

**PENNSYLVANIA STATE PROGRAMMATIC GENERAL PERMIT – 5**  
**(PASPGP-5)**  
**July 1, 2018**  
**Revised July 30, 2018**

**Please note: the full text of the PASPGP-5 may be viewed on the Baltimore District web site at <http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx> or by calling the Corps at 814-235-0570**

**Permittee:**

**Date of PASPGP-5 Verification:**

**State Authorization(s):**

**Corps District:**

**Philadelphia**

U.S. Army Corps of Engineers,  
Philadelphia District  
Regulatory Branch  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

**Baltimore**

U.S. Army Corps of Engineers,  
Baltimore District  
Regulatory Branch  
1631 South Atherton Street  
Suite 101  
State College, PA 16801-6260

**Pittsburgh**

U.S. Army Corps of Engineers,  
Pittsburgh District  
Regulatory Branch  
Federal Building, 20<sup>th</sup> floor  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

It has been determined that your proposed project, which includes the discharge of dredged and/or fill material and/or the placement of structures into waters of the United States, including wetlands, qualifies for Federal authorization under the provisions of Section 404 of the Clean Water Act and /or Section 10 of the River and Harbor Act of 1899, under the terms and conditions of the PASPGP-5.

**All activities authorized under PASPGP-5 must comply with all conditions of the authorization, including General, Procedural, and Special Conditions. Failure to comply with all the conditions of the authorization, including project special conditions, will constitute a permit violation and may be subject to criminal, civil, or administrative penalties, and /or restoration.**

The authorized activity must be performed in compliance with the following General Conditions to be authorized under PASPGP-5:

**General Conditions:**

1. **Permit Conditions:** The permittee shall comply with all terms and conditions set forth in the PADEP authorization, including all conditions of the State Water Quality Certification as required by Section 401 of the CWA, and any subsequent amendments or modifications to such authorizations. The permittee shall conduct all work and activities in strict compliance with all approved maps, plans, profiles, and specifications used by PADEP and/or the Corps in issuing their authorization/verification.
2. **Aquatic Life Movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be appropriately depressed to maintain aquatic life movement and low flow conditions.
3. **Threatened and Endangered Species:** By signing the PNDI receipt, the permittee has agreed to comply with all avoidance measures identified by the PNDI receipt. As such, those avoidance

measures associated with Federally-listed threatened or endangered species are a condition of the PASPGP-5 verification, unless modified by the Corps.

If an activity is verified under the PASPGP-5, and a Federally-listed threatened or endangered species, or proposed species, is subsequently found to be present, all work must cease, and the Corps and USFWS (or NMFS) must be notified. The PASPGP-5 verification is suspended and will not be re-issued until consultation pursuant to Section 7 of the ESA is concluded and adverse effects to Federally-listed threatened, endangered and proposed species are avoided.

Furthermore, persons have an independent responsibility under Section 9 of the ESA to not engage in any activity that could result in the “take” of a Federally-listed species.

4. **Spawning Areas:** The permittee shall comply with all time-of-year-restrictions associated with spawning areas as set forth by the PFBC or other designated agency. Discharges or structures in spawning or nursery areas shall not occur during spawning seasons, unless written approval is obtained from the PFBC or other designated agency. In addition, work in areas used for other time sensitive life span activities of fish and wildlife (such as hibernation or migration) may necessitate the use of seasonal restrictions for avoidance of adverse impacts to vulnerable species. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of the year.
5. **Migratory Bird Breeding Areas:** Activities in waters of the United States, including jurisdictional wetlands, that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. Recommendations pertaining to the conservation of migratory birds can be found at the following USFWS web site: <http://www.fws.gov/northeast/pafo/>
6. **Shellfish Production:** No discharge of dredged and/or fill material and/or the placement of structures may occur in areas of concentrated shellfish production, unless the discharge is directly related to an authorized shellfish harvesting activity.
7. **Adverse Effects From Impoundment:** If the activity, including the discharge of dredged and/or fill material or the placement of a structure, creates an impoundment of water, the adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, including impacts to wetlands, shall be minimized to the maximum extent practicable.
8. **Obstruction of High Flows:** To the maximum extent practicable, the activity must be designed to maintain pre-construction downstream flow conditions (i.e., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters), and the structure or discharge of dredged and/or fill material shall be designed to withstand expected high flows.
9. **Erosion and Sediment Controls:** During construction, appropriate erosion and sedimentation controls must be used and maintained in effective operating condition in accordance with State regulations. All disturbed soil and other fill material must be permanently stabilized.
10. **Suitable Material:** No activities, including discharges of dredged and/or fill material or the placement of structures, may consist of unsuitable material (i.e., asphalt, trash, debris, car bodies, etc.). No material discharged shall contain toxic pollutants in amounts that would violate the effluent limitation standards of § 307 of the CWA.
11. **Temporary Fill:** Temporary fill (i.e., access roads and cofferdams) in waters and/or wetlands verified by the PASPGP-5 shall be properly constructed and stabilized during use to prevent erosion and accretion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade, unless such requirement is specifically waived by the Corps. Whenever possible, rubber or wooden mats should be used for equipment access through wetlands to the project area. Temporary fills shall be removed, in their entirety, to an upland site, and suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be

restored to their preconstruction contours, elevations, and hydrology, and revegetated with a wetland seed mix that contains non-invasive, native species, as soon as practicable.

12. **Equipment Working in Wetlands:** Measures must be taken to minimize soil disturbance when heavy equipment is used in wetlands. These measures include, but are not limited to, avoiding the use of such equipment, use of timber mats or geotextile fabric, and use of low pressure tire vehicles.
13. **Installation and Maintenance:** Any structure or fill verified shall be properly installed and maintained to ensure public safety.
14. **PASPGP-5 Authorization:**
  - a. The PASPGP-5 expires June 30, 2021, unless suspended or revoked.
  - b. Verifications of PASPGP-5 expire June 30, 2021, unless the PASPGP-5 permit is suspended, revoked, or the PADEP authorization expires, whichever date occurs sooner. Activities authorized under the PASPGP-5 that have commenced construction or are under contract to commence construction will remain authorized provided the activity is completed within 12 month of the date of the PASPGP-5's expiration, modification, or revocation; or until the expiration date of the project specific verification, whichever is sooner.
15. **One-Time Use:** A PASPGP-5 verification is valid to construct the project, or perform the activity, one time only, except for PASPGP-5 verification specifically issued for reoccurring maintenance activities.
16. **Water Supply Intakes:** No activity, including discharges of dredged and/or fill material and/or placement of structures, may occur in the proximity of a public water supply intake and adversely impact the public water supply.
17. **Cultural Resources:** For all activities verified under a PASPGP-5, upon the unanticipated discovery of any previously unknown historic properties (historic or archeological), all work must cease and the permittee must notify the SHPO and the Corps of Engineers. The Corps will contact the Tribes they routinely consult with within 24 hours in accordance with each District's tribal Consultation process. The PASPGP-5 verification is not valid until it is determined, through the Section 106 consultation process, whether the activity will have an effect on the historic property. The PASPGP-5 may be re-verified and special conditions added if necessary, after an effects determination on historic properties and/or Tribal resource is made, in consultation with the SHPO, the Tribes and other interested parties. The PASPGP-5 verification may be modified and/or rescinded for the specific activity if an adverse effect on the historic property cannot be avoided, minimized, or mitigated.
18. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting grounds.
19. **Corps Civil Works Projects:** The PASPGP-5 does not authorize any work which will interfere with an existing or proposed Corps Civil Works project (i.e., flood control projects, dams, reservoirs, and navigation projects), unless specifically waived by the Corps in writing.
20. **Navigation:** No activity verified under PASPGP-5 may cause more than minimal adverse effect on navigation. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. In addition, activities that require temporary causeways that prohibit continued navigational use of a waterway (i.e., temporary causeways extending greater than  $\frac{3}{4}$  the width across the waterway) shall be removed in their entirety upon completion of their use. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulation or otherwise, must be installed and maintained at the permittee's

expense on authorized facilities in navigable waters of the United States. The permittee understands and agrees that, if further operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

21. **Inspections:** The permittee shall allow a District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with all the terms and conditions of the PASPGP-5. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work.
22. **PASPGP-5 Permit Compliance Self Certification Form:** A Self Certification Form, will be forwarded to each permittee with a PASPGP-5 verification. Every permittee, who receives a written PASPGP-5 verification, shall submit a signed Self Certification Form upon completion of the verified work and required mitigation, to the appropriate Corps District.
23. **Monitoring of Temporary Wetland Impacts:** For all temporary wetland impacts greater than 0.10 acre per Single and Complete Project, a monitoring report using the standard monitoring form (including preconstruction photographs as described on the monitoring form) will be submitted to the Corps, unless this requirement is specifically waived by the Corps in writing, or such monitoring is superseded by more stringent monitoring required by the Corps as a Special Condition of a PASPGP-5 verification. To obtain a waiver from the Corps the applicant must contact the appropriate Corps district with a written request to be relieved of the monitoring requirement. Such request shall include the state authorization, and the Corps permit numbers if known, and a rationale as to why the monitoring should not be required.

The permittee shall inspect the subject areas within 7 days after restoration of the temporary impact is completed, and again at the end of the first full growing season (no later than October 31) after the site has been restored. The standard monitoring form is available on the Baltimore District web site at:

<http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx> or by contacting the applicable Corps District office. When more than one temporary wetland impact is authorized as part of a Single and Complete Project, separate monitoring forms shall be filled out for each temporarily impacted wetland.

The completed report shall be submitted to the appropriate Corps District within two weeks of the final inspection of the temporarily impacted wetland. If the initial monitoring event reveals that the temporarily impacted area is not restored to preconstruction contours, the permittee shall take corrective measures to return the area back to preconstruction grades. The permittee shall document the actions taken to restore the area back to preconstruction grades on the monitoring form.

This condition is not applicable to any project authorized as a grandfathered PASPGP-4 (see Part IV A. 30. "Grandfathered Activities")

24. **Permit Modifications:** Any proposed modification of a verified Single and Complete Project that results in a change in the verified impact to, or use of waters of the United States, including jurisdictional wetlands, must be approved by PADEP. Corps approval is also required if the Single and Complete Project had been previously reviewed by the Corps, or if the proposed modification is a reporting activity under PASPGP-5. Project modifications that cause a Single and Complete Project to exceed 1.0 acre of waters of the United States, including jurisdictional wetlands, or greater than 1,000 linear feet of permanent stream loss will not be eligible for PASPGP-5 and will be forwarded to the Corps for review.

25. **Recorded Conservation Instruments:** As per Part IV.A.28 and Part IV.B.9 of this permit, proposed Draft Conservation Instruments may be submitted by the applicant as part of the permit application package for review and approval. When such proposed Conservation Instruments are submitted by the applicant, proof of the recorded deed restriction, conservation easement, or deed restricted open space area shall be forwarded to the appropriate Corps District and appropriate PADEP offices, prior to the initiation of any permitted work, unless specifically waived by the Corps in writing. Conservation Instrument templates can be found at:  
<http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx>
26. **Property Rights:** The PASPGP-5 does not obviate the need to obtain other Federal, state, or local authorizations required by law, nor does the permit grant any property rights or exclusive privileges, or authorize any injury to the property or rights of others.
27. **Navigable Waters of the United States (Section 10 Waters):**
- a. The PASPGP-5 may be used to authorize work in the following navigable waters of the United States:
- i. Codorus Creek – from the confluence with the Susquehanna River 11.4 miles upstream to the Richland Avenue Bridge in York, Pennsylvania;
  - ii. Main Stem Susquehanna River – from the confluence with the Chesapeake Bay upstream to Athens , Pennsylvania (approximately 4 miles south from the New York State line);
  - iii. West Branch of the Susquehanna River – from the confluence with the main stem Susquehanna River upstream to the dam at Lock Haven, Pennsylvania;
  - iv. Chester Creek – from the confluence with the Delaware River 2 miles upstream;
  - v. Crum Creek – from the confluence with the Delaware River 1 mile upstream to the upstream side of the Dam at Eddystone;
  - vi. Darby Creek – from the confluence with the Delaware River 5 miles upstream to the upstream side of the 84<sup>th</sup> Street Bridge in Philadelphia, Pennsylvania;
  - vii. Delaware River – from U.S. Route 202 Bridged in New Hope, Pennsylvania, including the West Branch of the Delaware River, upstream to the Pennsylvania/New York border at the 42<sup>nd</sup> parallel;
  - viii. Lehigh River – from the confluence with the Delaware River 72 miles upstream to the downstream side of the PA Route 940 Bridge;
  - ix. Neshaminy Creek – the confluence with the Delaware River, including Neshaminy State Park Harbor Project at the mouth of Neshaminy Creek, 4 miles upstream to the downstream side of the Newportville Bridge;
  - x. Pennypack Creek – from the confluence with the Delaware River 2 miles upstream to the downstream side of the Frankford Avenue Bridge in Philadelphia, Pennsylvania;
  - xi. Ridley Creek – from the confluence with the Delaware River 1 mile upstream to the upstream side of the Baltimore and Ohio Railroad Bridge in Chester, Pennsylvania;
  - xii. Schuylkill River – from the Fairmont Dam, 104 miles upstream to Port Carbon, Pennsylvania;

- xiii. Schuylkill Navigation Channel (Manayunk Canal) – along the Schuylkill River for 2 miles from the Flat Rock Dam to Lock Street in the Manayunk Section of Philadelphia, Pennsylvania;
  - xiv. Delaware Canal;
  - xv. Lehigh Canal; and
  - xvi. All other waters not specifically exempted in the PASPGP-5, Part III, A, 5, that are subject to the ebb and flow of the tide. Such waters are considered navigable waters of the United States to the head of tidal influence.
- b. In addition to the other general conditions, the following conditions are applicable for navigable waters of the United States eligible for PASPGP-5.
- i. For aerial transmission lines, 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 the existing fixed bridges, or the clearances which would be required by the United States Coast Guard (USCG) 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 outlines in the National Electric 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

- a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.
  - b. Corps of Engineers regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both regulation and ER 1110-2-4401 apply, the greater minimum clearance is required.
- ii. Encasement: The top of the cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and shall be backfilled with suitable heavy material to the preconstruction bottom elevation. Where the cable, encasement, or pipeline is placed in rock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained. When crossing a maintained navigation channel, the requirements are a minimum of eight feet between the top of the cable, encasement, or pipeline and the authorized depth of the navigation channel. For maintained navigational channels, where the utility line is placed in rock, a minimum depth of two feet from the authorized depth of the navigation channel shall be maintained.

- iii. **As-Built Drawings:** Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (i.e., Section 10 waters), where the permittee shall furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland, 20910 with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the MHWL at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.
  - iv. **Aids to Navigation:** The permittee must prepare and provide for USCG approval, a Private Aids to Navigation Application (CG-2554). The form can be found at: [http://www.uscg.mil/forms/cg/CG\\_2554.pdf](http://www.uscg.mil/forms/cg/CG_2554.pdf) . Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the applicable Corps District.
28. **PADEP Waiver:** If the Corps determines a specific activity, which is eligible for a PADEP Non-reporting Waiver, has a significant adverse impact on life, property or important aquatic resources, the Corps may require the owner to modify the activity to eliminate the adverse condition or to obtain an Individual Permit.
29. **Corps Water Releases:** For projects located downstream of a Corps dam, the permittee should contact the appropriate Corps of Engineers, Area Engineer Office, to obtain information on potential water releases and to provide contact information for notification of unscheduled water releases. It is recommended that no in-water work be performed during periods of high water flow velocities. Any work performed at the project site is at the permittee's own risk.
30. **State Authorization:** The activity must receive State authorization. For the purpose of this requirement, any one of the following would be considered as a State authorization:
- a. A PADEP Chapter 105 Water Obstruction and Encroachment Permit, including PADEP approved Environmental Assessment pursuant to 25 Pa. Code § 105.15; or
  - b. A PADEP GP issued pursuant to 25 Pa. Code § 105.441-105.449; or
  - c. A PADEP approved Environmental Assessment for activities not otherwise requiring a PADEP permit pursuant to 25 Pa. Code § 105.12; or
  - d. A State Water Quality Certification issued by PADEP consistent with Section 401 of the CWA for activities which qualify for waiver of PADEP permit requirement per 25 Pa. Code §105.12; or
  - e. A PADEP Dam Permit, including maintenance or repairs of existing authorized dams, including maintenance dredging; or
  - f. A PADEP Emergency Permit issued pursuant to 25 Pa. Code § 105.64; or
  - g. A PADEP permit for the construction of a bridge or culvert (including bridges and culverts authorized by PADEP prior to implementations of the PASPGP-1 in March 1995), which allows for maintenance activities of bridges and culvert; or
  - h. A PADEP Chapter 105 Dam Safety and Encroachment Enforcement Action; or

- i. A programmatic/project specific State Water Quality Certification issued by PADEP consistent with Section 401 of the CWA where no other State authorization, as listed above, is required.
31. **Other Authorizations:** Additional Federal, State, and/or local authorizations or approvals may be required and where applicable must be secured by the applicant, prior to initiating any discharge of dredged and/or fill material, and/or the placement of structures into waters of the United States, including jurisdictional wetlands. These approvals include, but are not limited to:
  - a. A State Water Quality Certification issued by PADEP consistent with Section 401 of the CWA;
  - b. A Consistency Determination issued by PADEP pursuant to Section 307 of the Federal Coastal Zone Management Act for activities located within the designated Coastal Zone Management Area; and
  - c. Fills within the 100-year floodplains. This activity must comply with applicable FEMA approved State or local floodplain management requirements.
32. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to permitted project or users, thereof, as a result of other permitted or unpermitted activities or from natural causes;
  - b. Damages to the permitted project or uses, thereof, as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
  - d. Design or construction deficiencies associated with the permitted work; and
  - e. Damage claims associated with any future modification, suspension, or revocation of the PASPGP-5.
33. **False and Incomplete Information:** The Corps may modify or rescind a previously issued project specific verification, if determined that the original verification was issued based on false, incomplete and/or inaccurate information; or other information becomes available whereby such action is necessary to ensure compliance with other federal laws and regulations.
34. **Essential Fish Habitat:** No work can take place in the following waterways from March 15<sup>th</sup> to June 30<sup>th</sup> unless approved in writing by the Corps. Questions on the applicability of this condition should be directed to the Corps of Engineers, Philadelphia District.
  - a. Delaware River (within Pennsylvania, upstream from the U.S. Route 202 Bridge in New Hope, Pennsylvania,); and
  - b. Lehigh River (from the mouth to Francis E. Walter Dam, located in Carbon and Luzerne County, Pennsylvania)
35. **Conservation Measures for Atlantic and Shortnose Sturgeon:** All work proposed in the following listed waters must comply with the below Conservation Measures, unless specifically waived by the Corps in writing. Questions on the applicability of this condition should be directed to the Corps of Engineers, Philadelphia District.



<b>Waterway</b>	<b>Action Area (From Point Specified to the Confluence with the Delaware River)</b>	<b>Latitude</b>	<b>Longitude</b>
Marcus Hook Creek	US Route 13 Bridge	39.822054	-75.409873
Stoney Creek	US Route 13 Bridge	39.828408	-75.400953
Chester Creek	Kerlin Street Bridge	39.855846	-75.37641
Ridley Creek	McDade Boulevard	39.869522	-75.356692
Crum Creek	US Route 13 Bridge	39.866799	-75.340677
Darby Creek	Pine Street Bridge	39.914006	-75.259994
Frankford Creek	Frankford Avenue/US 13 Bridge	40.005314	-75.070173
Frankford Creek (Original Mouth)	End of Channel	40.004912	-75.070173
Pennypack Creek	Route 13 Bridge	40.043421	-75.020638
Poquessing Creek	Mill Road Bridge	40.043421	-75.982076
Neshaminy Creek	Rapids just below Hulmeville Road Bridge (SR 513), Bucks County	40.141393	-74.911899
Unnamed Tributary 1, located in Croydon, PA	River Road crossing	40.085774	-74.8856
Otter/Mill Creek	US 13 (Bristol Pike) Bridge	40.100424	-74.866976
Unnamed Tributary 2, located in Bristol, PA	Wood Street Bridge	40.102044	-74.845682
Martins Creek	Main Street (Tulleytown)	40.141975	-74.812026
Scott's Creek	End of creek	40.12921	-74.793879
Scott's Creek Relocated Channel, located at Money Island, Bucks County, PA	First culvert crossing	40.125578	-74.776886
<b>Non-Tidal Tributaries</b>			
Buck Creek	Delaware Canal	40.243699	-74.838279
Dyers Creek	Delaware Canal	40.267098	-74.858495
Houghs Creek	Delaware Canal	40.28148	-74.865783
Jericho Creek	Delaware Canal	40.313984	-74.902899
Pidcock Creek	Delaware Canal	40.331508	-74.935788

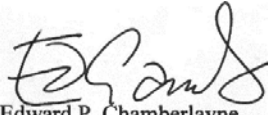
**Conservation Measures:**

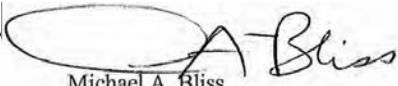
- a. No work shall occur from March 15 to November 15, of any given year.
- b. All Dredging shall be performed by a mechanical dredge and/or techniques (clamshell bucket etc.).
- c. All work, including the installation of turbidity curtains and dewatering cofferdams, shall be performed during low tide or when the tide is waterward of the proposed work in all tidal waterbodies listed, or during periods of low or no flow in the non-tidal waterbodies listed.
- d. Blasting is not authorized by the PASPGP-5 within the listed waterbodies.
- e. Pile Driving:
  - i. Piles shall not be greater than 12 inches in diameter;
  - ii. Piles shall be installed using a vibratory hammer or an impact hammer provided noise attenuation devices (cushion blocks, etc.) are used, and a “soft start” is performed each day of pile driving. A “soft start” is the building up of power slowly during pile driving activities to allow for fish and other wildlife to leave the area; and
  - iii. Pile driving activities shall be limited to no more than 12 hours per day.

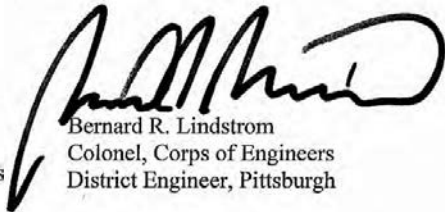
Any activity that cannot meet these conditions will be sent to the Corps as a Reporting Activity at which time the Corps will conduct project specific Section 7 Endangered Species Act consultation with NMFS.

36. **Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulation governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity. Information on the conservation of migratory birds and Bald and Golden Eagles can be found at the following USFWS web site: <http://www.fws.gov/northeast/pafo/>

By Authority of the Secretary of the Army:

  
Edward P. Chamberlayne  
Colonel, Corps of Engineers  
District Engineer, Baltimore

  
Michael A. Bliss  
Lieutenant Colonel, Corps of Engineers  
District Engineer, Philadelphia

  
Bernard R. Lindstrom  
Colonel, Corps of Engineers  
District Engineer, Pittsburgh