



U.S. Army Corps of Engineers

**PENNSYLVANIA STATE
PROGRAMMATIC GENERAL PERMIT-7
(PASPGP-7)**

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Part I – Authorities and Scope:

A. Federal Authorities:

The Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers (Corps) hereby issue Pennsylvania State Programmatic General Permit-7 (PASPGP-7) pursuant to and consistent with Section 404(e) of the Clean Water Act (CWA) (33 U.S.C. § 1344(e)) and 33 C.F.R. § 325.5(c)(3). Under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the CWA (33 U.S.C. § 1344), PASPGP-7 authorizes regulated activities in waters of the United States, including jurisdictional wetlands, within the Commonwealth of Pennsylvania.

PASPGP-7 does not obviate the need to obtain other federal, state, or local authorizations required by law or to comply with other federal, state, or local laws. Likewise, PASPGP-7 does not grant any property rights or exclusive privileges or authorize injury to the property or rights of others, and/or the interference with any existing or proposed federal project.

B. Federal Government Liability:

1. In issuing PASPGP-7 the federal government does not assume any liability for damages to the permitted project, or use thereof, as a result of other permitted or unpermitted activities, or from natural causes, or from damages that are a result of current or future activities undertaken by, or on behalf of, the United States in the public interest. Additionally, the federal government does not assume any liability for damages to persons, property, or to other permitted, or unpermitted activities, or structures caused by the activity authorized by this permit.

2. The federal government does not assume any liability for damages caused by design or construction deficiencies associated with the permitted work and/or claims associated with any future modification, suspension, or revocation of this permit.

C. Scope.

PASPGP-7 is only applicable within the Commonwealth of Pennsylvania, for specifically identified activities.

Part II – Eligibility:

Eligibility and Reporting thresholds are based on impacts to waters of the United States, including jurisdictional wetlands, as defined in applicable federal regulations and guidance. In accordance with Part V. B. 1. of PASPGP-7, applicants are responsible for ensuring all boundaries of potential waters and/or wetlands (regardless of jurisdictional status) are accurately shown on the project plans. In accordance with existing guidance (Regulatory Guidance Letter 16-01), unless a valid approved jurisdictional determination (AJD) issued by the Corps is submitted with the application, all proposed project impacts to waters and wetlands will be used for purposes of determining the eligibility and reporting thresholds of PASPGP-7. The applicant

always retains the right to request an AJD for the project area and any applications containing a jurisdictional determination (JD) request shall be reported to the Corps as a Reporting Activity (Part III.E.17). If changes to federal regulations and/or guidance related to the definition of waters of the United States, including jurisdictional wetlands, or the Corps' jurisdictional determination process occurs, such new regulations and/or guidance will be used for determining if an application is Reporting and if the proposed work meets the PASPGP-7 eligibility thresholds.

Eligibility will be based on the impacts of each single and complete project. Reporting thresholds will be based upon the impacts of the overall project.

A. Activities NOT eligible for PASPGP-7:

To receive federal authorization for these activities, a permit application must be submitted to the appropriate Corps District Office:

1. Single and complete projects that will have more than minimal individual or cumulative adverse environmental effects as determined by the Corps.
2. Single and complete projects that will result in a total of more than 0.5 acre of permanent loss to waters of the United States, including jurisdictional wetlands, except for the following:
 - a. There is no eligibility threshold limitation for those regulated activities in waters of the United States, including jurisdictional wetlands, for the restoration, enhancement, and/or establishment of tidal and non-tidal wetlands and riparian areas; the restoration and/or enhancement of non-tidal streams and other non-tidal open waters; and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services;
 - b. There is no eligibility threshold limitation for those regulated activities in waters of the United States, including jurisdictional wetlands, for the maintenance of artificial ponds/impoundments through removal of accumulated sediments;
 - c. Emergency Activities, as defined in the PASPGP-7, that will result in a permanent loss of more than 0.50 acre of waters of the United States, unless the Corps waives this criterion by making a written determination concluding the regulated activity will result in no more than minimal adverse environmental effects

Losses listed in a. and b. above are not used in calculation of eligibility threshold for single and complete projects.

3. Single and complete projects that will result in a permanent loss of greater than 1,000 linear feet of jurisdictional stream channel(s), except for those regulated activities identified in Part II. A. 2. a. and b. above.
4. Single and complete projects that do not comply with all terms and conditions of

PASPGP -7, including the terms and conditions specific to each listed category of activities (Part III).

5. Activities located channelward of the ordinary high-water mark (OHWM) on non-tidal waters and the high tide line (HTL) on tidal waters on the following Pennsylvania waterbodies:

a. The Delaware River, downstream of the U.S. Route 202 Bridge at New Hope, Pennsylvania; and

b. The Schuylkill River, downstream of the Fairmount Dam in Philadelphia, Pennsylvania.

6. Instances where the Regional Administrator of the U.S. Environmental Protection Agency (EPA) has notified the district engineer and the applicant in writing that they are exercising their authority under 404 (c) of the CWA to prohibit, deny, restrict, or withdraw the use of any defined area for specification as a disposal site for the discharge of dredged and/or fill material.

7. Designated special case circumstances identified by the Regional Administrator of the EPA, as defined in the Memorandum of Agreement between the Department of the Army and the EPA concerning the determination and limits of geographic jurisdiction of the 404 program. Geographic areas established by the EPA would be advertised by the Corps public notice process as ineligible for federal authorization under the PASPGP-7.

8. Activities that have been denied a Pennsylvania Department of Environmental Protection (PADEP) Chapter 105 Permit, a State Water Quality Certification (SWQC) as required by Section 401 of the CWA, or a Coastal Zone Management (CZM) Consistency Concurrence.

9. Any activities that would divert more than 10,000 gallons per day of surface water or groundwater into or out of the Great Lakes Basin (Lake Erie watershed).

B. Activities Eligible for PASPGP-7:

1. All those activities listed in Part III as Non-Reporting and Reporting Activities, where the Corps determines those activities will result in no more than minimal adverse environmental effects to the aquatic environment individually or cumulatively. Authorized activities must comply with all terms and conditions of PASPGP-7, including terms and conditions specific to each listed category of activity.

2. All activities authorized under PASPGP-6 where the verification did not expire prior to June 30, 2026, are eligible for re-authorization by the PASPGP-7 provided all terms, conditions, limits, and best management practices identified and required by PASPGP-7 are met. This includes compliance with all special conditions attached to the original PASPGP-6 verification.

3. Unauthorized activities may receive After-The-Fact (ATF) authorization under PASPGP-7, as appropriate. Any application for ATF authorization will follow the applicable Non-

Reporting or Reporting review process.

4. For projects where permittee responsible compensatory mitigation is required, and the combined impacts of the project and the compensatory mitigation exceed the PASPGP-6PASPGP -7PASPGP-7 eligibility thresholds the impacts associated with the compensatory mitigation may be authorized through use of Nationwide Permit (NWP) 27 by the Corps provided the proposed compensatory mitigation meets the terms and conditions of NWP 27, and the remaining work may be authorized by PASPGP-6PASPGP -7PASPGP-7 provided the work meets the other PASPGP-6PASPGP -7PASPGP-7 eligibility criteria. For applications proposing compensatory mitigation through use of a Mitigation Bank or In-lieu Fee Program, impacts associated with construction of the Mitigation Bank or In-lieu Fee site are not included when calculating the PASPGP-6 PASPGP -7 PASPGP-7 eligibility threshold.

Part III – Categories of Activities Authorized by PASPGP-7:

A. Non-Reporting Activities:

The following activities (Part III D. 1 through 31, below) are authorized by PASPGP-7 without notification to the applicable Corps District, provided the proposed regulated activities comply with the Non-Reporting thresholds in Part III B below and all terms, conditions, limits, best management practices, and processing procedures identified and required by PASPGP-7.

B. Non-Reporting Thresholds:

A project shall be Non-Reporting to the Corps when the overall project impacts (i.e., non-linear single and complete project or total linear project) to waters of the United States, including jurisdictional wetlands, results in:

1. No more than 1.00 acre of temporary impact;
2. No more than 0.25 acre of permanent impact, except for the following activities, where the permanent impact threshold is 0.50 acre:
 - a. Non-Reporting Activity 1, PADEP General Permit (GP)-1 Fish Habitat Enhancement Structures;
 - b. Non-Reporting Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and
 - c. Maintenance of artificial ponds/impoundments through removal of accumulated sediments.
3. No more than 250 linear feet and/or 0.03 acre (1,307 square feet), whichever is less, of permanent impacts to jurisdictional waters (streams, rivers, ponds, lakes, impoundments, etc.)

excluding wetlands, except for the following activities, where the permanent linear foot impact threshold is:

a. No more than 500 linear feet (no square foot limitation) for activities that involve stream restoration (rehabilitation and/or re-establishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Non-Reporting Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities;

b. No more than 500 linear feet (no square foot limitation) for maintenance of existing artificial ponds/impoundments through removal of accumulated sediment; and

i. No more than 1,000 linear feet for Non-Reporting Activity 1, PADEP GP – 1 Fish Habitat Enhancement Structures (the 1,000 linear feet reporting threshold does not apply for structures or work in lakes or impoundments that do not result in a conversion of aquatic habitat to uplands).

NOTE: As stated in Part II, Non-Reporting thresholds apply to federally regulated impacts to waters of the United States, including jurisdictional wetlands. If an AJD has not been made by the Corps, all waters and/or wetlands are presumed to be jurisdictional, in accordance with Regulatory Guidance Letter 16-01. Regulated impacts associated with construction of compensatory mitigation sites are included, if applicable, when calculating impacts. Activities not regulated by the Corps and/or impacts to non-jurisdictional resources are not included in the calculation. However, such activities may be regulated by PADEP and should be included as impacts in permit applications. For example, boring a utility line under a wetland may not involve a regulated discharge under Section 404 of the CWA. Under PADEP regulations, installation of the utility line is a regulated activity, with the utility considered a permanent impact. As a result, submitted applications should include proposed installation of the utility line and all associated temporary or permanent impacts.

C. Non-Reporting Criteria for Endangered Species Act (ESA) Compliance:

1. Project-specific activities listed as Non-Reporting Activities 1 through 21, and 23 through 31 below are eligible for Non-Reporting review under PASPGP-7 provided the impacts are within the limits for Non-Reporting review, a Reporting review is not required for another reason, and the application contains at least one of the following:

a. A Pennsylvania Natural Diversity Index (PNDI) final search receipt stating, “No Known Impact, No Further Review Required,” for U.S. Fish and Wildlife Service (USFWS);

b. A PNDI final search receipt which contains avoidance measures (AM) for federally listed species whereby the applicant has agreed to implement the AMs by signing the submitted final PNDI receipt. In such cases, all AMs become conditions of the PASPGP-7 authorization without the need for a Corps review. By signing the final PNDI receipt, the applicant agrees to abide by all AMs;

c. A written “No Effect” determination by the Corps or other lead federal agency made for all currently listed threatened and endangered species;

d. Documentation, including a concurrence or consistency letter from Information, Planning, and Consultation System (IPaC), from the USFWS stating that the activity will not affect federally listed species; or

e. Correspondence from USFWS containing AMs for federally listed species whereby the applicant has agreed to implement AMs as part of the application. In such cases, all AMs become conditions of the PASPGP-7 authorization without the need for a Corps review.

NOTE: If the final PNDI receipt or correspondence from USFWS includes AMs, and the applicant does not agree to, or cannot comply with the AMs, or the applicant believes that the AMs are outside of the Corps’ ESA Section 7 Scope of Analysis (areas affected directly or indirectly as a result of the Corps authorization), then the application must be processed as a Reporting Activity. For activities proposed outside of the Corps’ Section 7 Scope of Analysis, the applicant/permittee is responsible for compliance with the ESA. In addition, if the PNDI receipt states that additional coordination with the USFWS is required, then the application must be processed as a Reporting Activity. See Part V. A. 5, and B. 6. for further requirements.

2. Project-specific activities identified in Non-Reporting Activity 22 below, are eligible for Non-Reporting PASPGP-7 verification provided the applicant, PADEP, or the Corps completes a PNDI search prior to or promptly after issuance of PASPGP-7 verification, unless USFWS and/or the Corps determines that the regulated activity will have no effect on listed species. If the PNDI receipt, or correspondence from the USFWS, identifies a potential impact or includes AMs related to a federally listed species, the Corps shall be notified prior to the performance of work, and will consult with USFWS as applicable, unless the applicant agrees to comply with all of the listed AMs on the PNDI receipt or correspondence from USFWS. The Corps will consult in accordance with the emergency consultation provisions of the ESA (50 CFR 402.05), if applicable.

D. Listing of Non-Reporting Activities:

For a complete description and definitions of PADEP Waivers see:

https://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/LawsRegsGuidelines/Chapter_105_Dam_Safety_and_Waterway_Management.pdf and for GPs: <http://www.depgreenport.state.pa.us/elibrary/>.

1. **Fish Habitat Enhancement Structures:** The regulated work under this activity must be authorized pursuant to PADEP GP-1.

2. **Small Docks and Boat Launching Ramps:** The regulated work must be authorized pursuant to PADEP GP-2.

3. **Bank Rehabilitation, Bank Protection, and Gravel Bar Removal:** The regulated work must be authorized pursuant to PADEP GP-3.

4. **Intake and Outfall Structures:** The regulated work must be authorized pursuant to PADEP GP-4.

NOTE: See General Condition 17 for intake screening and flow velocity requirements.

5. **Utility Line Stream Crossings:** The regulated work must be authorized pursuant to PADEP GP-5.

6. **Agricultural Crossings and Ramps:** The regulated work must be authorized pursuant to PADEP GP- 6.

7. **Minor Road Crossings:** The regulated work must be authorized pursuant to PADEP GP-7.

8. **Temporary Road Crossings:** The regulated work must be authorized pursuant to PADEP GP-8.

NOTE: See Reporting Activity 16 for temporary fills exceeding one year.

9. **Agricultural Activities:** The regulated work must be authorized pursuant to PADEP GP-9.

10. **Maintenance, Testing, Repair, Rehabilitation, or Replacement of Water Obstructions and Encroachments:** The regulated work must be authorized pursuant PADEP GP-11.

11. **Private Residential Construction in Wetlands:** The regulated work must be authorized pursuant to PADEP GP-15.

12. **Activities Waived at 25 PA Code § 105.12(a)(1) – Waiver 1 – Small Dams Not Exceeding 3 Feet in Height in a Stream Not Exceeding 50 Feet in Width.**

13. **Activities Waived at 25 PA Code § 105.12(a)(2) – Waiver 2 – Water Obstructions in a Stream or Floodway with a Drainage Area of 100 Acres or Less.**

14. **Activities Waived at 25 PA Code § 105.12(a)(6) – Waiver 6 – Stormwater Management and Erosion Control.**

15. **Activities Waived at 25 PA Code § § 105.12(a)(7) and (8) – Waiver 7 and 8 – Activities Related to Crop Production.**

16. **Activities Waived at 25 PA Code § 105.12(a)(9) – Waiver 9 – Minor Stream Fords.**

17. **Activities Waived at 25 PA Code § 105.12(a)(10) – Waiver 10 - Navigational Aids.**

18. Activities Waived at 25 PA Code § 105.12(a)(12) – Waiver 12 – Activities Related to Use of Water Recording, Gauging, and Testing Devices.

19. Activities Waived at 25 PA Code § 105.12(a)(14) – Waiver 14 – Artificial Ponds and Reservoir Maintenance.

20. Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration
Activities: Activities undertaken and conducted pursuant to a restoration plan, which has been approved, in writing, by PADEP. These activities include the following:

a. PADEP, Bureau of Abandoned Mine Reclamation approved and/or sponsored restoration activities – provided the activity impacts less than 0.05 acre of vegetated wetland (as identified by the Corps of Engineers 1987 Wetlands Delineation Manual (1987 Manual), including all applicable guidance and regional supplements) or the body of water or associated discharge from a body of water has a pH less than 5.0, or any of the following elevated metal levels:

- i. Aluminum greater than 0.6 mg/l
- ii. Iron greater than 7.0 mg/l
- iii. Manganese greater than 4.0 mg/l

b. Other Restoration Activities – Restoration activities whereby PADEP has issued a programmatic Waiver 16, consistent with Section 401 of the CWA. To be authorized by PASPGP-7, the activity must be approved by the Environmental Review Committee.

21. PADEP Individual Permits Numbered EXX-999X: This activity must be authorized pursuant to PADEP Individual Permits numbered EXX-999X. The maintenance work must be performed as described on a submitted work schedule, submitted to PADEP Regional Offices, with all work performed in accordance with PADEP standards for that particular agency's maintenance agreement. This is limited to maintenance activities performed in waters of the United States, including jurisdictional wetlands, by the following Commonwealth of Pennsylvania agencies under the referenced authorizations:

a. The Pennsylvania Department of Transportation (District 1 – E61-9999; District 2 – E17-9999; District 3 – E41-9999; District 4 – E35-9999; District 5 – E39-9999; District 6 – E23-9999; District 8 – E22-9999; District 9 – E07-9999; District 10 – E32-9999; District 11 – E02-9999; and District 12 – E26-9999);

b. The Pennsylvania Turnpike Commission (E22-9995);

c. The Pennsylvania Department of Conservation and Natural Resources, Bureau of State Parks (Region 1 – E12-9998; Region 2 – E10-9998; and Region 3 – E05-9998; Region 4 – E09-9998); and

d. The Pennsylvania Game Commission (SE Region – E06-9996; SC Region – E31-9996; NE Region – E40-9996; NC Region – E41-9996; NW Region – E61-9996; and SW

Region – E65-9996).

22. PADEP Emergency Authorized Activities: The regulated work must be authorized pursuant to a PADEP Emergency Permit.

23. Normal Maintenance and Repair of an Existing Dam: The regulated work must be authorized pursuant to PADEP Letter of Authorization.

24. Existing Structures or Activities Completed Prior to July 1, 1979: Regulated work authorized pursuant to 25 Pa. Code § 105.12(b)(1-7).

25. Operation, Maintenance and Monitoring of Structures and Activities Listed in 25 Pa. Code § 105.12(b)(1-7) Above Completed Prior to July 1, 1979: Activities authorized pursuant to 25 Pa. Code § 105.12(c) which includes the operation, maintenance, monitoring and other requirements of PADEP Chapter 105.

26. Miscellaneous Activities: The following activities are not in most cases regulated pursuant to Section 404 of the CWA because they do not involve discharge of dredged and/or fill material, or the activity meets a Section 404(f)(1) exemption. However, in some instances, the work is regulated and will require a Section 404 and/or a Section 10 permit. These correspond to activities authorized by PADEP Waivers, GPs, and Waiver Letters of Maintenance provided they are implemented as described in the applicable PADEP authorization:

- a. PADEP GP-10 – Abandoned Mine Reclamation;
- b. PADEP Waiver 3 – PADEP Chapter 105.12(a)(3): Aerial Crossings;
- c. PADEP Waiver 5 –PADEP Chapter 105.12(a)(5): Acid Mine Drainage;
- d. PADEP Waiver 13 –PADEP Chapter 105.12(a)(13): Abandoned Railroad Bridges and Culverts;
- e. PADEP Waiver 15 –PADEP Chapter 105.12(a)(15): Abandoned Mines; and
- f. Waiver Letter of Maintenance for PADEP Chapter 105.12 (b) and (c):
 - i. Channel Cleaning at Bridges and Culverts – Stream channel maintenance within 50 feet upstream and downstream of an existing bridge or culvert, performed in accordance with the maintenance provision of a previously issued PADEP permit; or

NOTE: No wetland impacts are authorized under this activity.

- ii. Bridge and Culvert Repair – Maintenance to an existing culvert, bridge, or stream enclosure constructed prior to July 1, 1979, on a watercourse where the drainage area is five square miles or less.

27. Activities Related to Residential, Commercial and Institutional Developments:

Applications for the purpose of constructing or expanding a residential, commercial, or institutional subdivision or development may require that the application include a Protective Covenant (e.g. deed restriction, declaration of restrictive covenants for conservation, conservation easement, or deed restricted open space area), for the application to be processed as a Non-Reporting Activity. If, in addition to the impacts proposed in the application, more than 0.25 acre of wetlands exist within the property boundary, then the application must contain a Protective Covenants that protect these additional areas from activities such as filling, draining, mowing, placement of structures, cutting of vegetation, and/or clearing or plowing of natural vegetation (also see Part V. A. 24.) for the application to be a Non-Reporting Activity. Protective Covenants should be prepared in accordance with the template documents found at: <https://www.nab.usace.army.mil/Missions/Regulatory/Permits-PA/>. If the application does not contain such Protective Covenants, or deviates from the templates, then the application would be Reporting (see Part III. E. 8. and Part V. A. 24).

28. Maintenance: Activities conducted under the terms and conditions of a previously issued PADEP authorization which requires operation and maintenance in accordance with the terms and conditions of the PADEP authorization.

29. PADEP Chapter 105 Activities Published in the *Pennsylvania Bulletin*: The following activities require notification through publication in the *Pennsylvania Bulletin* as required by 25 PA Code Chapter 105.21(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq. These activities may be authorized by PASPGP-7 after an opportunity for review and comment by the Corps, all other federal and state resource agencies, and the general public. Publication in the *Pennsylvania Bulletin* will be at least 30 days prior to the effective date of the PADEP authorization.

a. **Activities Requiring Pennsylvania State Permits or Approvals:** This is limited to activities authorized pursuant to PADEP Water Obstruction and Encroachment Permit (including an Individual Permit or Small Projects Permit), Dam Permit, or Environmental Assessment Approval and request for SWQC, as required by Section 401 of the CWA (see General Condition 2(c)).

b. **The Removal of Abandoned Dams, Water Obstructions, and Encroachments:** This is limited to those activities authorized by PADEP for the removal of abandoned dams, water obstructions, or encroachments, where PADEP determines in writing, on the basis of data, information, or plans, submitted by the applicant, that the removal of the abandoned dam, water obstruction, or encroachment will not imperil life or property, have significant effect on coastal resources, or have an adverse impact on the environment, and the plans provide for restoration and stabilization of the project area. This corresponds to activities authorized pursuant to PADEP Waiver 11.

c. **Restoration Activities:** This is limited to restoration activities undertaken and conducted pursuant to a restoration plan, which has been approved, in writing, by PADEP. This corresponds to activities authorized pursuant to PADEP Waiver 16, except for those activities identified in the above Part III. D. 20 which do not require publication in the *Pennsylvania*

Bulletin because they have been programmatically approved.

30. **Previously Authorized Activities:**

a. All activities previously verified as a Non-Reporting Activity under PASPGP-6 that meet the PASPGP-7 Non-Reporting criteria and comply with all its terms, conditions, limits, and best management practices are reauthorized by the PASPGP-7 without further notice to the applicable Corps District. The duration of these verifications will be for the term of PASPGP-7 (July 1, 2031) or applicable PADEP Chapter 105 authorization, whichever is less. If the previously verified PASPGP-6 Non-Reporting activity **does not** meet the PASPGP-7 Non-Reporting criteria, or **does not** comply with all the terms, conditions, limits, and best management practices identified and required by PASPGP-7, the activity is **not** automatically authorized by PASPGP-7. For these activities, an application must be submitted to the applicable Corps District to determine if the project qualifies for PASPGP-7.

b. All activities previously verified as a Reporting Activity under PASPGP-6 that comply with all the terms, conditions, limits, and best management practices identified and required by PASPGP-7 are authorized by PASPGP-7 without further notice to the applicable Corps District. In addition, all special conditions attached to the original PASPGP-6 verification become special conditions for the PASPGP-7 verification. The duration of the verification is for five years from issuance of the PASPGP-6 verification or when the applicable PADEP Chapter 105 authorization expires, whichever is less. Please note, any request for modification of the authorized work and/or special conditions must be submitted in writing to the applicable Corps district. If the previously verified PASPGP-6 Reporting Activity **does not comply with** the PASPGP-7 terms, conditions, limits, and best management practices, the activity is **not** automatically authorized by the PASPGP-7. For these activities, an application must be submitted to the applicable Corps district for federal authorization.

c. All activities verified as a Non-Reporting Activity under PASPGP-6 that are now a Reporting Activity under PASPGP-7, where the verification was issued between April 01, 2026, and June 30, 2026, and do not exceed the eligibility thresholds of PASPGP-7, have until June 30, 2027 to complete the regulated activities authorized by the PASPGP-6 verification under a PASPGP-7 verification.

NOTE: PASPGP-6 verifications expire on June 30, 2026. Activities authorized by PASPGP-6 that have commenced construction or are under contract to commence construction will remain authorized by PASPGP-6 provided the activity is completed by June 30, 2027, or until the expiration date of the project-specific verification, whichever is sooner.

31. **Work in the Lehigh Canal:** Maintenance and emergency stabilization activities on the prism, berm, structures, and/or towpath of the Lehigh Canal provided the work complies with the following:

a. All maintenance and emergency stabilization activities shall maintain the original, historic design of the Lehigh Canal pursuant to *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and*

Reconstructing Historic Buildings (2017).

b. In the event such activities disturb the design of the canal prism, berm, structure, or towpath, the applicant shall restore such elements to their original historic design based on cross-sectional drawings from the Lehigh Coal and Navigation Company, Canal Department, or other authoritative sources. The applicant should attempt to coordinate these activities with personnel from the Delaware & Lehigh National Heritage Corridor.

c. Any necessary restoration of the prism will be accomplished with a clay and/or geosynthetic liner if a clay liner is found to be present at the time of excavation. Restoration of the berm and towpath will be accomplished with suitable earthen materials that are erosion-resistant and will be properly seeded and mulched for stabilization.

d. Individual maintenance and emergency stabilization activities will be documented in the form of before-and-after photos and as-built drawings. This information shall be submitted to the Corps within 30 days of the completion of the regulated work.

e. If the applicant cannot undertake the proposed maintenance and emergency stabilization activities in a manner consistent with stipulations a through d above, a full description of the proposed work, photographs, maps showing the location of the proposed activities within the Lehigh Canal, and drawings for the restoration design are required to be submitted by the applicant to the Philadelphia District, in accordance with Reporting Activity 7, and no work may commence until written authorization is received from the Corps.

E. Reporting Activities:

Activities listed below are Reporting Activities and will receive a project-specific review by the Corps unless the project meets Non-Reporting Activity 30 (Previously Authorized Activities).

The Corps will coordinate with the appropriate federal and state agencies in order to make a minimal impact determination and to ensure compliance with other federal laws and regulations. PASPGP-7 may be verified for these projects only after a case-by-case opportunity for review and comment, in accordance with the PASPGP-7 Standard Operating Procedures (SOP), by all appropriate federal and state resource agencies and a determination by the Corps that the activity will have no more than minimal adverse environmental effects and is in compliance with all other applicable federal laws and regulations.

These activities correspond to activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and rules and regulations promulgated thereunder in the *Pennsylvania Bulletin* (codified at 25 Pa. Code, Chapter 105). In order to qualify for PASPGP-7, these activities must receive the applicable SWQC, as required by Section 401 of the CWA.

All Reporting Activities that require PADEP Individual Permits (except for Individual Permits numbered EXX-999X), Small Projects Permits, Dam Permits, individual SWQC, or Environmental Assessment Approvals, will also be reviewed by the general public through

publication in the *Pennsylvania Bulletin*, at least 30 days prior to the effective date of the permit, as required by 25 PA Code Chapter 105.21(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the *Pennsylvania Bulletin* (codified at 25 PA Code, Chapter 105). PADEP will forward copies of all applications to the Corps for review as a Reporting Activity.

1. Activities Normally Reviewed as Non-Reporting: Activities for which the Corps has requested a review of the application. Other federal, and/or state resource agencies may request a Corps review of the application through contacting the Corps; however, a final determination will be made by the Corps. The request for the application to be reporting by the Corps to PADEP must be made prior to PADEP issuing verification that an activity is authorized by PASPGP-7.

2. Activities Exceeding Reporting Thresholds: Activities where the Overall Project will result in:

a. Federally regulated temporary impacts to more than 1.00 acre of waters of the United States, including jurisdictional wetlands.

b. Federally regulated permanent impacts to more than 0.25 acre of waters of the United States, including jurisdictional wetlands, with the following exceptions, where the reporting threshold is 0.50 acre of permanent impact:

i. Non-Reporting Activity 1, (PADEP GP-1 Fish Habitat Enhancement Structures);

ii. Non-Reporting Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and

iii. Maintenance of artificial ponds/impoundments through removal of accumulated sediments.

c. Federally regulated permanent impacts greater than 250 linear feet/0.03 acre (1,307 square feet), whichever is less, of jurisdictional waters (streams, rivers, ponds, lakes, impoundments, etc.) excluding wetlands, except for the following activities, where the permanent linear foot impact threshold is:

i. No more than 500 linear feet (no square feet limitation) for activities that involve stream restoration (rehabilitation and/or reestablishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Non-Reporting Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities;

ii. No more than 500 linear feet (no square feet limitation) for maintenance of existing artificial ponds/impoundments through removal of accumulated sediment;

iii. No more than 1,000 linear feet for PADEP GP – 1 Fish Habitat Enhancement

Structures (the 1,000 linear feet reporting threshold does not apply for structures or work in lakes or impoundments that do not result in a conversion of aquatic habitat to uplands.

NOTE: As stated in Part II, the reporting thresholds apply to federally regulated impacts to waters of the United States, including jurisdictional wetlands. If an AJD has not been made by the Corps, all waters and/or wetlands are presumed to be jurisdictional, in accordance with Regulatory Guidance Letter 16-01. Regulated impacts associated with construction of compensatory mitigation sites is included, if applicable, when calculating impacts. Activities not regulated by the Corps and/or impacts to non-jurisdictional resources are not included in the calculation, however, such activities may be regulated by PADEP and should be included as impacts in permit applications. For example, boring a utility line under a wetland may not involve a regulated discharge under Section 404 of the CWA. Under PADEP regulations, installation of the utility line is a regulated activity, with the utility considered a permanent impact. As a result, submitted applications should include proposed installation of the utility line and all associated temporary or permanent impacts.

3. Modification of Previous Federal Authorizations:

- a. Applications proposing modification of a previously issued Corps authorization where the Corps processed the original authorization for the project. For example, this could include a PASPGP-6, Department of the Army Individual Permit, or an NWP; or
- b. Applications proposing additional regulated activities for a previously issued single and complete project that did not initially require a Corps review, but now the project is a Reporting Activity under PASPGP-7.

4. Activities Which May Affect Threatened or Endangered Species and Their Critical Habitat Under Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.):

- a. Activities or projects, whereby a final PNDI search identifies a potential conflict(s) for federally listed species, and/or avoidance measures unless:
 - i. The applicant has agreed in writing to implement and comply with all avoidance measures on the final PNDI receipt or other USFWS correspondence;
 - ii. The activities or projects have received documented clearance from the USFWS, including a concurrence or consistency letter from IPaC system; or
 - iii. A “no effect” determination from the Corps or other lead federal agency, has been made for all currently listed threatened and endangered species.

5. Activities Authorized at 25 PA Code § 105.131(c) – Maintenance of Reservoirs of Jurisdictional Dams: This activity is reporting when greater than 0.10 acre of jurisdictional wetland is permanently impacted, or if another reporting reason is applicable. This corresponds to activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated there under in the

Pennsylvania Bulletin (codified at 25 PA. Code, Chapter 105, § 105.131(c)).

6. Activities Potentially Affecting Historic Properties: Any activity which may adversely affect historic properties, which are listed or eligible for listing in the National Register of Historic Places pursuant to the requirements of Section 106 of the National Historic Preservation Act, and/or Tribal Resources. This includes, but is not limited to, projects where the Pennsylvania State Historic Preservation Office (PA SHPO) (i.e. Pennsylvania Historical and Museum Commission), or a federally recognized tribe have determined that archeological or other cultural resources are believed to exist within the permit area.

For all PADEP individual permits, unless the applicant has a delegated Section 106 programmatic agreement with PA SHPO or the lead federal agency has made an effects determination, the applicant must provide evidence that the PA SHPO has been notified. Such notification is documented by using the online notification system approved by PA SHPO at <https://share.phmc.pa.gov/pashare/landing>. For applicants having a delegated Section 106 programmatic agreement or where a federal agency has made a Section 106 determination, the application shall contain information pertaining to compliance with Section 106.

An application shall be forwarded to the Corps if any of the following apply:

- a. The application contains a PA SHPO response that indicates the potential for the project to affect historic properties or requests additional information;
- b. The application does not include documentation that coordination with PA SHPO has been initiated, if required;
- c. The application does not contain evidence of a delegated Section 106 authority; and
- d. Another lead federal agency indicates a potential for the project to affect historic properties.

7. Activities Potentially Affecting National Wild or Scenic Rivers: Any activity which occurs in a component of the National Wild and Scenic River System or in a river officially designated by Congress as a “study river” under Section 7 (a) Wild and Scenic Rivers Act (16 U.S.C. § 1278 *et seq.*) for possible inclusion in the System are forwarded to the Corps as a Reporting Activity; however, these activities are not reporting if the appropriate federal agency, with direct management responsibility for such river, has determined, in writing, that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Additionally, designated and identified study rivers approved and included in the National Wild and Scenic River System subsequent to the publication of this document are to be considered in this sub-category. The designated National Wild and Scenic Rivers are:

- a. Allegheny River from the Kinzua Dam, mile 197.2, downstream approximately 7 miles to U.S. Route 6 Bridge, at mile 190.7, in Warren, then from the Buckaloons Recreation Area in Allegheny National Forest at mile 181.7 downstream 47 miles to Alcorn Island just north of Oil City at river mile 133.7, and then continuing from the Franklin Wastewater Treatment

Plant at mile 122.7, downstream 31 miles to the refinery at Emlenton mile 90.7;

b. Clarion River from mile 91.1 in the Borough of Ridgeway, Elk County, Pennsylvania, at the National Forest and State Game Lands boundary to mile 39.4 at the normal pool elevation of Piney Dam;

c. Upper Delaware Scenic and Recreational River beginning at Hancock, New York, and continuing 73.4 river miles to Mill Rift, Pennsylvania;

d. Middle Delaware Scenic and Recreational River (from bank to bank) as it flows through the Delaware Water Gap National Recreation Area;

e. Lower Delaware River beginning 7 river miles north of Belvidere, New Jersey, continuing to Washington Crossing, Pennsylvania, including Paunacussing Creek, within Solebury Township; all of the Tinicum Creek, including Rapp Creek and Beaver Creek Tributaries; and Tohickon Creek from the mouth to the Lake Nockamixon Dam, including a ¼ mile buffer from each bank; and

f. White Clay Creek watershed, including all its tributaries.

8. Activities Related to Residential, Commercial and Institutional Developments:

Applications for the purpose of constructing or expanding a residential, commercial, or institutional subdivision or development that do not contain a protective covenant (e.g. deed restriction, declaration of restrictive covenants for conservation, conservation easement, or deed restricted open space area) as stipulated in Non-Reporting activity 27.

9. Activities Requiring an Environmental Impact Statement (EIS): Applications containing an EIS, references to an EIS by a federal agency, or references to the Corps being a cooperating agency on an EIS.

10. Activities within the Following Waters:

a. All of the Ohio River except for navigational aids or markers, buoys, floats, the construction, operation, or removal of staff gauges, water recording devices and water quality testing devices;

b. All of the Monongahela River except for navigational aids or markers, buoys, floats, the construction, operation, or removal of staff gauges, water recording devices and water quality testing devices;

c. The Allegheny River, from its mouth in Pittsburgh, Pennsylvania to river mile 197.4 at Kinzua Dam, north of Warren, Pennsylvania except for navigational aids or markers, buoys, floats, the construction, operation, or removal of staff gauges, water recording devices and water quality testing devices;

d. Lake Erie activities which require submittal of a PADEP Joint Permit Application or

Environmental Assessment to the PADEP. For Lake Erie, the OHWM is located at elevation 573.4;

e. The Delaware River, upstream of the U.S. Route 202 Bridge at New Hope, Pennsylvania. Note: any activity located waterward of the OHWM in non-tidal waters and HTL in tidal waters of the Delaware River, downstream of the U.S. Route 202 Bridge, is ineligible for PASPGP-7.

f. All of the Delaware Canal.

11. Activities across State Boundaries: Activities where the regulated activity is not wholly located within the Commonwealth of Pennsylvania, i.e. the regulated activity extends across state boundaries.

12. Coal and Non-Coal Mining Activities: Activities authorized pursuant to Chapter 105 for coal and non-coal mining permits issued by the PADEP District Mining Offices (Bureau of Mining and Reclamation), including activities authorized pursuant to PADEP Waiver 4 [25 Pa. Code § 105.12(a)(4)] and GPs-101 and 102.

13. Construction of Mitigation Banks and In-Lieu Fee Sites: Regulated activities associated with the construction of mitigation banks and/or in-lieu fee sites developed to meet the requirements of the Corps and the EPA April 10, 2008 Compensatory Mitigation for Losses of Aquatic Resources: Final Rule, or any subsequent guidance/regulations addressing compensatory mitigation banks and/or in-lieu fee sites.

14. Activities Affecting Corps Civil Works Projects, Corps Property, or Corps Easements: All activities that may alter, use, build upon, attempt to possess, or that may harm or impair any existing or proposed Corps Civil Works project, or any Corps-owned or managed property or easement. Mapped Civil Works projects can be found at <https://levees.sec.usace.army.mil/> and/or <https://nid.sec.usace.army.mil/#/>.

15. Reasonably Related Applications:

a. If the Corps previously issued a verification for work associated with an Overall Project, any subsequent additional regulated work that is needed for the Overall Project to function and meet its intended purpose is a Reporting Activity.

b. If PADEP determines that an application is a Reporting Activity, and PADEP is concurrently processing other Non-Reporting applications which are needed for the Overall Project to function and meet its intended purpose, then all such related applications are sent to the Corps as Reporting.

c. If the Corps is reviewing a Reporting application and PADEP receives an application for attendant features associated with an Overall Project, then the newly received application received by PADEP is a Reporting Activity.

16. Activities Involving Temporary Fill of Greater Than One Year: All applications proposing temporary fill impacting greater than 0.10 acre of waters and/or wetlands which will remain in place for more than one year are a Reporting Activity. This requirement includes requests to extend temporary fill authorized by a PADEP GP-8 beyond the original one-year timeframe.

17. Applications Containing a Request for a Corps Jurisdictional Determination (JD): Any application containing a request for either a preliminary JD or an approved JD from the Corps.

18. Activities occurring in areas identified as potentially having Shortnose and/or Atlantic Sturgeon Present: Any application that proposes work in a portion of a waterbody identified by the National Oceanic and Atmospheric Administration (NOAA), Greater Atlantic Region where Atlantic and/or shortnose sturgeon may be present. The following is a list of waters identified by the Greater Atlantic Region's ESA Section 7 Mapper Tool where sturgeon maybe present:

Waterway	Downstream Extent	Upstream extent	Latitude	Longitude
Crum Creek	Confluence with Delaware River	State Route 291 (Industrial Highway) Bridge	39.863249	-75.324343
Darby Creek	Confluence with Delaware River	Upstream side of Hay Island	39.886308	-75.264508
Frankford Creek	Confluence with Delaware River	Frankford Ave. Bridge	40.005349	-75.092422
Nashaminy Creek	Confluence with Delaware River	New Falls Road Bridge	40.123726	-74.901543

NOTE: The above list does not include the Delaware River downstream of the U.S. 202 Bridge and the Schuylkill River downstream of the Fairmount Dam because these waters are ineligible for PASPGP-7.

19. Activities Requiring an Individual 401 SWQC from PADEP: Any regulated activity requiring a project-specific SWQC pursuant to Section 401 of the CWA (33 U.S.C. § 1251). See Part V, A, 2, c, for identification of such applications.

20. Activities Involving the Erection of an Aerial Transmission Line, Submerged Cable, or Submerged Pipeline Across a Navigable Water of the United States: Any activity involving the erection of an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States.

Part IV – Procedures:

A. Application Submittal:

Applicants must submit the required PADEP permit application to the appropriate PADEP

office. For Reporting Activities, where PADEP does not require a permit application, information on the proposed project and Engineering Form 4345 shall be submitted directly to the appropriate Corps District. The information must identify all potential impacts to waters of the United States, including jurisdictional wetlands, including direct and indirect impacts, both temporary and permanent, for the overall project, including all attendant features needed for the project to function and meet its intended purpose. Applicants submitting applications for linear projects must submit information describing the locations of the overall linear project's point of origin, terminal point, all proposed crossings (e.g., single-and-complete linear projects), and other impacts to aquatic resources. The delineation of wetland boundaries shall be accomplished in accordance with the *1987 Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1)*, including all applicable guidance, regional supplements.

Compensatory mitigation utilizing a minimum one-to-one ratio, or utilizing an appropriate function or condition assessment method, will typically be required for all federally regulated wetland losses that exceed 0.10 acre, or for stream losses that exceed 0.03 acre (1,307 square feet), and are a Reporting Activity, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal.

For Reporting Activities with federally regulated wetland losses of 0.10 acre or less or stream losses of 0.03 acre (1,307 square feet) or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

For Reporting Activities impacting wetlands and streams, the cumulative impacts will be considered when determining whether compensatory mitigation is required to ensure that environmental effects are no more than minimal, regardless of the amount of impact to either resource type.

Regulated activities that result in the permanent conversion of wetland types may result in the need for compensatory mitigation to ensure that the regulated activity does not result in more than minimal adverse effects.

Applications for Reporting Activities that propose compensatory mitigation for federally regulated impacts should include a discussion on the sequencing of use of mitigation bank, in leu fee programs, permittee responsible mitigation on a watershed basis, etc.. mitigation and identify any mitigation banks or in leu fee programs proposed to be used. For permittee-responsible mitigation, the Corps/EPA 2008 Mitigation Rule requires approval of a final mitigation plan prior to commencement of any authorized work. The required components of a final mitigation plan can be found at 33 CFR 332.4(c)(2) through (c)(14).

B. PASPGP-7 Review Procedures:

1. **Non-Reporting Activities 1-28, and 31:** Permit applications are reviewed by PADEP in accordance with their review procedures and the PASPGP-7 procedures. If applicable, PADEP will attach the PASPGP-7 verification to the state authorization.

2. **Non-Reporting Activity 29:** All Non-Reporting Activities listed under number 29 a. through c. will be published in the *Pennsylvania Bulletin*, as a public notice. The Corps and resource agencies may review the *Pennsylvania Bulletin* to determine the need for federal review on a case-by-case basis. One copy of the permit application will be maintained in the PADEP Regional Office for resource agency review. If the Corps requests that the proposed project be reviewed as a Reporting Activity, they must notify the appropriate PADEP Office, prior to permit issuance. PADEP will forward the application to the appropriate Corps District. If the application is not forwarded as a Reporting Activity, PADEP will attach the PASPGP-7 verification along with the state authorization to the application.

3. **Reporting Activities:** Applications for projects identified as Reporting Activities will be forwarded to the Corps for review via hard copy or electronically. Applications submitted electronically can be sent to the appropriate email address:

Baltimore District:	nab-regulatory@usace.army.mil
Philadelphia District:	philadelphiadistrictregulatory@usace.army.mil
Pittsburgh District:	regulatory.permits@usace.army.mil

The Corps will coordinate with other federal and state resource agencies, when applicable, to determine eligibility for verification under PASPGP-7. After completion of the Corps review, the Corps will:

a. Notify PADEP that the activity is eligible for verification under PASPGP-7, without special conditions and they should attach PASPGP-7 verification to their authorization when issuing;

b. Send the PASPGP-7 verification and any special conditions, if applicable, directly to the applicant and copy PADEP if the project is eligible for verification under PASPGP-7;

c. Notify PADEP and the applicant that the project is not eligible for verification under PASPGP-7 and the work requires an alternative form of Section 10 and/or 404 authorization; or

d. Inform the applicant directly that a Section 10 and/or 404 authorization is not required for the proposed work and send a copy of the notification to PADEP.

C. Agency Objection:

Prior to the Corps issuing a project specific PASPGP-7 verification, any federal or state resource agency may notify the appropriate Corps District of its objection, in writing, to authorization by PASPGP-7. The Corps will attempt to resolve the objection and may issue a PASPGP-7 verification with or without project-specific special conditions or may require an alternative form of Section 10 and/or 404 authorization.

D. Other Types of Corps Permit Review:

If a project is ineligible under the terms and conditions of PASPGP-7, the Corps will notify PADEP and the applicant that the project will require further evaluation under an alternative permit review procedure. All information submitted by the applicant for the PASPGP-7 review will be used to initiate review by the Corps for the alternative permit. Additional information may be requested to complete the review. During the alternative permit review, the project impacts may be reduced, such that the activity poses only minimal adverse environmental effects and the proposed project meets the terms and conditions of PASPGP-7.

E. Corps Discretionary Authority:

The Corps retains discretionary authority on a case-by-case basis to require a Corps individual permit review for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked for projects with individual or cumulative environmental impacts that may be more than minimal, or if there is a special resource or concern associated with a particular project.

Part V – General Conditions and Processing Requirements:

All activities verified under PASPGP-7 must comply with the below conditions. Failure to comply with all conditions of the verification, including any special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties, and/or require restoration:

A. General Conditions:

1. **Permit Conditions:** The permittee shall conduct all work and activities in waters of the United States, including jurisdictional wetlands, in strict compliance with the approved authorization/verification including all final maps, plans, profiles, and design specifications.

2. **401 State Water Quality Certification (SWQC) Conditions:** The permittee shall comply with the following conditions unless a project specific state water quality certificate is required as identified below.

a. PLACE HOLDER FOR 401 SWQC SPECIAL CONDITIONS TO BE RECEIVED FROM PADEP.

3. **Terms and Conditions Related to Coastal Zone Management Act (CZMA) Certification:** For those projects located within Pennsylvania's Coastal Zones, Non-Reporting Activities have a general CZMA consistency determination, and Reporting Activities must obtain individual CZMA consistency determination (see General Condition 30(b)).

4. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of

those aquatic species. If a bottomless crossing cannot be used, then culverts should be designed, constructed, and appropriately depressed, if possible, below the stream invert to minimize adverse effects to aquatic life movements.

5. Threatened and Endangered Species: By signing the PNDI receipt, the permittee has agreed to comply with all identified avoidance measures. The permittee may also agree in writing to comply with all avoidance measures identified in USFWS correspondence, including IPaC, as part of the application. To ensure compliance with the ESA, those avoidance measures associated with federally listed threatened or endangered species become conditions of the PASPGP-7 verification, unless modified by the Corps.

If an activity is verified under the PASPGP-7, and a federally listed threatened, endangered, or proposed species is subsequently found to be present, all work must cease, and the Corps and USFWS (or National Marine Fisheries Service (NMFS)) must be notified by telephone immediately (contact information below). The PASPGP-7 verification is automatically suspended without additional notification to the permittee 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, or incidental take authorization issued.

Furthermore, persons have an independent responsibility under Section 9 of the ESA to avoid any activity that could result in the “take” of a federally listed species.

USFWS:

Pennsylvania Field Office
110 Radnor Road; Suite 101
State College, Pennsylvania 16801
Office phone: (814) 234-4090
Fax: (814) 234-0748 or (814) 206-7452
Email: IR1_ESPenn@fws.gov

NMFS: Ms. Jennifer Anderson

Assistant Regional Administrator, Protected Resources Division NOAA Fisheries
55 Greater Republic Drive
Gloucester, Massachusetts 01930
Office phone: (978) 281-9226
Email: nmfs.gar.esa.section7@noaa.gov

6. Spawning Areas: The permittee shall comply with all time-of-year restrictions (see below) associated with spawning areas as set forth by the Pennsylvania Fish and Boat Commission (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 another designated agency. In addition, work in areas used for other time-sensitive lifespan activities of fishes 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.

Wild Trout	October 1 - December 31
Class A Wild Trout	October 1 - April 1

List of Trout Streams found at: <https://www.fishandboat.com/Fishing/All-About-Fish/Catch-PA-Fish/Trout/Pages/TroutWaterClassifications.aspx>

7. **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.

8. **Adverse Effects from Impoundment:** If the regulated activity impounds 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.

9. **Management of High Flows:** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Erosion and Sediment Controls:** Appropriate soil erosion and sediment controls, in accordance with state regulations, must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the OHWM or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States, including jurisdictional wetlands, during periods of low-flow or no-flow, or during low tides.

11. **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.

12. **Temporary Fill and Structures:** Temporary fill (e.g., access roads and cofferdams) and structures in waters and/or wetlands authorized by PASPGP-7 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 and structures shall be removed, in their entirety, to an upland site, and suitably contained to prevent erosion and transport to a waterway or wetland. Temporarily impacted areas shall be restored to their pre-construction

contours, elevations, and hydrology, and wetlands shall be revegetated with a wetland seed mix that contains non-invasive, native species, to the maximum extent practicable. Unless approved by the Corps, the restoration work must be completed within 30 days of the date the temporary fill/structure is no longer needed.

13. Equipment Working in Wetlands: Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

14. Installation and Maintenance: Any regulated structure or fill authorized by PASPGP-7 shall be properly installed and maintained to ensure public safety.

15. PASPGP-7 Authorization:

a. PASPGP-7 expires June 30, 2031, unless suspended or revoked.

b. Verifications of PASPGP-7 expire June 30, 2031, unless the PASPGP-7 permit is suspended, revoked, or the PADEP authorization expires, whichever date occurs sooner. Activities authorized under PASPGP-7 that have commenced construction or are under contract to commence construction will remain authorized provided the activity is completed within 12 months of the date of the PASPGP-7 expiration, modification, or revocation; or until the expiration date of the project specific verification, whichever is sooner.

16. One-Time Use: A PASPGP-7 verification is valid to construct the project, or perform the activity, one time only, except for PASPGP-7 verifications specifically issued for reoccurring maintenance activities.

17. Water Supply Intakes: No regulated activity may occur in the proximity of a public water supply intake and adversely impact the public water supply. In order to minimize the effects of intakes on anadromous fish eggs and larvae, and oyster larvae, intake structures should be equipped with screening (with mesh size no larger than 2 mm) of wedge wire or another material of equal or better performance. Where feasible, intakes should be located away from spawning or nursery grounds, or to minimize the impingement on, or entrainment of, eggs or larvae. In addition, intake velocities should not exceed 0.5 ft/sec.

18. Historic Properties: For each project-specific PASPGP-7 verification, upon the unanticipated discovery of any previously unknown historic properties (above ground or archeological), all work must cease immediately, and the permittee must notify the PA SHPO and the Corps. The Corps will contact the tribes with whom they routinely consult, within 24 hours in accordance with each District's tribal consultation process. PASPGP-7 may be re-verified, and special conditions added if necessary, after an effects determination on historic properties and/or tribal resources is made, in consultation with the PA SHPO, the tribes and other interested parties. The PASPGP-7 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.

19. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

20. Corps Civil Works Projects: The PASPGP-7 does not authorize any work which will interfere with an existing or proposed Corps Civil Works project, or any Corps-owned or managed property or easement (i.e., flood control projects, dams, reservoirs, and navigation projects), unless specifically approved by the Corps in writing. Pursuant to 33 U.S.C 408, a review by, or permission from the Corps is required for activities that will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. Any activity that requires Section 408 permission and/or review is not authorized by PASPGP-7 until the appropriate Corps office issues the Section 408 permission or completes its review to alter, occupy, or use the Corps Civil Works project, and the Corps issues a written PASPGP-7 verification.

21. Navigation: No activity verified under PASPGP-7 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 (e.g., 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 (USCG), 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 an 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, 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.

22. Inspections: The permittee shall allow the district engineer or an 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 PASPGP-7. The district engineer may also require post-construction engineering drawings (as-built plans) for completed work.

23. Modifications of Prior Verifications: Any proposed modification of a previously 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, or the Corps if applicable. Written approval from the Corps is required if the prior verification was reviewed by the Corps or if the proposed modification is a Reporting Activity under PASPGP-7. Project modifications that cause a single and complete project to exceed 0.5 acre of loss of waters of the United States, including jurisdictional wetlands (except those identified in Part II A.2. a, b and c.), or greater than 1,000 linear feet of permanent jurisdictional stream loss (except those identified in Part II A.2. a, b and c.), are not eligible for PASPGP-7 and will be forwarded to the Corps for review under an alternative permit review procedure.

24. Recorded Protective Covenants: As per Part III.D.27 and Part III.E.8 of this permit,

proposed draft protective covenants may be submitted by the applicant as part of the permit application package for review and approval. When such proposed protective covenants 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. Protective covenant templates can be found at:

<http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx>

25. Property Rights: PASPGP-7 does not obviate the need to obtain other federal, state, or local authorizations required by law, nor does this permit grant any property rights or exclusive privileges or authorize any injury to the property or rights of others.

26. Navigable Waters of the United States (Section 10 Waters):

In addition to the other general conditions, the following conditions are applicable for activities in the eligible navigable waters of the United States identified in Appendix B:

a. 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 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 outlined 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

i. 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.

ii. Corps 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.

b. Encasement: The top of any 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 pre-construction 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.

c. **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), the permittee shall furnish the Corps and NOAA, 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 (e.g., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the mean high water line (MHWL) at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.

d. **Aids to Navigation:** The permittee must prepare and provide for USCG approval, a Private Aids to Navigation Application (CG-2554). The application can be found at: <https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=73840&Source=/Lists/Content/DispForm.aspx?ID=73840>

e. The completed application must be sent to the appropriate USCG office as indicated below:

Baltimore/Philadelphia Districts: Commander Fifth Coast Guard District 431 Crawford Street, Room 100, Portsmouth, Virginia 23704-5504, Attn: Mr. Ryan Doody; by email to: ryan.p.doody2@uscg.mil.

Pittsburgh District: USCG Marine Safety Unit Pittsburgh, 1041 Washington Pike, Suite 300, Bridgeville, Pennsylvania 15017-2704, Attn: Mr. Eyobe Mills; by email to: eyobe.d.mills@uscg.mil.

Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the appropriate Corps district office.

27. 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 a Corps individual permit. In accordance with 33 CFR 325.7(a), “The district engineer may reevaluate the circumstances and conditions of any permit, including regional permits, either on his own motion, at the request of the permittee, or a third party, or as the result of periodic progress inspections, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the public interest. In the case of regional permits, this reevaluation may cover individual activities, categories of activities, or geographic

areas.”

28. **Corps Water Releases:** For projects located downstream of a Corps dam, the permittee should contact the appropriate Corps 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.

29. **State Authorization:** The activity must receive state authorization. For this requirement, any one of the following constitutes state authorization:

- a. A PADEP Chapter 105 Water Obstruction and Encroachment Permit, including PADEP approved Environmental Assessment pursuant to 25 Pa. Code § 105.15;
- b. A PADEP GP issued pursuant to 25 Pa. Code § §105.441-105.449;
- c. A PADEP approved Environmental Assessment for activities not otherwise requiring a PADEP permit pursuant to 25 Pa. Code § 105.12;
- d. A PADEP Dam Permit, including maintenance or repairs of existing authorized dams, including maintenance dredging;
- e. A PADEP Emergency Permit issued pursuant to 25 Pa. Code § 105.64;
- f. A PADEP permit for the construction of a bridge or culvert which allows for maintenance activities of bridges and culverts; r
- g. A PADEP Chapter 105 Dam Safety and Encroachment Enforcement Action;. or
- h. A programmatic/project- specific State Water Quality Certification WQC issued by PADEP consistent with Section 401 of the CWA where no other State authorization, as listed above, is required.

30. **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 401 SWQC issued by PADEP or waiver thereof, consistent with Section 401 of the CWA.
- b. Reporting Activities located within the designated CZMA Areas. Require a CZMA consistency determination issued by PADEP or a presumption of concurrence pursuant to Section 307 of the federal CZMA.

The district engineer or PADEP may require additional measures to ensure that the authorized activity is consistent with state CZMA requirements; and

c. Fills within the 100-year floodplains. This activity must comply with applicable Federal Emergency Management Agency approved state or local floodplain management requirements.

31. **Federal Liability:** In issuing this permit and any subsequent activity verification, the federal government does not assume any liability, including but not limited to 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-7.

32. **False and Incomplete Information:** The Corps may modify or rescind a previously issued project-specific verification if it determines 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.

33. **Anadromous Fish Waters:** To protect anadromous fishes during their migration and spawning, no work can take place in the anadromous fish waterways listed in the table below from March 1 to June 30 unless approved in writing by the Corps. Questions on the applicability of this condition should be directed to the Corps, Philadelphia District.

<u>Waterway</u>	<u>Downstream extent</u>	<u>Upstream extent</u>	<u>Upstream Latitude (N)</u>	<u>Upstream Longitude (W)</u>
<u>Delaware River in Pennsylvania (including W. Branch)</u>	<u>Rte. 202 Bridge</u>	<u>PA/NY Border</u>	<u>41.999448</u>	<u>-75.359573</u>
<u>Lehigh River and adjacent canals</u>	<u>confluence with Delaware River</u>	<u>500 feet upstream of the Cementon Dam</u>	<u>40.690275</u>	<u>-75.503800</u>
<u>Little Lehigh Creek</u>	<u>confluence with Lehigh River</u>	<u>500 feet upstream of the lowermost dam</u>	<u>40.596318</u>	<u>-75.475570</u>
<u>Hokendauqua Creek</u>	<u>confluence with Lehigh River</u>	<u>State Route 4014 (West Scenic Drive)</u>	<u>40.793273</u>	<u>-75.439262</u>

<u>Bushkill Creek</u>	<u>confluence with Delaware River</u>	<u>500 feet upstream of the lowermost dam</u>	<u>40.699325</u>	<u>-75.231060</u>
<u>Brodhead Creek</u>	<u>confluence with Delaware River</u>	<u>500 feet upstream of the Stroudsburg Water Co. Dam</u>	<u>41.018667</u>	<u>-75.201063</u>
<u>Bushkill Creek</u>	<u>confluence with Delaware River</u>	<u>500 feet upstream of Resica Falls</u>	<u>41.111235</u>	<u>-75.095824</u>
<u>Lackawaxen River</u>	<u>confluence with Delaware River</u>	<u>500 feet upstream of the Woolen Mill Dam</u>	<u>40.984304</u>	<u>-75.191569</u>
<u>Dyberry Creek</u>	<u>confluence with Lackawaxen River</u>	<u>Jadwin Dam</u>	<u>41.612088</u>	<u>-75.263391</u>
<u>Darby Creek</u>	<u>Confluence with Delaware River</u>	<u>500 feet upstream of the confluence of Cobbs Creek and Darby Creek</u>	<u>39.907278</u>	<u>-75.255432</u>
<u>Schuylkill River</u>	<u>Fairmount Dam</u>	<u>500 feet upstream of the Bingaman St. Bridge in Reading, Pennsylvania</u>	<u>40.326411</u>	<u>-75.934417</u>
<u>Neshaminy Creek</u>	<u>Confluence with Delaware River</u>	<u>500 feet upstream of the lowermost dam</u>	<u>40.143369</u>	<u>-74.915828</u>

34. Compliance Certification: Each permittee who receives a written PASPGP-7 verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. This certification should indicate if any required permittee-responsible mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity and completion of any required compensatory mitigation. .

35. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for ensuring that an action authorized by PASPGP-7 complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the USFWS to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity. The permittee should contact the appropriate local office of the USFWS to determine if such authorizations 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/>

36. 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/>

B. Processing Requirements:

1. Waters of the United States Including Jurisdictional Wetlands: Applicants are responsible for ensuring all boundaries of waters and/or wetlands (regardless of jurisdictional status) and potential waters and/or wetlands are accurately shown on the project plans. The delineation of wetland boundaries shall be accomplished in accordance with the *1987 Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1)*, including all applicable and current guidance, regional supplements and associated approved data forms.

2. Single and Complete Project: Only one PASPGP-7 may be issued for a single and complete project. An overall project may be comprised of one or more single and complete projects. Any additional regulated work proposed as part of the single and complete project after issuance of a PASPGP-7 verification shall be processed as a re-verification superseding the original verification. If combined impacts for the overall project exceed the reporting thresholds for PASPGP-7, then the re-verification request is sent to the Corps as a Reporting Activity. If combined impacts exceed the eligibility threshold of PASPGP-7, for the single and complete project, the original verification is invalid. In such cases, PADEP will forward the application to the Corps for review.

3. Corps Special Conditions: The Corps may impose other special conditions on a project verified pursuant to PASPGP-7 where it is determined necessary to minimize adverse environmental effects, ensure compliance with federal regulations, or address any other public interest review factor.

4. Avoidance, Minimization, and Compensatory Mitigation: Discharges of dredged and/or fill material and/or the placement of structures into waters of the United States, including jurisdictional wetlands, must be avoided and minimized to the maximum extent practicable.

Applicants must avoid and minimize impacts to the aquatic environment in accordance with the PADEP requirements under Title 25, PA. Code § § Chapter 105.1 [definition of Mitigation, subsection (i)(A)], 105.13(e)(1)(viii), 105.14(b)(7), and 105.18(a)(3)]. Once avoidance and minimization of unavoidable adverse impacts have been demonstrated to the satisfaction of the reviewing office, the Corps or the PADEP, compensatory mitigation may be used to offset unavoidable adverse impacts. All mitigation required by the Corps must be accomplished in accordance with the Corps and the EPA April 10, 2008 Compensatory Mitigation for Losses of Aquatic Resources: Final Rule. 33 CFR. § § 325.1, 332.1-332.8; 40 CFR § § 230.91 – 230.98 or any subsequent guidance/regulation covering compensatory mitigation.

5. Activities Potentially Obstructing Fish Passage: Any activity which could potentially obstruct the passage of diadromous fishes, including but not limited to the placement of dams, weirs, or permanent fill, stream channelization, stream relocation, or the placement of pilings or

structural supports, which have the same effect of discharge of fill material, in the following watercourses must be coordinated with the USFWS and/or NMFS and the PFBC to ensure minimization of impacts upon passage and migration of diadromous fishes:

- a) Juniata River main stem, including Raystown Branch to Raystown Lake and Frankstown Branch to Hollidaysburg;
- b) Susquehanna River main stem to the New York State line;
- c) West Branch of the Susquehanna River to Lock Haven;
- d) Delaware River;
- e) Schuylkill River; and
- f) Lehigh River

6. Threatened and Endangered Species: A PNDI review is required for all activities authorized under PASPGP-7, unless that application contains a clearance letter from USFWS or a no-effect determination by the Corps or the lead federal agency. All final PNDI receipts, USFWS clearance letters and federal agency no-effect determinations are valid for 24 months, unless otherwise stated, after which a new determination for threatened or endangered species must be completed. Additionally, screening through the IPaC system may be required for certain projects when such requirement is noted either on a final PNDI receipt or USFWS correspondence. NOTE: A PNDI review must be completed first with the potential requirement for additional screening through use of the IPaC system noted on the final PNDI receipt or USFWS correspondence.

No activity is authorized under PASPGP-7 which is likely to directly or indirectly jeopardize the continued existence of a federally listed threatened or endangered species or a species proposed for such designation, as identified under the ESA, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized by PASPGP-7 which “may affect” a listed species or critical habitat, unless ESA Section 7 consultation and/or Section 10 permit under ESA addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA Section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA Section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

If a proposed activity may affect a federally listed threatened, endangered, or proposed species, or its critical habitat, the Corps, or the lead federal agency, must initiate a consultation with the USFWS and/or NMFS in accordance with the ESA prior to verification of the activity under PASPGP-7. If through the formal and/or informal consultation process (50 CFR Part 402.13), it is determined that adverse effects to federally listed threatened or endangered species and its critical habitat will be avoided, the activity is eligible for federal authorization under PASPGP-7. If, however, adverse effects cannot be avoided, the activity is not eligible for federal

authorization under PASPGP-7, unless adverse effects on federally listed species and the “take” of such species have been evaluated and authorized via formal Section 7 consultation and/or a Section 10 permit under the ESA.

7. Historic Properties: No activity, which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized under PASPGP-7, until the Corps has complied with the provisions of 33 CFR Part 325, Appendix C or any superseding regulations, or another lead federal agency has complied with the 36 C.F.R. Part 800 regulations and any other federal cultural resources laws as applicable. Historic properties include historic and archeological sites. The applicant must provide documentation that the PA SHPO has been notified, using the on-line Pennsylvania State Historic Preservation Office Archeological and Historic Resource Exchange system (PA-SHARE) at <https://share.phmc.pa.gov/pashare/landing>, for all PADEP individual permits, unless the permittee has a delegated Section 106 programmatic agreement with the PA SHPO. The applicant must provide documentation that PA SHPO has been notified using the PA SHPO’s online consultation system PA-SHARE, accessible at <https://share.phmc.pa.gov/pashare/landing>, for all PADEP individual permits, unless the permittee has a delegated Section 106 programmatic agreement with the PA SHPO. Proof of notification may be in the form of a copy of a response letter from PA SHPO. For permittees with a delegated Section 106 programmatic agreement, proof of compliance with the agreement shall be included with the application. The Corps may require applicants to perform a survey(s) of historic and/or archeological resources in the permit area. The Corps will conclude all tribal coordination in accordance with each district’s SOP, prior to verifying an activity is authorized by PASPGP-7.

Prospective permittees should be aware that Section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, PA SHPO/Tribal Historic Preservation Office, appropriate tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

8. Permit Transfer: A request to transfer any PASPGP-7 verification will be forwarded to the appropriate PADEP office by the permittee using PADEPs required application (PADEP Form No. 3150-PM-BWEW0016). For those activities verified by the Corps the PADEP will forward a copy of the request to the appropriate Corps District for processing.

9. Commencement of Regulated Work: For activities that require submittal of an application to the Corps or PADEP, the applicant may not begin work until:

a. PADEP or the Corps provides written verification to the applicant that the activity is authorized by PASPGP-7. Should the Corps issue the PASPGP-7 project-specific verification prior to PADEP issuing any required state authorizations, no work shall begin until any applicable PADEP authorizations are obtained;

b. The Corps issues an alternative form of Section 10 and/or 404 authorization for the work; or

c. The applicant is advised by the Corps that authorization under Section 10 and/or 404 is not required for the proposed work.

10. Activities Involving the Erection of an Aerial Transmission Line, Submerged Cable, or Submerged Pipeline Across a Navigable Water of the United States: Any activity involving the erection of an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States, the Corps shall send a copy of the permit to the Department of Commerce, NOAA Nautical Data Branch – N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland 20910-3282.

Part VI – Miscellaneous Provisions:

A. Duration of Authorization:

1. PASPGP-7 is authorized for five years. The PASPGP-7 expires and becomes null and void on June 30, 2031, unless suspended and/or revoked earlier by the Corps; except for the following:

2. Activities authorized under PASPGP-7 that have commenced construction or are under contract to commence construction, will remain authorized provided the activity is completed within 12 months of the date of PASPGP-7s' expiration, suspension, or revocation; whichever is sooner. The activities remain subject to the terms and conditions, including any special conditions of PASPGP-7 during the 12-month period; and

3. Previously Authorized Activities – (see Part III D.30.) - for activities previously authorized by PASPGP-6.

B. Changes to State Statutes, Regulations or PADEP Permits:

Proposed changes to all pertinent state laws, regulations, or programs affecting the implementation of PASPGP-7 will be reviewed by the Corps. In the event that PADEP laws, regulations, or programs are revised in such a manner as to substantively modify the current review mechanisms and/or coordination procedures as defined in this document, including the elimination of the current PADEP equivalent 404(b)(1) review, PASPGP-7 will be re-assessed. A determination will be made through a public interest review, including consultation with appropriate resource agencies, to determine whether to continue use of PASPGP-7 in its current form, modify, or rescind in light of the modified state law, state regulations, or programmatic

changes.

C. Changes to the Federal Program:

A Corps public notice will be issued to solicit comments before making any substantive changes to PASPGP-7. A determination will be made through a public interest review, including consultation with appropriate resource agencies, to determine whether to modify PASPGP-7.

D. Reporting and Evaluation:

1. The three Corps Districts in Pennsylvania, in consultation with PADEP and the applicable resource agencies, shall review operational issues related to successful implementation of the PASPGP-7 as needed and shall coordinate and modify the operational procedures and/or the PASPGP-7 as appropriate.

2. PADEP will provide the following data and statistics on a yearly basis to the Corps:

a. The number of individual Chapter 105 Water Obstruction and Encroachment Permits, Dam Safety Permits, Environmental Assessment Approvals for Waived Activities 11 and 16 and project-specific 401 SWQCs issued consistent with Section 401 of the CWA by each PADEP office and delegated county conservation district;

b. The processing time associated with each permit type;

c. The number, type, and scope of permitted wetland and stream impacts, including both temporary and permanent impacts;

d. The number, type, scope, acreage and/or linear footage of, and location of all mitigation areas;

e. Pertinent data concerning operation of in-lieu fee programs, if appropriate; and

f. Total number of Chapter 105 general permit types processed by county.

E. Modification, Suspension, or Revocation:

The Corps may suspend, modify, or revoke the PASPGP-7 permit in its entirety or for any specific geographic area, class of activities, or class of waters within the affected district in accordance with 33 CFR 325.7. In such a case the Corps will notify PADEP and issue a public notice advising the general public, and the notice will state the concerns regarding the environment or other relevant factors of the public interest. Before the Corps modifies, suspends, or revokes such PASPGP-7 authorizations, the Corps will provide, if appropriate, a transitional period for those who have commenced work or are under contract to commence work in reliance on a PASPGP-7 verification. Affected parties will be notified of the modification, suspension, or revocation, including the effective date.

1. The Corps may modify PASPGP-7 as necessary to ensure compliance with other federal laws and regulations. The Corps will notify PADEP and issue a public notice advising the general public of any such modifications.

2. The Corps may modify or rescind a previously issued project-specific verification if it determines 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.

3. Substantive changes to the Pennsylvania Chapter 105 program may require immediate suspension and revocation of PASPGP-7 in accordance with 33 CFR 325.7 or formal modification subject to public review and input.

F. Enforcement and Compliance:

Any activity performed in waters of the United States, including jurisdictional wetlands, that is not in full compliance with all terms and conditions of PASPGP-7 is a violation and constitutes either unauthorized work or work performed in non-compliance of PASPGP-7. The performance of such work may be subject to an enforcement action by the Corps and/or the EPA. Violations of a PADEP authorization, including permit conditions are also violations of PASPGP-7.

Part VII. Corps District Contact Information:

Baltimore District <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>

U.S. Army Corps of Engineers
State College Field Office
1631 South Atherton Street
Suite 101
State College, Pennsylvania 16801
(814) 235-0570
Email: nab-regulatory@usace.army.mil

Philadelphia District <https://www.nap.usace.army.mil/Missions/Regulatory.aspx>

U.S. Army Corps of Engineers Philadelphia District Office
1650 Arch Street
Attn: Regulatory Branch, 5th Floor
Philadelphia, Pennsylvania 19103
(215) 656-6728
Email: philadelphiadistrictregulatory@usace.army.mil

Pittsburgh District <http://www.lrp.usace.army.mil/Missions/Regulatory.aspx>

William S. Moorhead Federal Building
1000 Liberty Avenue
Attn: Regulatory Division
Pittsburgh, Pennsylvania 15222-4186
(412) 395-7155
Email: regulatory.permits@usace.army.mil

Part VIII. District Engineer Signatures:

By Authority of the Secretary of the Army:

Francis B. Pera
Colonel, U.S. Army
Commander and District Engineer
Baltimore District

Jeffrey M. Beeman, P.E.
Lieutenant Colonel, Corps of Engineers
District Commander
Philadelphia District

Nicholas O. Melin, P.E.
Colonel, Corps of Engineers
District Engineer
Pittsburgh District