RC 2. Anadromous Fish Use Areas:

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

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

A PCN is required for work under NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54 in the Mallows Bay-Potomac River National Marine Sanctuary and the Chesapeake Bay National Estuarine Research Reserve in Virginia. The Chesapeake Bay National Estuarine Research Reserve within the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Islands, and Goodwin Islands. More information can be found at the following websites: https://sanctuaries.noaa.gov/mallows-potomac/ http://www.vims.edu/cbnerr/.

NWPs 7, 12, 14, 16, 17, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 cannot be used to authorize the discharge of dredged or fill material in the Mallows Bay-Potomac River National Marine Sanctuary and the Chesapeake Bay National Estuarine Research Reserve in Virginia.

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

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

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

RC 5. Invasive Species

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

RC 6. Countersinking Pipes and Culverts

This condition applies to NWPs 3, 7, 12, 14, 17, 18, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 57, 58, and 60.

NOTE FOR WORK IN TIDAL WATERS: New and replacement pipes/culverts in tidal waters must be installed with the inverts no higher than the prevailing stream/channel bottom elevation. If the permittee determines that matching existing elevations is not practicable, then a PCN is required. This condition does not apply to pipe extensions in tidal waters.

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

a. All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.

b. When countersinking culverts, permittees must ensure reestablishment of a surface water channel (within 15 days post construction) that allows for the movement of aquatic organisms and maintains the same hydrologic regime that was present pre-construction (i.e., the depth of surface water through the permit area should match the upstream and downstream depths). This may require the addition of finer materials to choke the larger stone and/or placement of riprap to allow for a low flow channel.

c. The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance of pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).

d. Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).

e. Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.

f. Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:

    i. Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations.

    ii. A pipe/culvert is being placed in a new location: If the permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, they should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that will allow for countersinking. If the permittee determines that neither a bottomless structure nor an alternative location is practicable, then a PCN is required. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. PCN must also include photographs documenting site conditions. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.

g. Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the permittee not want to countersink the pipe/culvert for other reasons, they must submit a PCN. The permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals.

h. Problems encountered during construction: When a pipe/culvert is being replaced, the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, a utility line, or other documentable obstacle, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for an NWP.

i. Emergency pipe replacements: In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but

the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow
the procedures outlined in (f) and/or (g) above.

RC 7. Repair of Pipes

This condition applies to NWPs 3, 7, 12, 14, 17, 18, 23, 25, 27, 29, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 57, 58, and 60.

NOTE FOR WORK IN TIDAL WATERS: New and replacement pipes/culverts in tidal waters must be installed with the inverts no higher than the prevailing stream/channel bottom elevation. If the permittee determines that matching existing elevations is not practicable, then a PCN is required. This condition does not apply to pipe extensions in tidal waters.

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

a. If the existing pipe or multi-barrel array of pipes are NOT currently countersunk:

    i. As long as the inlet and outlet invert elevations of at least one pipe located in the low flow channel are not being altered, and provided that no concrete apron is being constructed, then the work may proceed under the NWP for the other pipes, provided it complies with all other NWP General Conditions. In such cases, a PCN is not required, unless specified in the Regional Conditions for other reasons, and the permittee may proceed with the work.

    ii. Otherwise, the permittee must submit a PCN prior to commencing the activity. For all such projects, the following information should be provided:

        1) Photographs of the existing inlet and outlet;
        2) A measurement of the degree to which the work will raise the invert elevations of both the inlet and outlet of the existing pipe;

3) The reasons why other methods of pipe maintenance are not practicable (such as metal sleeves or a countersunk pipe replacement);
4) A vicinity map showing the pipe locations.

The Norfolk District will assess all such pipe repair proposals in accordance with guidelines that can be found under "Pipe Repair Guidelines" at

http://www.nao.usace.army.mil/Missions/Regulatory/GuidanceDocuments.aspx.

iii. If the Norfolk District determines that the work qualifies for the NWP, additional conditions will be placed on the verification. Those conditions can be found at the web link above (in item ii).

iv. If the Norfolk District determines that the work does NOT qualify for the NWP, the applicant will be directed to apply for either Regional Permit 01, applicable only for Virginia Department of Transportation (VDOT) projects or an Individual Permit. However, it is anticipated that the applicant will still be required to perform the work such that the waterway is not blocked or restricted to a greater degree than its current conditions.

b. If the existing pipe or at least one pipe in the multi-barrel array of pipes IS countersunk and at least one pipe located in the low flow channel will continue to be countersunk, and no concrete aprons are proposed:

No PCN to the Norfolk District is required, unless specified in the Regional Conditions for other reasons, and the permittee may proceed with the work.

c. If the existing pipe or at least one pipe in the multi-barrel array of pipes IS countersunk and no pipe will continue to be countersunk in the low flow channel:

This work cannot be performed under the NWPs. The permittee must apply for either a Regional Permit 01 (applicable only for VDOT projects) or an Individual Permit. However, it is anticipated that the permittee will still be required to perform the work such that the waterway is not blocked or restricted more so than its current conditions.

d. In emergency situations, if conditions or timeframes do not allow for compliance with the procedure outlined herein, then the pipe can be temporarily repaired to the condition before the washout. If the temporary repair would require a PCN by the above procedures, the permittee must submit the PCN at the earliest practicable date, but no longer than 15 days after the temporary repair.

RC 8. Impacts Requiring a Compensatory Mitigation Plan

When a PCN is required, a compensatory mitigation plan must be submitted if the permanent loss exceeds 0.1 acre of wetlands and/or 0.03 acre of stream bed or 300 linear feet of stream bed unless otherwise stated in the regional conditions (see Regional Condition 11 for Transportation Projects). The stream channel loss must be reported in acreage and linear feet.

RC 9. Removal of Temporary Fills and Impacts

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

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

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

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

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

A PCN is required if the NWP activity also requires a section 408 permission from the Corps pursuant to 33 U.S.C. § 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. The activity is not authorized by the NWP until the appropriate Corps District office issues the Section 408 permission and the District Engineer issues a written NWP verification [NWP GC #31 and GC #32(b)(1)].

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

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

https://www.nao.usace.army.mil/408Review/

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

RC 12. Clean Water Act Section 401 Water Quality Certification

On November 6, 2025, the Virginia Department of Environmental Quality (DEQ) granted water quality certification (WQC) for the 2026 Nationwide Permits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, and 60 pursuant to Section 401 of the Clean Water Act (CWA) (33 U.S.C. § 1341), Virginia Code §§ 62.1-44.14 & 62.1-44.41, and 9 Va. Admin. Code 25-210-130.

Applicants must review the following statements provided by DEQ:

DEQ finds that activities which may result in a discharge of dredged or fill material into waters of the United States (WOTUS) and authorized by one or more Proposed 2026 NWPs will comply with the requirements of the applicable water quality standards under Virginia Administrative Code 9VAC25-260 et seq., as established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA; Title 62.1 of the Code of Virginia; and the applicable Virginia Water Protection (VWP) Permit Program regulations, provided that permittees abide by all requirements and conditions of this WQC and the applicable Proposed 2026 NWP (including the District Regional Conditions).

This WQC applies to activities that satisfy all requirements and conditions to be authorized for coverage under one or more Proposed 2026 NWPs (including the applicable District Regional Conditions).

WQCs are not permits. Therefore, they do not relieve the applicant or permittee from complying with all applicable requirements of the Clean Water Act, State Water Control Law, and local, state, and federal government laws or regulations, nor do the WQCs affect DEQ's authority to take any permitting, compliance, and enforcement action allowed under Chapter 3.1 of Title 62.1 of the Code of Virginia or applicable Virginia Water Protection (VWP) Permit Program regulations (9VAC25-210 et seq., 9VAC25-660 et seq., 9VAC25-670 et seq., 9VAC25-680 et seq., 9VAC25-690 et seq.). In such cases, submittal of an application to DEQ may be required for state review, unless the activity is otherwise excluded or waived from VWP permitting requirements.

<u>For Nationwide Permit 32 DEQ provided the following:</u>

On November 6, 2025, the Virginia Department of Environmental Quality (DEQ) expressly waived water quality certification (WQC) for the United States Army Corps of Engineers (USACE) proposed 2026 Nationwide Permit 32 and proposed District Regional Conditions applicable to Nationwide Permit 32, pursuant to Section 401 of the Clean Water Act, as amended (33 U.S.C. § 1341); the Constitution of Virginia, Article XI, Section 1; Title 62.1 of the Code of Virginia, including Chapter 3.1 (State Water Control Law); applicable Virginia Water Protection (VWP) Permit Program regulations (9VAC25-210 et seq., 9VAC25-660 et seq., 9VAC25-670 et seq., 9VAC25-680 et seq., 9VAC25-690 et seq.); and Virginia Water Quality Standards (9VAC25-260 et seq.).

DEQ cannot determine if the activities which may result in a discharge(s) of dredged or fill material into waters of the United States (WOTUS) as authorized by Nationwide Permit 32 and conducted without prior state authorization, if required, will comply or would have complied with the requirements of the applicable water quality standards under Virginia Administrative Code 9VAC25-260 et seq., as established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA; ii) Title 62.1 of the Code of Virginia; or iii) the applicable VWP Permit Program regulations.

WQCs are not permits. Therefore, they do not relieve the applicant or permittee from complying with all applicable requirements of the Clean Water Act, State Water Control Law, and local, state, and federal government laws or regulations, nor do the WQCs affect DEQ's authority to take any permitting, compliance, and enforcement action allowed under Chapter 3.1 of Title 62.1 of the Code of Virginia or applicable Virginia Water Protection (VWP) Permit Program regulations (9VAC25-210 et seq., 9VAC25-660 et seq., 9VAC25-670 et seq., 9VAC25-680 et seq., 9VAC25-690 et seq.).

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

DEQ concurred that the 2026 NWPs with the Regional Conditions are consistent to the maximum extent practicable with the Virginia CZM Program.

Applicants should review the CZMA Federal Consistency Determination for compliance: https://www.nao.usace.army.mil/Missions/Regulatory-Branch/Regulatory-Permits/.

II. REGIONAL CONDITIONS APPLICABLE TO SPECIFIC 2026 NWPS:

RC 14. Applicable to NWP 5 - Scientific Measurement Devices Condition for Offshore Devices and Construction or Installation of Subaqueous Turbines:

A PCN is required for meteorological towers or other anchored measurement devices proposed in areas with sensitive complex habitats, benthic features with pronounced vertical relief (e.g., sand waves, ridge and trough complexes), areas with dense aggregations of biota (e.g., Cerianthid and shellfish beds) or areas with particularly sensitive species (e.g., Northern star coral, sea whips *Alcyonacea sp.*).

A PCN is required if a permittee proposes the construction or installation of subaqueous turbines because this work may have more than minimal impacts and the work will need to be coordinated with appropriate federal, state, and/or local agencies.

RC 15. Applicable to NWP 6 – Survey Activities

A PCN is required for all proposed seismic surveying involving sub-bottom profilers or other sound-generating surveying likely to cause behavior modification or injury to fish.

A PCN is required for any proposed survey and/or site characterization activities in any Habitat Area of Particular Concern (HAPC).

RC 16. Applicable to NWP 7 - Outfall Structures and Associated Intake Structures Conditions for Intakes in Anadromous Fish Waters:

When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of shellfish, resident and anadromous fish:

1. Screening over the mouth of the intake with mesh size that does not exceed 1mm;

2. Intake velocities that do not exceed 0.25 feet per second;

3. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.

RC 17. Applicable to NWP 10 - Mooring Buoys
Conditions for Sufficient Mooring Depths:

1. Water depths in the mooring areas should be sufficient that vessels moored float at all stages of the tide.

2. Boats should not hit bottom during low water conditions. The swing radius of the vessel plus the mooring chain should not result in the vessel becoming an obstruction to navigation.

3. Use of this NWP is prohibited in and around SAV beds. Information about SAV habitat can be found at the Virginia Institute of Marine Science's website: http://mobjack.vims.edu/sav/savwabmap/.

RC 18. Applicable to NWP 11 - Temporary Recreational Structures:
Conditions for Sufficient Mooring Depths:

1. Water depths in the mooring areas should be sufficient that structures moored float at all stages of the tide or stoppers must be utilized to prevent the structures from resting on the bottom, so as to not damage the underlying benthic communities.

2. Structures should not hit bottom during low water conditions.

3. Use of this NWP is prohibited in and around SAV beds. Information about SAV habitat can be found at the Virginia Institute of Marine Science's website: http://mobjack.vims.edu/sav/savwabmap/.

RC 19. Applicable to NWP 12 - Oil or Natural Gas Pipeline Activities
Conditions Specific to NWP 12:

1. Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.

2. A PCN is required when the activity involves greater than 0.10 acre of mechanized land clearing in a forested wetland for the utility line right-of-way.

3. For utility activities requiring a PCN, the permittee shall provide the following information:

a. A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).

b. An analysis of onsite minimization, which specifically addresses the following:

   i. Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.

   ii. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia (ecological cores) (http://www.dcr.virginia.gov/natural-heritage/vaconvision). Mapped cores in the project area can be viewed via the Virginia Natural Heritage Data Explorer (http://vanhde.org/content/map).

   iii. Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent easement, wetland vegetation shall only be removed at or above the ground surface unless written justification is provided, and the impacts are reviewed and approved by the Corps.

   iv. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot-wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408

Program webpage at https://www.nao.usace.army.mil/408Review/ via the *Norfolk District Section 408 Map*. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a federal project. Any utility lines crossing under a federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the federal project. Specific minimum depth requirements under the Federal channel and side slopes and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and maximum authorized depths for specific federal navigation projects or other federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling is authorized provided that:

    a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

    b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year will apply, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. For utility lines landing in Virginia from the Outer Continental Shelf (OCS), the applicant shall send the PCN to the following federal agencies:

    Director, Naval Seafloor Cable Protection Office
    Naval Facilities Engineering Command

1322 Patterson Ave SE, Suite 1000
Washington DC 20374

Bureau of Ocean Energy Management (BOEM)
Atlantic OCS Region
1201 Elmwood Park Blvd.
New Orleans, LA 70123-2394.

8. For utility line projects completed by horizontal directional drilling or other boring methods, include a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

9. When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of anadromous fish:

    a. Screening over the mouth of the intake with mesh size that does not exceed 1mm;
    b. Intake velocities that do not exceed 0.25 feet per second;
    c. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.

10. An individual Section 401 water quality request must be submitted to DEQ for review and determination on the need for a state action in accordance with state laws and regulations if the proposed activities in surface waters, which may result in any discharge of dredged or fill material, include a natural gas transmission pipeline greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 USC § 717f(c)).

RC 20. Applicable to NWP 14 – Linear Transportation Projects
Restricted use of NWP 14 Linear Transportation Projects in Nontidal Waters:

A portion of NWP 14 overlaps with the current State Program General Permit (SPGP-01); therefore, NWP 14 may not be used for projects impacting Section 404 only, nontidal waters of the United States, including wetlands, unless the Norfolk District determines that the SPGP-01 is not applicable. NWP 14 may still be considered for projects impacting tidal waters of the United States, other nontidal, Section 10 waters of the United States and in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

RC 21. Applicable to NWP 18 – Minor Discharges
Conditions Specific to NWP 18:

For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/10-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

RC 22. Applicable to NWP 23 - Approved Categorical Exclusions
Conditions Specific to NWP 23:

1. The permittee must submit a PCN if the project results in a discharge to a special aquatic site, including vegetated shallows (i.e., SAV), mud flats, wetlands, and/or results in combined impacts to more than 300 linear feet of streambed from the entire project.

2. To ensure that permanent losses of waters of the United States do not result in more than minimal adverse effects to the aquatic environment, compensation will be required for all wetland impacts and for any single impact to a stream of greater than 300 linear feet. For projects where the combined impacts to streams due to the entire project exceed 300 linear feet, but no single impact exceeds 300 linear feet, the Corps will determine on a case-by-case basis whether compensation for stream impacts is required.

RC 23. Applicable to NWP 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities:

1. For all projects proposing stream restoration, you may be asked to provide a completed Natural Channel Design Review Checklist and Selected morphological Characteristics form, including the name and location of the reference reach. These forms and the associated manual can be located at

   https://www.fws.gov/chesapeakebay/PDF/stream-restoration/Natural-Channel-Design-Checklist-Doc-V2-Final-11-4-11.pdf.

2. If the permittee intends for the permitted activity to generate compensatory mitigation credits, the permittee must comply with all terms and conditions of the mitigation banking instrument/in-lieu fee program instrument and modifications to those instruments. Verification of this NWP prior to execution of the mitigation banking instrument/in-lieu fee program instrument or modifications to those instruments does not guarantee the approval of the use of any credits generated from the permitted activities for compensatory mitigation.

RC 24. Applicable to NWP 29 - Residential Developments:

Restricted use of NWP 29 for Multiple Unit Residential Developments and Residential Subdivisions: NWP 29 overlaps with the current State Program General Permit (SPGP-01); therefore, NWP 29 may not be used to authorize multiple unit residential developments and residential subdivisions, unless the Norfolk District determines that the SPGP-01 is not applicable. NWP 29 may still be used for a single residence and attendant features and in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

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

Restricted use of NWP 39 for Commercial and Institutional Developments: NWP 39 overlaps with the current State Program General Permit (SPGP-01); therefore, NWP 39 may not be used, unless the Norfolk District determines that the SPGP-01 is not applicable. NWP 39 may still be used in the Northern Virginia Military Installations within Baltimore District's Area of Responsibility.

RC 26. Applicable to NWP 48 - Commercial Shellfish Mariculture Activities:

1. No aquaculture activity shall occur within beds of submerged aquatic vegetation (SAV) or saltmarsh, nor shall such vegetation be damaged or removed. Should an area become colonized by SAV or saltmarsh after an authorized aquaculture activity is installed in the same area, the activity shall be allowed to remain; however, no expansion of the aquaculture operation into newly colonized areas is authorized by this NWP. Information on the location of SAV beds can be found at http://mobjack.vims.edu/sav/savwabmap/.

2. An aquaculture activity will not meet the terms for this NWP if it will have more than minimal adverse effects on avian resources such as, but not limited to shore birds, wading birds, or waterfowl. This includes nesting, feeding or resting activities by migratory birds identified at 50 CFR § 10.13.

3. An aquaculture activity will not qualify for this NWP if it will have more than minimal adverse effects on existing or naturally occurring beds or populations of shellfish, marine worms or other invertebrates that could be used by man, other mammals, birds, reptiles, or fish. Feeding and harvesting plans, including the use of a hydraulic dredge, should be included in the application to evaluate impacts.

4. No aquaculture activity or vehicular access to the activity shall occur in such a way as to negatively impact coastal or wetland vegetation.

5. As-built drawings must be submitted with the certificate of compliance for all aquaculture projects.

6. The District Engineer will require an Individual Department of the Army permit for any project which they determine to have greater than minimal individual or cumulative adverse impacts.

7. If the permittee decides to abandon the activity authorized under this NWP (unless such abandonment is merely the transfer of property to a third party), the permittee must notify the Corps and may be required to remove the structures and restore the area to the satisfaction of the Corps.

RC 27. Applicable to NWP 51 - Land-Based Renewable Energy Generation Facilities:

1. Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.

2. A PCN is required when the activity involves greater than 0.10 acres of mechanized landclearing in a forested wetland for the utility line right-of-way.

3. For utility activities requiring a PCN, the permittee shall provide the following information:

   a. A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).

   b. An analysis of onsite minimization, which specifically addresses the following:

      i. Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.

      ii. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia: http://www.dcr.virginia.gov/natural-heritage/vaconvision.

      iii. Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent

easement, wetland vegetation shall only be removed at or above the ground surface unless written justification is provided and the impacts are reviewed and approved by the Corps.

iv. For overhead utility lines, allowance of natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.

v. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408 Program webpage at https://www.nao.usace.army.mil/408Review/ via the Norfolk District Section 408 Map. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a federal project. Any utility lines crossing under a federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the federal project. Specific minimum depth requirements under the federal channel and side slopes, and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and maximum authorized depths for specific federal navigation projects or other federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling in wetlands is hereby authorized provided that:

a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year may apply, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. Aerial Transmission Lines Crossing Navigable Waters:

a. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the United States Coast Guard for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal System Voltage (kV)	**Minimum additional clearance (ft.) above clearance required for bridges**
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750 - 765	45

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

c. Corps of Engineer Regulation (ER) 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both this Regional Condition and ER 1110-2-4401 apply, the greater minimum clearance is required.

8. For utility line projects completed by horizontal directional drilling or other boring methods, a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures needs to be included with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

RC 28. Applicable to NWP 52 - Water-Based Renewable Energy Generation Pilot Projects:

1. Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.

2. A PCN is required when the activity involves greater than 0.10 acres of mechanized landclearing in a forested wetland for the utility line right-of-way.

3. For utility activities requiring a PCN the permittee shall provide the following information:

   a. A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).

   b. An analysis of onsite minimization, which specifically addresses the following:

      i. Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.

ii. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia: http://www.dcr.virginia.gov/natural-heritage/vaconvision.

iii. Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent easement, wetland vegetation shall only be removed at or above the ground surface unless written justification is provided, and the impacts are reviewed and approved by the Corps.

iv. For overhead utility lines, allowance of natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.

v. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot-wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408 Program webpage at https://www.nao.usace.army.mil/408Review/ via the Norfolk District Section 408 Map. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a federal project. Any utility lines crossing under a federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the federal project. Specific minimum depth requirements under the federal channel and side slopes, and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and

maximum authorized depths for specific federal navigation projects or other federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling in wetlands is hereby authorized provided that:

   a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

   b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year may apply to construction, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. Aerial Transmission Lines Crossing Navigable Waters:

   a. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the United States Coast Guard for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal System Voltage (kV)	**Minimum additional clearance (ft.) above clearance required for bridges**
115 and below	20
138	22
161	24
230	26

350	30
500	35
700	42
750 - 765	45

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

c. Corps of Engineer Regulation (ER) 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps Lake projects. In instances where both this Regional Condition and ER 1110-2-4401 apply, the greater minimum clearance is required.

8. For utility lines landing in Virginia, from the Outer Continental Shelf (OCS), the applicant shall send the PCN to the following federal agencies:

   Director, Naval Seafloor Cable Protection Office
   Naval Facilities Engineering Command
   1322 Patterson Ave SE, Suite 1000
   Washington DC 20374

   Bureau of Ocean Energy Management (BOEM)
   Atlantic OCS Region
   1201 Elmwood Park Blvd.
   New Orleans, LA 70123-2394.

9. For utility line projects completed by horizontal directional drilling or other boring methods, a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures needs to be included with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

10. When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of anadromous fish:

    a. Screening over the mouth of the intake with mesh size that does not exceed 1mm;
    b. Intake velocities that do not exceed 0.25 feet per second;

c. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.

RC 29. Applicable to NWP 53 - Removal of Low-Head Dams:

The following information related to physical removal of the dam structure should be included in the PCN:

1. Timing and rate of the drawdown of the impoundment to avoid and minimize downstream flooding and excessive sedimentation to downstream areas.

2. Method of re-establishment and stabilization of the stream channel, and avoidance of other environmental impacts, including the potential for drainage of adjacent wetlands.

3. Construction equipment to be used in the stream channel and appropriate measures that will be taken, such as the use of construction mats or barges, to minimize impacts.

4. Information sufficient to ensure that accumulated sediments are free from contaminants and are disposed of properly. If testing is required, the testing criteria shall be developed in cooperation with Virginia Department of Environmental Quality.

5. Information concerning competing uses of the waterbody above the dam if the impoundment is not fully owned by the applicant.

RC 30. Applicable to NWP 54 - Living Shorelines:

1. This activity authorizes the placement of sandy fill material, including the placement landward of sill(s) provided the fill is for shoreline protection and/or wetland establishment or enhancement (and not solely a recreational beach). The maximum fill area within waters of the United States that can be authorized under this NWP is one (1) acre. For the purpose of this NWP, a sill is defined as a low (not to exceed +1 ft. above MHW), detached structure constructed near shore and parallel to the shoreline for the purpose of building up an existing beach by trapping and retaining sand in the littoral zone. Because a sill acts like a natural bar, it is most effective when constructed at or near the mean low water line and low enough to allow wave overtopping.

2. The grain size of the source material used for fill must be beach quality sand that is the same size or slightly larger than that of the native beach material and suitable for the proposed project. Excess silt/clay fraction and grain sizes

smaller than the former native sands will perform poorly. In most cases, sand material with no more than 10% passing a #100 sieve is appropriate. All fill material will be obtained from either an upland source, a borrow pit, or dredge material approved by the Corps.

3. Coir logs, coir mats, and native oyster shell should be of sufficient weight, adequately anchored, or placed in a manner to prevent them from being dislodged or carried away by wave action.

4. Sills may be constructed of riprap stone, gabion baskets, or clean broken concrete free of metal and re-bar. Alternative materials may be considered for use during the permit review process. The materials should be of sufficient weight or adequately anchored to prevent them from being dislodged and carried away by wave action. Asphalt and materials containing asphalt or other contaminants shall not be used in the construction of sills.

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

6. The total amount of existing vegetated wetlands, which may be filled, graded, or excavated, in square feet, may not exceed the length of the activity along the shoreline in linear feet unless the District Engineer waives this criterion by making a written determination concluding that the project will result in minimal adverse effects. Impacts to sub-tidal, inter-tidal, and/or existing wetland vegetation may require a wetland mitigation plan and must result in no net loss of vegetated wetlands.

7. If the proposed project includes habitat conversion and/or results in impacts to existing wetland vegetation, then a written monitoring report may be required at the end of the first full growing season following planting, and after the second year of establishment. If required, the monitoring should be undertaken between June and September of each year and should include at a minimum: the project location, the Corps project number, representative photos of the site, and a brief statement on the success of the project.

8. As the design of a living shoreline project is site specific, it is suggested that the applicant refer to the Virginia Institute of Marine Sciences Living Shoreline Design Guidelines for Shore Protection in Virginia's Estuarine Environments and other reference documents which can be found at https://www.vims.edu/ccrm/outreach/living_shorelines/index.php.

9. Projects which include placement of sandy fill material may result in impacts to or creation of suitable habitat for various federally listed threatened or endangered species. If this occurs or the applicant seeks to either add to or replenish the area previously filled, the Corps will consult with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act to ensure

work is not likely to adversely affect proposed or listed species or proposed or designated critical habitat. Specific requirements on the type of sand allowed for beach and dune work may be required.

RC 31. Applicable to NWP 55 - Seaweed Mariculture Activities:

In addition to the information required under NWP 55, the following should be included in the PCN:

1. General water depths, sediment characteristics of the bottom substrate, and benthic species present (including submerged aquatic vegetation) in the project area(s) (a detailed survey is not required).

2. A description of the quantity and dimensions of all proposed structure(s), including: culture gear (lines, cages pens, etc.), anchors, and site markers.

3. A vicinity map showing the project location(s), including the longitude and latitude of the site boundaries.

4. A schematic or drawing showing how the gear will be deployed on the site (a formal engineered schematic is not required).

5. The preconstruction notification should describe all species and culture activities the operator expects to undertake during the effective period of this NWP.

RC 32. Applicable to NWP 57 - Electric Utility Line and Telecommunications Activities:

1. Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.

2. A PCN is required when the activity involves greater than 0.10 acres of mechanized landclearing in a forested wetland for the utility line right-of-way.

3. For utility activities requiring a PCN, the permittee shall provide the following information:

   a. A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).

   b. An analysis of onsite minimization, which specifically addresses the following:

i. Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.

ii. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia: http://www.dcr.virginia.gov/natural-heritage/vaconvision.

iii. Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent easement, wetland vegetation shall only be removed at or above the ground surface unless written justification is provided, and the impacts are reviewed and approved by the Corps.

iv. For overhead utility lines, allowance of natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.

v. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot-wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408 Program webpage at https://www.nao.usace.army.mil/408Review/ via the Norfolk District Section 408 Map. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a federal project. Any utility lines crossing under a federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the federal project. Specific minimum depth requirements

under the federal channel and side slopes, and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and maximum authorized depths for specific federal navigation projects or other federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling in wetlands is hereby authorized provided that:

a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year may apply, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. Aerial Transmission Lines Crossing Navigable Waters:

a. The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the United States Coast Guard for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal System Voltage (kV)	Minimum additional clearance (ft.) above clearance required for bridges
115 and below	20
138	22
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350	30
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750 - 765	45

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

c. Corps of Engineer Regulation (ER) 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both this Regional Condition and ER 1110-2-4401 apply, the greater minimum clearance is required.

8. For utility lines landing in Virginia, from the Outer Continental Shelf (OCS), the applicant shall send the PCN to the following federal agencies:

Director, Naval Seafloor Cable Protection Office
Naval Facilities Engineering Command
1322 Patterson Ave SE, Suite 1000
Washington DC 20374

Bureau of Ocean Energy Management (BOEM)
Atlantic OCS Region
1201 Elmwood Park Blvd.
New Orleans, LA 70123-2394.

9. For utility line projects completed by horizontal directional drilling or other boring methods, a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures needs to be included with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

10. When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of anadromous fish:

    a. Screening over the mouth of the intake with mesh size that does not exceed 1mm;
    b. Intake velocities that do not exceed 0.25 feet per second;
    c. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.

RC 33. Applicable to NWP 58 - Utility Line Activities for Water and Other Substances:

1. Construction of access roads may not cause the loss of more than 1/3 acre of waters of the United States.

2. A PCN is required when the activity involves greater than 0.10 acres of mechanized landclearing in a forested wetland for the utility line right-of-way.

3. For utility activities requiring a PCN the permittee shall provide the following information:

    a. A map of the entire utility corridor to assist with our completeness determination. The map should include a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g., PFO, PEM, POW, etc.).

    b. An analysis of onsite minimization, which specifically addresses the following:

        i. Selection of an alignment which avoids and minimizes wetland and stream impacts to the maximum extent practicable. The utility line should make a direct or perpendicular crossing of a stream. Directional drilling should be reviewed as an option. However, the Norfolk District recognizes that in certain areas (e.g., karst areas) directional drilling may not be the environmentally preferred option.

        ii. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts. Consult the Virginia Conservation Vision, a GIS analysis for identifying and prioritizing areas of un-fragmented natural cover in Virginia: http://www.dcr.virginia.gov/natural-heritage/vaconvision.

iii. Minimizing clearing of wetlands. Grubbing shall be limited to the permanent easement for underground utility lines. Outside of the permanent easement, wetland vegetation shall only be removed at or above the ground surface unless written justification is provided, and the impacts are reviewed and approved by the Corps.

iv. For overhead utility lines, allowance of natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.

v. For buried utility lines, allowance of natural succession to restore the wetland area to tree and scrub/shrub except for a 20-foot-wide access corridor, to the maximum extent practicable.

c. Compensatory mitigation may be required for permanent conversion of wetlands within the utility line corridor.

4. For all submerged and overhead utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required, including the proposed burial depth (in feet relative to mean low water) or minimum clearance height (feet) per 33 CFR § 322.5(i). In addition, the location and maximum authorized depths of any federal navigation channels must be shown in relation to the proposed utility line on the plan view and cross-section view of the project plans. The locations of Norfolk District Federal Projects can be found on the Norfolk District Section 408 Program webpage at https://www.nao.usace.army.mil/408Review/ via the Norfolk District Section 408 Map. Section 408 permission will be required pursuant to 33 U.S.C. § 408 for any utility lines that cross over or under a federal project. Any utility lines crossing under a federal navigation channel must be buried to a minimum depth to mitigate potential impacts to navigation and/or the operation and maintenance of the federal project. Specific minimum depth requirements under the federal channel and side slopes, and within the vicinity of the channel outside the side slopes must be coordinated with the Norfolk District Section 408 Coordinator and as part of the required Section 408 request. It is recommended that all utility line crossings be designed to allow for adequate depths or other protective measures installed below the maximum authorized dredge depths of the federal project and side slopes to avoid impacts during dredging work and to protect the utility line from unintended damage from dredging, anchors and/or other equipment and vessels. Please contact the Norfolk District Section 408 Coordinator at nao.section408@usace.army.mil for more information and maximum authorized depths for specific federal navigation projects or other federal project footprints.

5. Whenever practicable, excavated material shall be placed on a Corps confirmed upland site, scow or barge. However, when this is not practicable, temporary stockpiling in wetlands is hereby authorized provided that:

a. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into any waterway.

b. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetland areas. Permission must be granted by the Norfolk District Commander if the material is to be stockpiled longer than 30 days.

6. The applicant must receive written verification before performing the work when open-cut trenching, temporary stockpiling dredge material, or hydrostatic testing of a pipeline involving water withdrawals in designated anadromous fish use areas is proposed. For project sites within anadromous fish use areas, time-of-year restrictions (TOYRs) from February 15 through June 30 of any given year may apply, unless coordination with NOAA and/or the DWR results in a different TOYR or none.

7. For utility lines landing in Virginia, from the Outer Continental Shelf (OCS), the applicant shall send the PCN to the following federal agencies:

   Director, Naval Seafloor Cable Protection Office
   Naval Facilities Engineering Command
   1322 Patterson Ave SE, Suite 1000
   Washington DC 20374

   Bureau of Ocean Energy Management (BOEM)
   Atlantic OCS Region
   1201 Elmwood Park Blvd.
   New Orleans, LA 70123-2394.

8. For utility line projects completed by horizontal directional drilling or other boring methods, a plan to address the prevention, containment, and cleanup of sediment or other materials caused by inadvertent returns of drilling fluids to waters of the U.S. through sub-soil fissures or fractures needs to be included with the PCN (if a PCN is required). If an inadvertent return of drilling fluids to waters of the U.S. occurs, and the remediation requires work within waters of the U.S., then the applicant must notify the Corps immediately and submit a remediation plan as soon as possible, regardless of whether a PCN was required for the original work.

9. When an intake is proposed in designated anadromous fish waters, the following design parameters will be incorporated as permit conditions to protect the sensitive life stages of anadromous fish:

a. Screening over the mouth of the intake with mesh size that does not exceed 1mm;
b. Intake velocities that do not exceed 0.25 feet per second;
c. Intake must be positioned such that an unimpeded flow of water parallel to the screen surface occurs along the entire surface of the screen to take advantage of sweeping velocity.