



Public Notice

**U.S. Army Corps
of Engineers**

Special Public Notice SPN 20-57
Baltimore District

Date: September 4, 2020 to October 4, 2020
Philadelphia District

Date: September 4, 2020 to October 4, 2020
Pittsburgh District

The purpose of this 30-day Public Notice is to request comments on whether to issue, for a five year period, the Pennsylvania State Programmatic General Permit 6 (PASPGP-6). Comments are requested by October 4, 2020.

This Public Notice is issued jointly by the Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers.

On July 1, 2016 the District Engineers for Baltimore, Philadelphia, and Pittsburgh Districts, issued the Pennsylvania State Programmatic General Permit - 5 (PASPGP-5) for a five year period. The PASPGP-5 will expire on June 30, 2021, unless a decision is made to suspend, or revoke the permit before that date.

The list below provides some of the proposed changes from PASPGP-5 to PASPGP-6. The proposed PASPGP-6 can be viewed on our web page at:

<https://www.nab.usace.army.mil/Missions/Regulatory/Public-Notices/>

A hard copy of the proposed PASPGP-6 may be obtained by contacting: Ms. Brenda Harrison, U.S. Army Corps of Engineers, State College Field Office, 1631 South Atherton Street, State College, Suite 101, Pennsylvania 16801, by telephone at (814) 235-1763 or by email at: Brenda.L.Harrison@usace.army.mil

Proposed Changes

1. Eligibility thresholds for PASPGP-6:
 - a. Single and complete projects reduced from 1-acre temporary and/or permanent impact to 0.5 acre permanent loss (permanent adverse effect) of waters of the U.S., including jurisdictional wetlands.
 - b. Unlimited acreage of temporary and/or non-adverse permanent impacts to waters of the U.S., including jurisdictional wetlands, provided the work is determined to result in no more than minimal impact.
2. Reporting threshold (the need for a Corps review of the application) for PASPGP-6 will be calculated based on impacts associated with Overall Project, not Single

and Complete Project. The eligibility threshold will remain based upon Single and Complete Project as determined by the Corps.

3. Some activities Reporting under PASPGP-5 are proposed to be removed as Reporting activities under PASPGP-6, including:
 - a. Single and Complete Projects that propose the permanent conversion of greater than 0.10 acre of forested and/or scrub-shrub wetland in association with the regulated activity.
 - b. Utility line applications that meet the following criteria:
 - i. Single and complete utility line crossings in waters of the United States, including jurisdictional wetlands exceeding 500 linear feet (excluding overhead lines). This applies to the length of the utility line itself in waters of the United States, including jurisdictional wetlands, at that Single and Complete Project location, and is not based on the amount of impacts, either temporary or permanent, associated with installation of the entire utility line; or
 - ii. Buried utility lines placed within a jurisdictional area (i.e., waters of the United States, including jurisdictional wetlands) whereby the utility line runs parallel to or along a stream bed that is within that jurisdictional area.
 - c. Activities Authorized at 25 PA Code § 105.131(c) – Maintenance of Reservoirs of Jurisdictional Dams: This work is associated with maintenance dredging of the reservoir's design storage capacity including the removal of accumulated sediments. 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)). Such activities are proposed to be Non-Reporting activities, however projects proposing greater than 0.10 acre of permanent impact to wetlands would be a Reporting activity.
4. Reporting activities under PASPGP-6 would be based on Overall Project with the following thresholds requiring that an application be sent to the Corps as a Reporting activity:
 - More than 1.0 acre of temporary impact;

- More than 0.25 acre of permanent impact, except for those activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities, and Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures the permanent impact threshold is more than 0.50 acre; or
 - More than 250 linear feet of permanent impacts to streams, rivers, or other watercourses (excluding wetlands) with the following exceptions:
 - The permanent linear threshold of stream/river impact is more than 500 feet, regardless of drainage area, for those activities that involve stream restoration (rehabilitation and/or reestablishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and
 - No linear threshold of stream/river impact applies to those activities verified as Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures.
5. Section 10 waters within Pittsburgh, which were ineligible waters under PASPGP-5, are proposed to be added as waters eligible for authorization under PASPGP-6. Except for work that qualifies for authorization under Pennsylvania Department of Environmental Protection (PADEP) Waivers 10 and 12, any regulated work within these waters would be a Reporting activity.
6. Monitoring of Wetlands: The requirement under PASPGP-5 for the monitoring of all single and complete projects with temporary impacts greater than >0.10 acre is proposed to be removed as a requirement under PASPGP-6.

The Commonwealth's Dam Safety and Waterway Management Rules and Regulations establish a statewide permit program for protecting the waters of the Commonwealth. The Commonwealth's procedures for the granting of permits require the PADEP to apply evaluation criteria consisting of alternatives analysis (for nonwater dependent activities), avoidance techniques, the minimization of impacts, and if a permit is to be granted, compensatory mitigation. The evaluative criteria within the Commonwealth's program are similar to Federal criteria under Section 404(b)(1) of the Federal Clean Water Act.

The decision whether to issue the proposed PASPGP-6 with or without modifications, will be based on an evaluation of the probable impacts including cumulative impacts of the proposed PASPGP-6 on the public interest. That decision will reflect the national concern for the protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural resources, fish and wildlife resources, flood hazards, floodplain functions, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized Native American Nations; and other interested parties in order to consider and evaluate the impacts of this proposed PASPGP-6. Any comments received will be considered by the Corps of Engineers to determine whether to issue with modifications, issue without modifications, or not issue PASPGP-6. To make this decision, comments are used to assess impacts on endangered species, cultural resources, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments will also be used to determine if the proposed permit is in the public interest.

A Water Quality Certification is required, in accordance with Section 401 of the Clean Water Act, for any activity that would be authorized by PASPGP-6 and involves the discharge of dredged and/or fill material into federally regulated waters of the United States, including wetlands. Coastal Zone Certification is also required in accordance with the Pennsylvania Coastal Zone Program.

A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work may affect, but is not likely to adversely affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The PASPGP-6 is conditioned to assure that on a case by case basis, cultural resources listed in the latest published version of the National Register of Historic Places or properties listed as eligible or potentially eligible for inclusion therein will be given the consideration required by Section 106 of the National Historic Preservation Act.

Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 et seq.) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work is not likely to have a direct and adverse effect on any designated Wild and Scenic River pursuant to the Wild and Scenic Rivers Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat. A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work will likely result in no more than minimal adverse effects on Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, within the comment period as specified above, to receive consideration. The request must clearly state the interest which may be adversely affected by the proposed PASPGP-6.

It is requested that you communicate the foregoing information to any persons known by you to be interested and not being known to this office who did not receive a copy of this notice.

Questions may be directed to Mr. Shawn Gill, Project Manager, U.S. Army Corps of Engineers, Tioga Field Office, 710 Ives Run Lane, Tioga, Pennsylvania 16946, by telephone (570) 835-4263, or by email: Shawn.R.Gill@usace.army.mil

Comments and/or hearing requests may be directed to the following email address: PASPGP6_comments@usace.army.mil with a subject line of "PASPGP-6 Comments", or mailed to U.S. Army Corps of Engineers, Baltimore District, 1631 South Atherton Street, Suite 101, State College, Pennsylvania 16801.

This public notice is issued by the Chief, Regulatory Branch, Baltimore District, for and on behalf of the Pittsburgh, Philadelphia, and Baltimore Districts.



U.S. Army Corps of Engineers

**PENNSYLVANIA STATE PROGRAMMATIC
GENERAL PERMIT-6
(PASPGP-6)**

02 September 2020

Pennsylvania State Programmatic General Permit-6

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Part I – Authorities and Scope:

A. Authorities.

The Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers (“the Corps”) hereby issue the Pennsylvania State Programmatic General Permit-6 (PASPGP-6) pursuant to and consistent with Section 404(e) of the Clean Water Act (33 U.S.C. 1344(e)). Under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344), PASPGP-6 authorizes regulated activities in waters of the United States, including wetlands and navigable waters, within the Commonwealth of Pennsylvania.

The PASPGP-6 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, the PASPGP-6 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-6 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.

The PASPGP-6 is only applicable within the Commonwealth of Pennsylvania, for specifically identified activities.

Part II– Eligibility:

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 the PASPGP-6. The applicant always retains the right to request an AJD for the project area and any applications containing a Jurisdictional Determination request shall be reported to the Corps as a Reporting Activity.

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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-6. 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 impacts 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, both direct and indirect, to waters of the United States, including jurisdictional wetlands.
3. Single and Complete Projects that will result in a permanent loss, both direct and indirect, of greater than 1,000 linear feet of jurisdictional stream channel(s).
4. Single and Complete Projects that do not comply with all terms and conditions of the PASPGP-6, including the terms and conditions specific to each listed category of activities.
5. Activities located channelward of the ordinary high-water mark (OHWM) on non-tidal waters and/or the mean high water line (MHWL) on tidal waters on the following Pennsylvania waterbodies:
 - a. The Delaware River, downstream of the U.S. Route 202 Bridge at New Hope, Pennsylvania;
 - 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 as ineligible for federal authorization under the PASPGP-6.
8. Activities that have been denied a Pennsylvania Department of Environmental Protection (PADEP) Chapter 105 Permit, a State Water Quality Certification as required by Section 401 of the CWA, or a Coastal Zone Management (CZM) Consistency Concurrence.

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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-6:

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 be in compliance with all terms and conditions of the PASPGP-6, including terms and conditions specific to each listed category of activity.
2. All activities authorized under PASPGP-5 where the verification did not expire prior to June 30, 2021, are eligible for reauthorization by the PASPGP-6 provided all terms, conditions, limits, and best management practices identified and required by PASPGP-6 are met. This includes compliance with all special conditions attached to the original PASPGP-5 verification.
3. Unauthorized activities may receive After-The-Fact (ATF) authorization under the PASPGP-6 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-6 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-6 provided the work meets the other 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 eligibility threshold.

Part III – Categories of Activities Authorized by PASPGP-6:

A. Non-Reporting Activities

The following activities (1 through 30, below) are authorized by the PASPGP-6 without notification to the applicable Corps District, provided the proposed regulated activities comply with all terms, conditions, limits, best management practices, and processing procedures identified and required by the PASPGP-6.

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Non-Reporting Thresholds

The overall project, including direct and/or indirect impacts to waters of the United States, including jurisdictional wetlands, results in no more than:

- 1.0 acre of temporary impact;
- 0.25 acre of permanent impact, except for those activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities, and Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures the permanent impact threshold is 0.50 acre; or
- 250 linear feet of permanent impacts to jurisdictional streams, rivers, or other watercourses (excluding wetlands) with the following exceptions:
 - The permanent linear threshold of jurisdictional stream, river, or other watercourse impact is no more than 500 linear feet, regardless of drainage area, for those activities that involve stream restoration (rehabilitation and/or reestablishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and
 - No linear threshold of jurisdictional stream, river, or other watercourse impact applies to those activities verified as Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures.

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

- Project specific activities listed as Activities 1 through 21, and 23 through 30 below are eligible for Non-Reporting review under the PASPGP-6 provided the application contains one of the following, the impacts are within the limits for Non-Reporting review, and no other Reporting Activity requirements are met:
 - A Pennsylvania Natural Diversity Index (PNDI) search receipt, that states “No Known Impact, No Further Review Required” for U.S. Fish and Wildlife Service (USFWS).
 - A PNDI search receipt which contains Avoidance Measures (AM) for federally listed species whereby the applicant has agreed to implement the AMs by signing the submitted PNDI receipt. In such cases, all AMs become Special Conditions of the PASPGP-6 authorization without the need for a Corps review. By signing the PNDI receipt, the applicant agrees to abide by all AMs;
 - A written “No Effect” determination by the Corps or other lead federal agency made for all

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currently listed Threatened and Endangered species;

- 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;
- Correspondence from the 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 Special Conditions of the PASPGP-6 authorization without the need for a Corps review.

NOTE: If the PNDI receipt or correspondence from the 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.3, and B.6 for further requirements.

- Project specific activities identified in 22 below, **Emergency Activities**, are eligible for PASPGP-6 verification provided the applicant, PADEP, or the Corps completes a PNDI search prior to or promptly after issuance of PASPGP-6 verification, unless USFWS and/or the Corps determines that the emergency activity will have no effect on listed species. If the PNDI receipt, or correspondence from the USFWS, identifies a potential impact or includes avoidance measures related to a federally-listed species, the Corps shall be notified prior to the performance of work, and will consult with the USFWS as applicable, unless the applicant agrees to comply with all of the listed avoidance measures 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.

Listing of Non-Reporting Activities

For a complete description of the PADEP Waivers and General Permits (GP) and the definitions specific to each activity mentioned below, refer to:

<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.

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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.
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. **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.
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.**

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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 That Have Received a Programmatic Waiver Under 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities.**
21. **PADEP Individual Permits Numbered E-999X - maintenance activities performed by the certain Commonwealth of Pennsylvania agencies.**
22. **Emergency Activities:** The regulated work must be authorized pursuant PADEP Emergency Permits.
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).
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 either a Section 404 and/or 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;

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- e. PADEP Waiver 15 –PADEP Chapter 105.12(a)(15): Abandoned Mines; and
- f. Waiver Letter of Maintenance for:
 - 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 and the PADEP *Standards for Channel Cleaning at Bridges and Culverts*; or
 - Bridge and Culvert Repair – Maintenance to an existing culvert, bridge, or stream enclosure constructed prior to July 1, 1979, on 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 subdivisions or development may require that the application include a Declaration of Restrictive Covenants (e.g. deed restriction, 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 Declaration of Restrictive 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.23) for the application to be a Non-Reporting Activity. Declaration of Restrictive 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 declaration of Restrictive Covenants, or deviates from the templates, then the application would be Reporting (see Part III.B.9 and Part V.A.23).

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 the PASPGP-6 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.

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- 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 State Water Quality Certification, as required by Section 401 of the CWA.
- 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 Part III.A.20 which do not require publication in the Pennsylvania Bulletin.

30. Grandfathered Activities:

- a. All activities previously authorized as a Non-Reporting Activities under PASPGP-5 that meet the PASPGP-6 Non-Reporting criteria and comply with all the terms, conditions, limits, and best management practices identified and required by PASPGP-6, are reauthorized by the PASPGP-6 without further notice to the applicable Corps District. The duration of these authorizations will be for the term of PASPGP-6 (June 30, 2026) or applicable PADEP Chapter 105 authorization, whichever is less. If the previously authorized PASPGP-5 Non-Reporting activity **does not** meet the PASPGP-6 Non-Reporting criteria, or **does not** comply with all the terms, conditions, limits, and best management practices identified and required by the PASPGP-6, the activity is **not** automatically authorized by the PASPGP-6. For these activities, an application must be submitted to the applicable Corps District to determine if the project qualifies for the PASPGP-6.
- b. All activities previously verified as a Reporting Activities under PASPGP-5 that comply with all the terms, conditions, limits, and best management practices identified and required by the PASPGP-6 are authorized by the PASPGP-6 without further notice to the applicable Corps District. In addition, all special conditions attached to the original

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PASPGP-5 verification are to become special conditions for the PASPGP-6 authorization. The duration of the authorization is for five years from issuance of the PASPGP-5 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 authorized PASPGP-5 Reporting Activity **does not comply with** the PASPGP-6 terms, conditions, limits, and best management practices, the activity is **not** automatically authorized by the PASPGP-6. For these activities an application must be submitted to the applicable Corps District for federal authorization.

31. **Work in the Lehigh Canal:** Maintenance and Emergency Stabilization Activities on the prism, berm, structures, and towpath of the Lehigh Canal provided the work complies with the following:

- a. All maintenance and emergency stabilization activities related to the canal prism, berm, structures, and towpath, shall be undertaken in such a manner as to maintain the original historic design of the Lehigh Canal pursuant to the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- 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 section 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 not likely to erode and will be properly seeded and mulched for stabilization.
- d. Individual maintenance and emergency stabilization activities related to the prism, berm, structures, and towpath will be documented in the form of before and after photos and as-restored 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-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.

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B. Reporting Activities:

Activities listed below are Reporting Activities reviewed by the Corps and will receive a project specific review by the Corps, unless the project meets Non-Reporting Activity 30 (Grandfathered 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-6 may be verified for these projects only after a case-by-case opportunity for review and comment, in accordance with the PASPGP-6 Standard Operating Procedures, by all appropriate federal and state resources agencies and a determination by the Corps that the activity will have no more than minimal adverse environmental impacts 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-6, these activities must receive the applicable PADEP Chapter 105 authorization and State Water Quality Certification, as required by Section 401 of the CWA, and where applicable, CZM.

All Reporting Activities that require PADEP Individual Permits (except for Individual Permits numbered E-999X), Small Projects Permits, Dam Permits, 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-6.
- 2. Activities Exceeding Reporting Thresholds:** Activities where the Overall Project will result in:

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- a. Federally regulated permanent impacts to more than 0.25 acre of waters of the United States, including all jurisdictional waters and wetlands, except that for the following activities: (1) Non-Reporting Activity 1, (PADEP GP-1 for Fish and Habitat Enhancement Structures); and (2) Non-Reporting Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities, the reporting threshold is 0.50 acre of permanent impact.
- b. Federally regulated temporary impacts to more than 1.0 acre of waters of the United States, including all jurisdictional waters and wetlands.
- c. Federally regulated permanent impacts to greater than 250 linear feet of jurisdictional streams, rivers, or other watercourses (excluding wetlands) with the following exceptions:
 - (1) 500 linear feet is the reporting threshold for those activities that involve jurisdictional stream restoration (rehabilitation and/or reestablishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and
 - (2) No linear reporting threshold applies for those activities verified under Non-Reporting Activity 1 (PADEP GP-1 for Fish and Habitat Enhancement Structures).

NOTE: As stated, 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 assumed 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 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 Clean Water Act. 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-5, Department of the Army Individual Permit, or an NWP; or

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- 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-6.

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 proposed in waterways occupied by federally-listed, proposed, or candidate mussels or fish as indicated below, or in waters of the United States within 300 feet of these listed waterways, unless the activities or projects have received documented clearance from USFWS, or a *No Effect* determination from the Corps.

WATERWAYS	COUNTY
Allegheny River	Allegheny, Armstrong, Clarion, Forest, Venango, Warren, McKean, and Westmoreland,
Conewago Creek	Warren
Conneaut Outlet	Crawford
Conneauttee Creek	Crawford
Cussewago Creek	Crawford
Delaware River	Monroe, Pike, and Wayne
Four Mile Run	Westmoreland
French Creek	Crawford, Erie, Mercer, and Venango
LeBoeuf Creek	Erie
Little Mahoning Creek	Indiana
Little Shenango River	Mercer
Muddy Creek	Crawford
Oil Creek	Venango
Oswayo Creek	McKean
Shenango River (Pymatuning Reservoir to Big Bend)	Crawford and Mercer
West Branch of French Creek	Erie
Woodcock Creek	Crawford

- b. Activities or projects with proposed impacts to wetlands require bog turtle habitat screening procedures when such is noted on a PNDI receipt. The bog turtle screening must be completed unless the activities or projects have received documented clearance from the USFWS, or a No Effect determination from the Corps.
- c. Activities or projects, whereby a PNDI search identifies a potential conflict(s) for federally-listed species, and/or avoidance measures unless:

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- i. The applicant has agreed in writing to implement and comply with all avoidance measures on the 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 only when greater than 0.10 acre of jurisdictional wetland is permanently impacted. 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 State Historic Preservation Office (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 permittee has a delegated Section 106 programmatic agreement with SHPO, the applicant must provide evidence that the SHPO has been notified, using the PADEP Cultural Resources Notification Form or the SHPO Project Review Form. If the application does not contain a response letter from SHPO, or the SHPO response indicates a potential for the project to affect historic properties, the application is sent to the Corps as a Reporting Activity.
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:

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- a. Allegheny River from the Kinzua Dam, mile 197.2, downstream approximately 7 miles to US 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 of its tributaries.
- 8. Activities Related to Residential, Commercial and Institutional Developments:** Applications for the purpose of constructing or expanding a residential, commercial, or institutional subdivisions or development that do not contain a Declaration of Restrictive Covenants (e.g. deed restriction, conservation easement, or deed restricted open space area).
- 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;

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- 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 or High Tide Line of the Delaware River, downstream of the U.S. Route 202 Bridge, is ineligible for PASPGP-6.

11. Activities across State Boundaries: Activities where the regulated activity or area of indirect (secondary impact) 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 GP-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, and any Corps-owned or managed property or easement.

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.

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- b. If PADEP determines that an application is a Reporting Activity, and PADEP is 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.

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

16. Applications Containing a Request for a Corps Jurisdictional Determination (JD):

Any application containing a request for either a Preliminary JD or AJD from the Corps.

17. Activities occurring in areas identified as habitat for Shortnose and Atlantic Sturgeon:

Any application that proposes work in a portion of waterbody identified as habitat for Atlantic and Shortnose Sturgeon by the National Oceanic and Atmospheric Administration (NOAA), Greater Atlantic Region. The following is a list of waters as identified by the Greater Atlantic Region's ESA Section 7 Mapper Tool as sturgeon habitat.

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 following 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-6.

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 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 and regional supplements.

Compensatory mitigation at a minimum one-for-one ratio will typically be required for all federally regulated wetland losses that exceed 1/10-acre 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 federally regulated wetland losses of 1/10-acre or less that are a Reporting Activity, 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 federally regulated losses of jurisdictional streams or other open waters that are a Reporting Activity, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, re-establishment, or preservation, since streams are difficult to replace resources.

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 compensatory mitigation as identified in the Mitigation Rule (Use of Mitigation Bank, In-lieu Fee Program, Permittee Responsible Mitigation on a Watershed basis, etc.) and identify any Mitigation Banks or In-lieu 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).

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B. PASPGP-6 Review Procedures:

1. **Non-Reporting Activities 1-28:** Permit applications are reviewed by PADEP in accordance with their review procedures and the PASPGP-6 procedures. PADEP will attach verification of the applicability of the PASPGP-6 to the state authorization. For those projects in the Philadelphia District, PADEP will also provide a copy of the application/registration package, the permit/acknowledgment cover letter and the state authorization (if applicable) to the Philadelphia District.
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-6 verification along with the state authorization to the applicant. For projects in the Philadelphia District, PADEP will provide a copy of the application, the state authorization, the Record of Decision, and the permit cover letter to the Philadelphia District.
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-6. After completion of the Corps review, the Corps will:

- a. Notify PADEP that the activity is eligible for verification under PASPGP-6, without special conditions and they should attach PASPGP-6 verification to their authorization when issuing;
- b. Send the PASPGP-6 verification and any Special Conditions, if applicable, directly to the applicant and copy PADEP if the project is eligible for verification under PASPGP-6;

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- c. Notify PADEP and the applicant that the project is not eligible for verification under PASPGP-6 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-6 verification, any federal or state resource agency may notify the appropriate Corps District of their objection to authorization by the PASPGP-6. The Corps will attempt to resolve the objection and may issue a PASPGP-6 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 the PASPGP-6, 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-6 review will be used to initiate review by the Corps for the alternate permit. Additional information may be requested to complete the review. During the alternate 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 the PASPGP-6.

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 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-6 must be in compliance 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:

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A. General Conditions:

1. **Permit Conditions:** The permittee shall comply with all terms and conditions set forth in the PADEP authorization related to State Water Quality Certification as required by Section 401 of the CWA, and any subsequent amendments or modifications to such authorizations. In addition, if applicable, the permittee shall comply with CZM as required by the CZM Act. The permittee shall conduct all work and activities in waters of the United States in strict compliance with the approved authorization/verification and any associated maps, plans, profiles, and design specifications.
2. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.
3. **Threatened and Endangered Species:** By signing the PNDI receipt, the permittee has agreed to comply with all avoidance measures identified by the PNDI receipt. The applicant may also agree in writing to comply with all avoidance measures identified in USFWS correspondence, as part of the application. To ensure compliance with the ESA, those avoidance measures associated with federally-listed threatened or endangered species are a condition of the PASPGP-6 verification, unless modified by the Corps.

If an activity is verified under the PASPGP-6, and a federally-listed threatened or endangered species, or proposed species, is subsequently found to be present, all work must cease, and the Corps and USFWS (or National Marine Fisheries Service (NMFS)) must be notified by telephone immediately. The PASPGP-6 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.

4. **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

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or other designated agency. In addition, work in areas used for other time sensitive life span activities of fish and wildlife (such as hibernation or migration) may necessitate the use of seasonal restrictions for avoidance of adverse impacts to vulnerable species. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of the year.

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

List of Trout Streams found at:

<https://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Pages/TroutWaterClassification.aspx>

5. **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.
6. **Adverse Effects From Impoundment:** If the activity, including the discharge of dredged and/or fill material or the placement of a structure, creates an impoundment of water, the adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, including impacts to wetlands, shall be minimized to the maximum extent practicable.
7. **Obstruction of High Flows:** To the maximum extent practicable, the activity must be designed to maintain pre-construction downstream flow conditions (i.e., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the structure/fill is to impound waters), and the structure or discharge of dredged and/or fill material shall be designed to withstand expected high flows.
8. **Erosion and Sediment Controls:** During construction, appropriate erosion and sedimentation controls must be used and maintained in effective operating condition in accordance with state regulations, including the stabilization of any disturbed soil and other fill material.
9. **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.

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10. **Temporary Fill:** Temporary fill (i.e., access roads and cofferdams) in waters and/or wetlands verified by the PASPGP-6 shall be properly constructed and stabilized during use to prevent erosion and accretion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade, unless such requirement is specifically waived by the Corps. Whenever possible, rubber or wooden mats should be used for equipment access through wetlands to the project area. Temporary fills shall be removed, in their entirety, to an upland site, and suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their preconstruction contours, elevations, and hydrology, and revegetated with a wetland seed mix that contains non-invasive, native species, as soon as practicable.
11. **Equipment Working in Wetlands:** Measures must be taken to minimize soil disturbance when heavy equipment is used in wetlands or mud flats. In such cases, heavy equipment must be placed on mats, or other measures taken to minimize soil disturbances.
12. **Installation and Maintenance:** Any regulated structure or fill authorized by PASPGP-6 shall be properly installed and maintained to ensure public safety.
13. **PASPGP-6 Authorization:**
 - a. The PASPGP-6 expires June 30, 2026, unless suspended or revoked.
 - b. Verifications of PASPGP-6 expire June 30, 2026, unless the PASPGP-6 permit is suspended, revoked, or the PADEP authorization expires, whichever date occurs sooner. Activities authorized under the PASPGP-6 that have commenced construction or are under contract to commence construction will remain authorized provided the activity is completed within 12 month of the date of the PASPGP-6s expiration, modification, or revocation; or until the expiration date of the project specific verification, whichever is sooner.
14. **One-Time Use:** A PASPGP-6 verification is valid to construct the project, or perform the activity, one time only, except for PASPGP-6 verifications specifically issued for reoccurring maintenance activities.
15. **Water Supply Intakes:** No activity, including discharges of dredged and/or fill material and/or placement of structures, may occur in the proximity of a public water supply intake and adversely impact the public water supply. 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.

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16. **Historic Properties:** For all activities verified under a PASPGP-6, upon the unanticipated discovery of any previously unknown historic properties (historic or archeological), all work must cease immediately and the permittee must notify the SHPO and the Corps of Engineers. The Corps will contact the Tribes with whom they routinely consult, within 24 hours in accordance with each District's tribal consultation process. The PASPGP-6 may be re-verified and special conditions added if necessary, after an effects determination on historic properties and/or Tribal resource is made, in consultation with the SHPO, the Tribes and other interested parties. The PASPGP-6 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.
17. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting grounds.
18. **Corps Civil Works Projects:** The PASPGP-6 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.
19. **Navigation:** No activity verified under PASPGP-6 may cause more than minimal adverse effect on navigation. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. In addition, activities that require temporary causeways that prohibit continued navigational use of a waterway (i.e., temporary causeways extending greater than $\frac{3}{4}$ the width across the waterway) shall be removed in their entirety upon completion of their use. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulation or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. The permittee understands and agrees that, if further operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, 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.
20. **Inspections:** The permittee shall allow a District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with all the terms and conditions of the PASPGP-6. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work.

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21. **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. Corps written approval is required if the prior verification was reviewed by the Corps, or if the proposed modification is a Reporting Activity under PASPGP-6. 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, or greater than 1,000 linear feet of permanent jurisdictional stream loss, including both direct and indirect impacts, are not eligible for PASPGP-6 and will be forwarded to the Corps for review.
22. **Recorded Conservation Instruments:** As per Part III.A.27 and Part III.B.9 of this permit, proposed Draft Conservation Instruments may be submitted by the applicant as part of the permit application package for review and approval. When such proposed Conservation Instruments are submitted by the applicant, proof of the recorded deed restriction, conservation easement, or deed restricted open space area shall be forwarded to the appropriate Corps District and appropriate PADEP offices, prior to the initiation of any permitted work, unless specifically waived by the Corps in writing. Conservation Instrument templates can be found at: <http://www.nab.usace.army.mil/Missions/Regulatory/PermitTypesandProcess.aspx>
23. **Property Rights:** The PASPGP-6 does not obviate the need to obtain other federal, state, or local authorizations required by law, nor does the permit grant any property rights or exclusive privileges or authorize any injury to the property or rights of others.
24. **Navigable Waters of the United States (Section 10 Waters):**
- a. 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:
 - i. For aerial transmission lines, the following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by the existing fixed bridges, or the clearances which would be required by the United States Coast Guard (USCG) for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electric Safety Code:

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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

- (1) 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.
 - (2) 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.
- ii. 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 preconstruction bottom elevation. Where the cable, encasement, or pipeline is placed in rock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained. When crossing a maintained navigation channel, the requirements are a minimum of eight feet between the top of the cable, encasement, or pipeline and the authorized depth of the navigation channel. For maintained navigational channels, where the utility line is placed in rock, a minimum depth of two feet from the authorized depth of the navigation channel shall be maintained.
 - iii. As-Built Drawings: Within 60 days of completing an activity that involves an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States (i.e., Section 10 waters), the permittee shall furnish the Corps and the National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, Maryland, 20910 with professional, certified as-built drawings, to scale, with control (i.e., latitude/longitude, state plane coordinates), depicting the alignment and minimum clearance of the aerial wires above the MHWL at the time of survey or depicting the elevations and alignment of the buried cable or pipeline across the navigable waterway.

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- iv. **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://media.defense.gov/2017/Nov/20/2001846135/-1/-1/0/CG_2554.pdf. The completed application must be sent to: Commander Fifth Coast Guard District 431 Crawford Street, Room 100, Portsmouth, VA 23704-5504, Attn: Mr. Matthew Creelman; by email to Matthew.K.Creelman2@uscg.mil; or by FAX to (757) 398-6303. Within 30 days of the date of receipt of the USCG approval, the permittee must provide a copy to the appropriate Corps district office.
- 25. **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 of Engineers 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.”
- 26. **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.
- 27. **State Authorization:** The activity must receive state authorization. For the purpose of this requirement, any one of the following is considered as a state authorization:
 - a. A PADEP Chapter 105 Water Obstruction and Encroachment Permit, including PADEP approved Environmental Assessment pursuant to 25 Pa. Code § 105.15; or
 - b. A PADEP GP issued pursuant to 25 Pa. Code § §105.441-105.449; or
 - c. A PADEP approved Environmental Assessment for activities not otherwise requiring a PADEP permit pursuant to 25 Pa. Code § 105.12; or
 - d. A State Water Quality Certification issued by PADEP consistent with Section 401 of the CWA for activities which qualify for waiver of PADEP permit requirement per 25 Pa. Code §105.12; or

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- e. A PADEP Dam Permit, including maintenance or repairs of existing authorized dams, including maintenance dredging; or
 - f. A PADEP Emergency Permit issued pursuant to 25 Pa. Code § 105.64; or
 - g. A PADEP permit for the construction of a bridge or culvert which allows for maintenance activities of bridges and culverts; or
 - h. A PADEP Chapter 105 Dam Safety and Encroachment Enforcement Action; or
 - i. A programmatic/project specific State Water Quality Certification issued by PADEP consistent with Section 401 of the CWA where no other state authorization, as listed above, is required.
28. **Other Authorizations:** Additional federal, state, and/or local authorizations or approvals may be required and where applicable must be secured by the applicant, prior to initiating any discharge of dredged and/or fill material, and/or the placement of structures into waters of the United States, including jurisdictional wetlands. These approvals include, but are not limited to:
- a. A State Water Quality Certification issued by PADEP or considered waived, consistent with Section 401 of the CWA;
 - b. A CZM issued by PADEP pursuant to Section 307 of the Federal Coastal Zone Management Act for activities located within the designated CZM Area; 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.
29. **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;

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- 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-6.

30. **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.

31. **Essential Fish Habitat:** No work can take place in the following waterways listed in the table below from March 15 to June 30 unless approved in writing by the Corps. Questions on the applicability of this condition should be directed to the Corps of Engineers, Philadelphia District.

Waterway	Downstream extent	Upstream extent	Upstream Latitude (N)	Upstream Longitude (W)
Delaware River in Pennsylvania (including W. Branch)	Rte. 220 Bridge	PA/NY Border	41.999448	-75.359573
Lehigh River and adjacent canals	confluence with Delaware River	Cementon Dam	40.689196	-75.502746
Little Lehigh Creek	confluence with Lehigh River	lowermost dam	40.596775	-75.473908
Hokendauqua Creek	confluence with Lehigh River	State Route 4014 (West Scenic Drive)	40.793273	-75.439262
Bushkill Creek	confluence with Delaware River	lowermost dam	40.695104	-75.210656
Brodhead Creek	confluence with Delaware River	Stroudsburg Walter Co. Dam	41.017551	-75.201801
Bush Kill	confluence with Delaware River	Resica Falls	41.110320	-75.094402
Lackawaxen River	confluence with Delaware River	Wolln Mill Dam	40.985556	-75.190448
Dyberry Creek	confluence with Lackawaxen River	Jadwin Dam	41.612088	-75.263391
Darby Creek	confluence with Delaware River	Confluence of Cobbs Creek and Darby Creek	39.906060	-75.255131
Schuylkill River	Fairmount Dam	Bingaman St. Bridge in Reading, Pennsylvania	40.325355	-75.933098
Neshaminy Creek	confluence with Delaware River	lowermost dam	40.143369	-74.915828

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32. **Compliance Certification:** Each permittee who receives a written PASPGP-6 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 the success of 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; and (c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later. Link to self-certification to be added at a later date

B. Processing Requirements for Corps and PADEP:

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 guidance and regional supplements.
2. **Single and Complete Project:** Only one PASPGP-6 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-6 verification shall be processed as a modification of the original verification. If combined impacts for the Overall Project exceed the Reporting thresholds for PASPGP-6, then the modification request is sent to the Corps as a Reporting Activity. If combined impacts exceed the eligibility threshold of the PASPGP-6, 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 the PASPGP-6, where it is determined necessary to minimize adverse environmental effects, ensure compliance with federal regulations, or based on any other factor of public interest.
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.

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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 the 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 fish, 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 Juniata River main stem, including the Raystown Branch to Raystown Lake and Frankstown Branch to Hollidaysburg; the Susquehanna River main stem, to the New York State line; the West branch of the Susquehanna River to Lock Haven; the Delaware River; the Schuylkill River; or the Lehigh River, must be coordinated with the USFWS and/or NMFS, and the PFBC to ensure minimization of impacts upon passage and migration of diadromous fish.
6. **Threatened and Endangered Species:** A PNDI review is required for all activities authorized under PASPGP-6, unless that application contains a clearance letter from USFWS or a no effect determination by the Corps or the lead federal agency. All 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 PNDI receipt or USFWS correspondence. NOTE: A PNDI review must be completed first, with the potential requirement for additional screening through use the IPAC system noted on PNDI receipt, or USFWS correspondence.

No activity is authorized under the PASPGP-6 which is likely to adversely affect a federally-listed threatened or endangered species or a species proposed for such designation, as identified under the ESA, or which will destroy or adversely modify the critical habitat of such species, unless the adverse effects on the federally-listed species and the ‘take’ of such species has been evaluated and authorized via formal Section 7 consultation and/or Section 10 permit under the ESA.

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 the PASPGP-6. If through the formal and/or informal

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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 the PASPGP-6. If, however, adverse effects cannot be avoided, the activity is not eligible for federal authorization under the PASPGP-6, unless adverse effects on federally-listed species and the “take” of such species has been evaluated and authorized via formal Section 7 consultation and/or Section 10 permit under the ESA.

7. **Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for obtaining any authorizations required under the U.S. Fish and Wildlife Service’s regulation governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection

Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such 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/>

8. **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/>.
9. **Historic Properties:** No activity, which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized under the PASPGP-6, until the Corps has complied with the provisions of 33 CFR Part 325, Appendix C, 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 evidence that the SHPO has been notified, using the SHPO Project Review Form or the on-line Pennsylvania State Historic Preservation Office Archeological and Historic Resource Exchange system (currently under development), for all PADEP Individual permits, unless the permittee has a delegated Section 106 programmatic agreement with the SHPO. Proof of notification may be in the form of a copy of the response letter from SHPO, a copy of the certified mail receipt resulting from sending the SHPO Project Review Form or email confirmation receipt. 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 Standard Operating Procedures, prior to verifying an activity is authorized by PASPGP-6.
10. **Permit Transfer:** A request to transfer PASPGP-6 authorization will be forwarded to the appropriate PADEP office using PADEP’s required Application “For Transfer of Permit and Submerged Lands License Agreement” (PADEP Form No. 3930-PM-WM0016), with a copy furnished to the applicable Corps District.

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- 11. Commencement of Regulated Work:** For activities that require submittal of an application, 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-6. Should the Corps issue the PASPGP-6 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 another 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.

Part VI – Miscellaneous Provisions:

A. Duration of Authorization:

1. The PASPGP-6 is authorized for a period of five years. The PASPGP-6 expires and becomes null and void on June 30, 2026, unless suspended and/or revoked earlier by the Corps; except that
2. Activities authorized under the PASPGP-6 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-6s expiration, suspension, or revocation; whichever is sooner. The activities remain subject to the terms and conditions, including any Special Conditions of the PASPGP-6 during the 12-month period.
3. Grandfathered Activities - see Part III(A)(30) - for activities previously authorized by PASPGP-5.

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

Proposed changes to all pertinent state laws, regulations or programs, affecting the implementation of the PASPGP-6, will be reviewed by the Corps. In the event that the 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, the PASPGP-6 will be reassessed. A determination will be made through a public interest review, including consultation with appropriate resource agencies, to determine whether or not to continue use of the PASPGP-6 in light of the modified state law, state regulations, or programmatic changes.

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C. Changes to the Federal Program:

A Corps Public Notice will be issued to solicit comments before making any substantive changes to the PASPGP-6. A determination will be made through a public interest review, including consultation with appropriate resource agencies, to determine whether or not to modify the PASPGP-6.

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-6 as needed, and shall coordinate and modify the operational procedures and/or the PASPGP-6 as appropriate.
2. PADEP will provide the following data and statistics on a quarterly 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 State Water Quality Certifications issued consistent with Section 401 of the CWA by each PADEP office;
 - 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 the Pennsylvania Wetlands Replacement Project or other in-lieu fee programs, if appropriate; and
 - f. Total number of Chapter 105 General Permit types processed by county.

E. Modification, Suspension, or Revocation:

1. The Corps may suspend, modify, or revoke the PASPGP-6 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. The notice will state the concerns regarding the

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environment or other relevant factors of the public interest. Before the Corps modifies, suspends, or revokes such PASPGP-6 authorizations, the Corps will provide, if appropriate, a grandfathering period for those who have commenced work or are under contract to commence work in reliance on a PASPGP-6 verification. Affected parties will be notified of the modification, suspension or revocation, including the effective date.

2. The Corps may modify the PASPGP-6 as necessary to ensure compliance with other federal laws and regulations. The Corps will notify the PADEP and issue a public notice advising the general public of any such modifications.
3. 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.
4. Substantive changes to the Pennsylvania Chapter 105 program may require immediate suspension and revocation of the PASPGP-5 in accordance with 33 CFR 325.7, or formal modification subject to public review and input.

F. Enforcement and Compliance

- a. Any activity performed in waters of the United States, including jurisdictional wetlands, that is not in full compliance with all terms and conditions of the PASPGP-6 is a violation and constitutes either unauthorized work or work performed in non-compliance of the PASPGP-6. 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 the PASPGP-5.

Part VII. Corps District Contact Information:

Pittsburgh District

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

S. Moorhead Federal Building

1000 Liberty Avenue

Regulatory Branch

Pittsburgh, Pennsylvania 15222-4186

412-395-7155

Email: Regulatory.Permits@usace.army.mil

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Baltimore District

<http://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

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

Wanamaker Building

100 Penn Square East

Regulatory Branch

Philadelphia, Pennsylvania 19107-3390

215-656-6728 Email: PhiladelphiaDistrictRegulatory@usace.army.mil

Part VIII. District Engineer Signatures:

By Authority of the Secretary of the Army:

PASPGP-6: Appendix A

The following terms are defined for the purposes of the PASPGP-6:

Direct Impacts –The area of regulated activity, both temporary and permanent, within waters of the United States, including jurisdictional wetlands.

Discharge of Dredged Material – The term “Discharge of Dredged Material” is defined at 33 CFR § 323.2(d).

Dredged Material – The term “Dredged Material” is defined at 33 CFR § 323.2 (c).

Discharge of Fill Material – The term “Discharge of Fill Material” is defined at 33 CFR § 323.2(f).

Eligibility Threshold – The eligibility threshold is the maximum amount of impact that can be authorized by the PASPGP-6 for a Single and Complete Project. The eligibility threshold for PASPGP-6 is 0.5 acre of permanent loss, resulting from both direct and indirect impacts, to waters of the United States, including jurisdictional wetlands, or 1,000 linear feet of permanent loss of stream channel as a result of a regulated activity.

NOTE: Impacts resulting from activities eligible for exemptions under Section 404(f) of the CWA are not included in the eligibility threshold calculation.

Fill Material – The term “Fill Material” is defined at 33 CFR § 323.2(e)

Historic Properties – Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent Utility – A test to determine what constitutes a Single and Complete Non- Linear Project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other regulated work. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate Single and Complete Projects with independent utility.

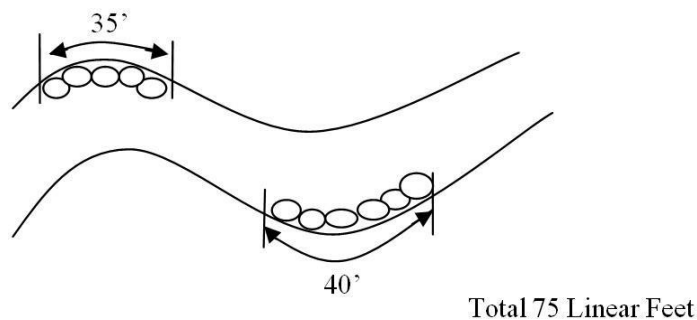
See also the definitions of “Single and Complete Project”.

Indirect Impacts – Area of waters of the United States, including jurisdictional wetlands, affected either temporarily or permanently by flooding, draining, or excavation, as a result of the direct impact.

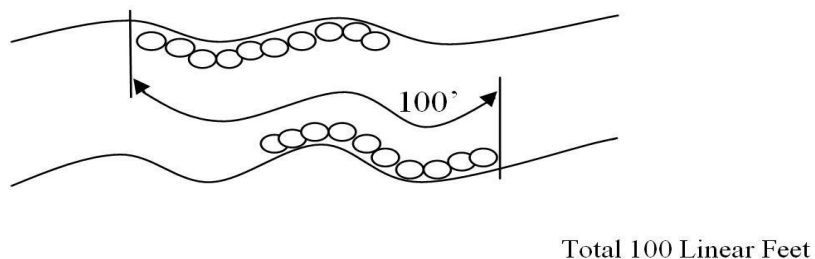
Information for Planning and Consultation (IPaC) - IPaC is a USFWS online planning tool that streamlines the USFWS environmental review process for Federally-listed Threatened and Endangered Species. The SPGP-6 requires a screening through PNDI and PNDI receipt will indicate if use of the IPaC is required.

Linear Footage of Stream Impact – A measure used for determining stream impacts, regardless of the drainage area. The linear footage of stream impact should be measured as follows (this is not used for calculating impacts to wetlands and open water impoundments which are based on square feet):

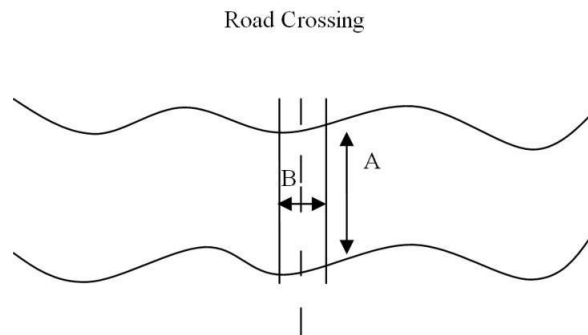
- a. For regulated work on one stream bank, the linear footage of a stream impact should be measured along the bank being impacted. When both stream banks are being impacted at separate locations, the linear footage of stream impacts is also measured along the banks being impacted.



- b. For regulated work proposed along both stream banks, where at least a portion of the work on the opposing stream bank is overlapping, the linear footage of stream impact should be measured along the centerline of the stream.



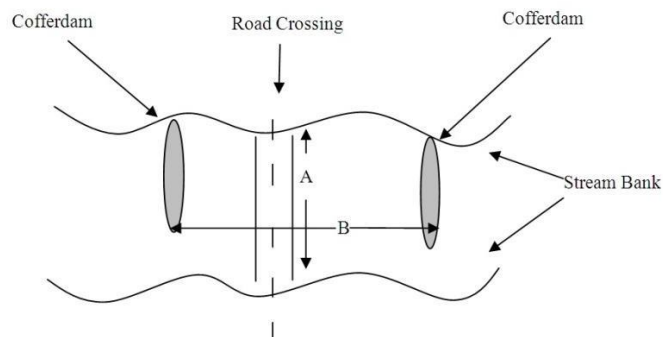
- c. For transverse impacts (perpendicular to the stream bank), the linear footage of the stream impact should be measured from the top of the bank to the top of the opposite bank and from the upstream to downstream limits of work. The linear footage of stream impact, for categorical determination, is the greater of these two measurements.



A (width) or B (length) whichever is greater.

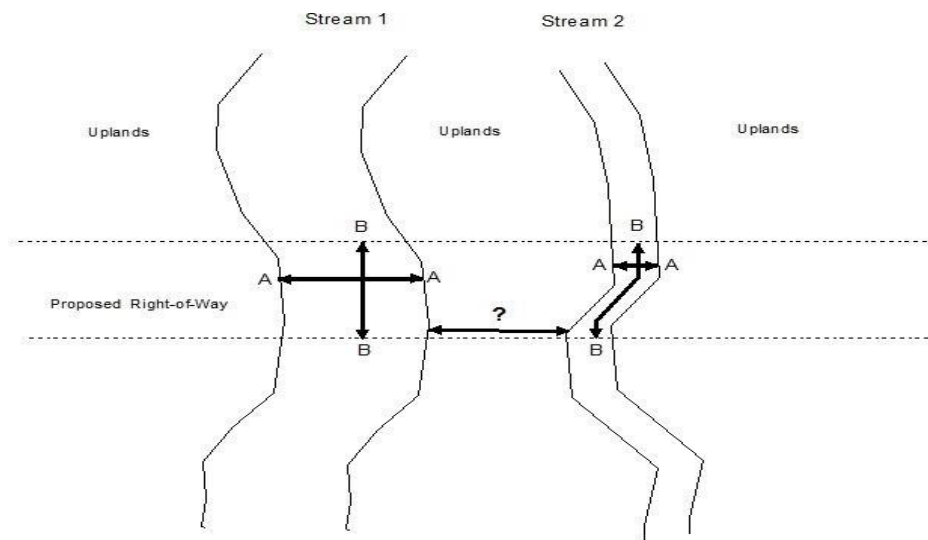
- d. Dewatering – if work involves dewatering of a stream channel, measure the centerline of the stream channel that is impacted through filling, dewatering, and/or flooding, and measure from top of stream bank to top of stream bank. The linear footage of stream impact, for categorical determination, is the greater of these two measurements.

A (width) or B (length) whichever is greater.



- e. When two or more waters are part of a Single and Complete Linear Project, the linear footage is the total of each of the crossings that are part of the Single and Complete Linear Project. The impact for each water being crossed is calculated as described in C and D above. In the example shown below, the proposed road is crossing two streams. In determining if the two stream crossings constitute one Single and Complete Linear Project, one must consider the distance (indicated by the “?”) between the two streams. If the crossings are not distant, meaning that the location of the first crossing dictates the location of the second crossing, then the two crossings are one Single and Complete

Linear Project. In the example, the distance between the two streams is undefined (indicated by the “?”) because determinations must be made on a case-by-case basis based on the proposed project. Overall Linear Projects such as roads may not allow for abrupt changes in layout, thus resulting in crossings with a greater distance between them being Single and Complete Linear Projects. Small utility lines may change direction over a much smaller distances, which can result in a lesser distance between crossings that constitute separate Single and Complete Linear Projects. For the below example, both crossings have been determined to comprise one Single and Complete Linear Project, and the linear footage of stream impact for the Single and Complete Project is calculated as Stream 1, Measurement A + Stream 2, Measurement B = Linear footage of the Single and Complete Linear Project.



Lead Agency - The federal agency with primary responsibility for environmental reviews i.e. NEPA, ESA Section 7, NHPA Section 106, etc.

Loss of Waters of the United States, including Jurisdictional Wetlands - Waters of the United States, including jurisdictional wetlands that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent impacts, defined below, may or may not be considered a loss of waters of the United States, as some permanent impacts, such as those associated with bank stabilization and stream/wetland enhancement projects, may not have a permanent adverse effect.

Mean High Water Line (MHWL) – The term “Mean High Water Line” is used in tidally influenced waters and is described at 33 CFR § 329.12(a)(2)

Non-Reporting Activity – Work that is authorized by the PASPGP-6 without a project specific review by the Corps, provided the proposed regulated activity complies with all terms, conditions, limits, best management practices, and processing procedures identified and required by the PASPGP-6, and all applicable PADEP Chapter 105 authorizations.

Ordinary High Water Mark (OHWM) – The term “Ordinary High Water Mark” is defined at 33 CFR § 328.3(c)(7)

Overall Project - The Overall Project includes all regulated activities that are reasonably related and necessary to accomplish the project purpose, including those activities that may occur in the reasonably foreseeable future. All impacts to aquatic resources associated with an Overall Project necessary to accomplish the project purpose must be disclosed.

Pennsylvania Department of Environmental Protection (PADEP) - Use of PADEP throughout this document refers to PADEP and any entity delegated by PADEP to administer the Chapter 105 program.

Pennsylvania Natural Diversity Inventory (PNDI) –PNDI is the on-line environmental review tool for screening of state and federally-listed threatened and endangered species managed by the Pennsylvania Natural Heritage Program. PNDI is part of the on-line review tool identified as Pennsylvania Conservation Explorer (PACE). The term PNDI also includes any future versions or the same or similar tools approved by the USFWS for screening of Federally-listed threatened and endangered species in Pennsylvania.

Permanent Conversion – The term as used in this document refers to the permanent conversion of a forested wetland to a scrub-shrub wetland and/or conversion of a forested and/or scrub-shrub wetland to an emergent wetland, in association with a regulated activity. Such conversion may result in the permanent loss of certain functions and services that may require compensatory mitigation. These areas are typically manipulated over time by man to prevent their return to preconstruction wetland type, and includes areas that are maintained by mowing, cutting, and/or herbicide use. Permanent conversion does not include areas that are allowed to return to their preconstruction condition either naturally or through some type of restoration activity.

Permanent Impacts – Waters of the United States, including jurisdictional wetlands, that are indefinitely filled, flooded, excavated, or drained as a result of the regulated activity. Permanent impacts may or may not be considered a loss of waters of the United States, as defined above, since some permanent impacts, such as those associated with bank stabilization and stream/wetland enhancement projects, may not have a permanent adverse effect.

Reporting Activity – Proposed work that requires a project-specific review by the Corps in order to receive authorization under PASPGP-6.

Restoration Activities – Activities associated with the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource.

Single and Complete Project – For the purpose of this document this term means one of the following as applicable:

- a. **Single and Complete Linear Project** - A linear project is a project including all associated attendant features, constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waters of the United States, including jurisdictional wetlands, at separate and distant locations. A linear project may involve multiple crossings of streams, wetlands, or other types of waters from the point of origin to the terminal point. Roads and pipelines are examples of linear projects. The term Single and Complete Project is defined as that portion of the Overall Project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a Single and Complete Project for purposes of PASPGP-6 verification. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately. While Overall Projects may have to demonstrate independent utility, each Single and Complete Linear Project within the Overall Project does not.

While each separate and distant crossing of a waterbody associated with an Overall Project is considered a separate Single and Complete Project, the Corps, when reviewing a Reporting Activity, will evaluate the cumulative effects on the aquatic environment of the Overall Project when determining whether PASPGP-6 verification is appropriate. The acreage and other applicable limits for PASPGP-6 would be applied to a Single and Complete Linear Project, as long as those crossings are far enough apart to be considered separate and distant.

An applicant proposing a Linear Project must submit information describing the locations of the overall linear project's point of origin, terminal point, all proposed crossings, and other impacts to aquatic resources.

- b. **Single and Complete Non-linear Project** – For non-linear projects, the term “Single and Complete Project” is defined at 33 CFR 330.2(i) as “the total project proposed or accomplished by one owner/developer or partnership or other association of owner/developers.” A Single and Complete Non-linear Project must have independent utility and may not be “piecemealed” to avoid the eligibility thresholds of the PASPGP-6.

To ensure consistency with the requirement of the CWA 404(b)(1) Guidelines and the National Environmental Policy Act, a clear purpose and the ability to function independently is required for all projects.

Structure – The term “Structure” is defined at 33 CFR § 322.2(b).

Temporary Impacts – Water of the United States, including jurisdictional wetlands that are filled, flooded, excavated, or drained for a limited period of time, and restored to pre-construction contours and elevation.

Utility Line – Any pipe or pipeline for transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication.

The term utility line does not include activities that drain a water of the United States, including jurisdictional wetlands such as drainage tile or French drains, but it does apply to pipe conveying drainage from another area.

Waterbody – A waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an OHWM or other indicators of jurisdiction can be determined, as well as any jurisdictional wetland area (see 33 CFR § 328.3). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

Waters of the United States and Navigable Waters of the United States – Waters of the United States is defined at 33 CFR § 328.3, and for the purpose of this document, the use of the term “waters of the United States, including jurisdictional wetlands” is inclusive of navigable waters of the United States (33 CFR § 329.4).

PASPGP-6: Appendix B

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

The PASPGP-6 may be used to authorize work in the following navigable waters of the United States:

- a. Codorus Creek – from the confluence with the Susquehanna River 11.4 miles upstream to the Richland Avenue Bridge in York, Pennsylvania;
- b. Main Stem Susquehanna River – from the confluence with the Chesapeake Bay upstream to Athens, Pennsylvania (approximately 4 miles south from the New York State line);
- c. West Branch of the Susquehanna River – from the confluence with the main stem Susquehanna River upstream to the dam at Lock Haven, Pennsylvania;
- d. Chester Creek – from the confluence with the Delaware River 2 miles upstream;
- e. Crum Creek – from the confluence with the Delaware River 1 mile upstream to the upstream side of the Dam at Eddystone;
- f. Darby Creek – from the confluence with the Delaware River 5 miles upstream to the upstream side of the 84th Street Bridge in Philadelphia, Pennsylvania;
- g. Delaware River – from U.S. Route 202 Bridged in New Hope, Pennsylvania, including the West Branch of the Delaware River, upstream to the Pennsylvania/New York border at the 42nd parallel;
- h. Lehigh River – from the confluence with the Delaware River 72 miles upstream to the downstream side of the PA Route 940 Bridge;
- i. Neshaminy Creek – the confluence with the Delaware River, including Neshaminy State Park Harbor Project at the mouth of Neshaminy Creek, 4 miles upstream to the downstream side of the Newportville Bridge;
- j. Pennypack Creek – from the confluence with the Delaware River 2 miles upstream to the downstream side of the Frankford Avenue Bridge in Philadelphia, Pennsylvania;
- k. Ridley Creek – from the confluence with the Delaware River 1 mile upstream to the upstream side of the Baltimore and Ohio Railroad Bridge in Chester, Pennsylvania;
- l. Schuylkill River – from the Fairmont Dam, 104 miles upstream to Port Carbon, Pennsylvania;

- m. Schuylkill Navigation Channel (Manayunk Canal) – along the Schuylkill River for 2 miles from the Flat Rock Dam to Lock Street in the Manayunk Section of Philadelphia, Pennsylvania;
- n. Delaware Canal;
- o. Lehigh Canal;
- p. Allegheny River – from its mouth in Pittsburgh, Pennsylvania to river mile 197.4 at Kinzua Dam, north of Warren, Pennsylvania;
- q. Beaver River – from confluence with Ohio River upstream to confluence of Mahoning and Shenango Rivers;
- r. Kiskiminetas River – from its mouth near Freeport, Pennsylvania to river mile 26.8 at Saltsburg, Pennsylvania;
- s. Little Beaver River – from confluence with Ohio River upstream to Pennsylvania border;
- t. Mahoning River – from the confluence with Beaver River upstream to tributary;
- u. Monongahela River – from confluence with Allegheny River upstream to Pennsylvania border;
- v. Ohio River – from Pennsylvania border upstream to confluence of Allegheny and Monongahela Rivers;
- w. Shenango River – from mouth to river mile 1.8 at New Castle, Pennsylvania;
- x. Tenmile Creek – from its mouth at Millsboro, Pennsylvania to river mile 2.7;
- y. Youghiogheny River – from its mouth at McKeesport, Pennsylvania to river mile 31.2 at Layton, Pennsylvania;
- z. Lake Erie – entire length below 573.4 feet elevation; and
- aa. All other waters not specifically exempted in the PASPGP-6, Part II, A, 5, that are subject to the ebb and flow of the tide. Such waters are considered navigable waters of the United States to the head of tidal influence.